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Director of Investigation
Report
31, 1988

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Director of Investigation and Research

Competition Act



Consumer and
Corporate Affairs
Canada

Consommation
et Corporations
Canada

Canada

Annual Report

For the year ended March 31, 1988
to the Hon. Harvie Andre, Minister

Queen

HD

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**Director of Investigation
and Research**

Competition Act



Consumer and
Corporate Affairs
Canada

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et Corporations
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December 19, 1988

The Honourable Harvie Andre, P.C. M.P.
Minister of Consumer and Corporate Affairs
Ottawa

Dear Sir:

I have the honour to submit, pursuant to section 127 of the Competition Act, the following report of proceedings under the Act for the fiscal year ended March 31, 1988.

Yours very truly,

Calvin S. Goldman, Q.C.
Director of Investigation
and Research

“The Director shall report annually to the Minister on the proceedings under this Act, and the Minister shall cause the report to be laid before each House of Parliament on any of the first fifteen days after the Minister receives the report on which that House is sitting.” (Competition Act, R.S.C. 1985, c. C-34, section 127.)

Editor's note: All other references in this Report to sections of the Competition Act are to that Act as it read on March 31, 1988, the end of the fiscal year covered by this Report.

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The Director's Overview

As this was a year of beginnings in many respects for the Bureau of Competition Policy, it seems fitting to introduce a new Annual Report format. I hope this revised Report will better reflect the Bureau's activities and appeal to a broader spectrum of the Canadian public.

The fiscal year 1987-88 was the first period of operation of the entire Competition Act. The notifiable transaction provisions of the Act came into effect on July 15, 1987. From that time until the end of the fiscal year, the Bureau received 65 notification filings relating to large merger transactions. Advance ruling certificates were also issued for a number of other large merger transactions, exempting them from the formal notification procedures. This volume exceeded our earlier expectations and is indicative of the current wave of merger activity in Canada.

The addition of notification procedures contributed to an already increased workload arising from the reforms of 1986 and underscored the need to reorient the Bureau's structure and priorities to fulfill more effectively our revised mandate. The development of a new organization and management structure formed a critical part of this reorientation.

Key features of the reorganization included the creation of the Mergers and the Compliance and Coordination Branches. Among other activities, the Compliance and Coordination Branch is responsible for further developing our compliance-oriented approach and for our public information program. A stronger case-oriented Economics and International Affairs Branch has also been developed to provide specialized economic advice on cases. To better deal with the increased responsibilities arising from the new Act, the number of Deputy Directors of Investigation and Research has been increased and these positions have been assigned direct line responsibility for many operational functions. The position of Senior Deputy Director of Investigation and Research has also been created. As the second-ranking member of the Bureau, the Senior Deputy Director has primary responsibility for the Mergers Branch as well as certain administrative responsibilities. In addition, the sectoral enforcement branches have been split into separate divisions for criminal and reviewable matters so that expertise can be developed in each of these enforcement areas. The changes have been considerable, but we are confident they will increase the overall effectiveness and efficiency of the Bureau. The structure of the new organization is discussed in more detail in Chapter X.

In reviewing our enforcement experience during the year, not surprisingly, merger review continues to be an area of intense activity for the Bureau. By developing and applying our compliance-oriented approach to merger review we have increased our ability to carry out this important function in an expeditious and effective manner.

The cornerstone of this approach to merger review is a commitment to making timely, high-quality, and fully-informed decisions. As a matter of policy, we make extensive use of industry and outside experts and seek information from many sources to ensure an accurate, real-world assessment of a merger's likely effects. Additional funding was obtained from the Treasury Board of Canada to provide the expert input frequently considered a necessary component of a complete analysis of mergers and other matters. We also maintain an open-door policy, having witnessed the positive results that can be achieved when consultation precedes action and both sides work together to remove competition concerns.

The compliance-oriented approach makes full use of a range of remedies. In addition to advance ruling certificates, advisory opinions may be issued on the basis of a preclosing restructuring of the transaction or without the necessity of such; monitoring may be conducted for the three-year statutory period in which a merger may be challenged; undertakings may be given to take remedial action postclosing; and applications may be made for consent orders. As a result, relatively few merger cases necessitated contested applications before the Competition Tribunal.

It is clear from the experience to date that the decision by the Director to challenge a proposed merger through contested proceedings may result in the merger being abandoned. This is sometimes due to the reluctance of parties to face a public adversarial process that may involve analysis of future plans and their effects. In addition, the uncertainty and inherent time delays brought about by such proceedings are also weighed by some parties. In several instances parties have elected to abandon or restructure their proposed merger rather than embark upon contested proceedings. This situation is not unique to Canada. Discussions with my counterparts in other member countries of the Organization for Economic Development and Cooperation suggest to me that businesses in those countries have a similar reluctance to enter into contested merger proceedings. Consequently, we in the Bureau approach merger review with great care.

This fiscal year the Bureau concluded its review of 133 merger transactions. Only those that required more than two days of review are included in this figure. This number represents approximately 10 percent of all merger transactions in Canada. Of these 133, the great majority of the transactions proceeded as originally proposed. We issued 26 advance ruling certificates and 21 advisory opinions were given. In some cases, mergers proceeded only after the competition concerns were resolved through a preclosing restructuring of the transaction or after undertakings were given by the parties to take remedial action after the closing of the transaction. In a small number of other cases the parties abandoned the proposed merger in whole or in part as a result of my position. In only two cases were applications brought before the Competition Tribunal. What these numbers do not reflect is the effect of a growing awareness of merger laws by businesses and corporate counsel. I understand that a number of proposed merger transactions have been either stopped or restructured at the blueprint stage in the realization that these proposals were not consistent with the new standards of merger review under the Act. A more detailed description of the mergers reviewed is contained in Chapter III.

The Competition Act provides that the assessment of merger transactions is not to be based solely on quantitative criteria such as concentration ratios or market share. Thus, a non-exhaustive list of qualitative factors that may be considered in assessing a merger is contained in the legislation. Of these factors, the extent of current or likely foreign competition and the existence of tariff or other barriers to entry are playing an increasingly significant role in some merger assessments as trade considerations become more important in the changing global environment. In addition, the efficiency gains provision is increasingly being relied upon by parties in their submissions regarding proposed mergers and has been an important consideration in our assessment of a number of mergers. In assessing efficiency gains, international trade effects are taken into account in accordance with the Act.

Many of my comments on our approach to merger review are equally applicable to our enforcement of other sections of the Act. In both criminal and reviewable matters, we have attempted to apply a flexible, compliance-oriented approach. This involves the use of a range of alternative case resolution instruments to contested litigation in appropriate cases, such as applications for consent orders in reviewable matters and recommendations to the Attorney General of Canada for consent prohibition orders in criminal matters. The flexibility provided by these alternative instruments enables me, in enforcing the Act, to address matters using the most effective means and to focus resources on cases of greater potential economic significance, consumer benefit or deterrent effect.

This year the resolution of several major inquiries through the use of consent prohibition orders proved a prompt and effective remedy for consumers and competitors and resulted in considerable savings for Canadian

taxpayers. In January 1988, consent prohibition orders were issued against two county law associations which were alleged to have fixed the fees charged by their members for real estate transactions. The compliance-oriented approach was also instrumental in resolving a 20-year old inquiry under the conspiracy section involving 18 trucking companies and the Western Transportation Association. A consent prohibition order was also issued against Sears Canada in a case concerning performance claims made for radial tires. Discussions are now taking place regarding possible resolution of other cases through a compliance-oriented approach.

While we are making greater use of alternatives to litigation where this approach is appropriate, we nonetheless have a considerable number of cases before the courts. When resort to contested proceedings is the appropriate course of action, I will not hesitate to refer potential offences to the Attorney General of Canada or to make an application to the Competition Tribunal for a remedial order. In so doing, we work to a high standard of case preparation. In short, the emphasis is on quality of case analysis where litigation is necessary, rather than on quantity of cases filed.

Overall, we are working toward a more strategic and selective approach to our enforcement and intervention work, and this objective will be reflected in how we carry out all our activities in the future. As some readers may know, I recently participated in the Canadian Import Tribunal's inquiry into the matter of alleged injurious dumping of cars by Hyundai Motor Company of Korea. The statement of reasons given for the no injury finding shows that the Tribunal accepted many arguments put forward by counsel for the Director. In my view, Hyundai is a good example of the kind of proceeding on which we should be focussing resources because of its wide-ranging effect. In terms of our contribution to the development of government policy, our efforts will be directed toward matters having significant potential impact on competition. For example, we will continue to provide assistance on the competition aspects of the Canada-U.S. trade negotiations and analytical support for legislation such as that provided in relation to the Shipping Conferences Exemption Act, 1987.

In the 1987 Annual Report I announced my intention of embarking on a more extensive public education and information program. Communication programs are integral to effective enforcement. I believe that compliance with the Competition Act can best be achieved when business persons have a sound understanding of the provisions of the Act. During 1987-88, a number of new initiatives were introduced, and several existing programs were continued or expanded.

The first meeting of the Director's Consultative Forum held in September 1987 resulted in a positive exchange of views on the merger review process under the Act among members of the private and public sectors. A second meeting of the Consultative Forum, scheduled to take place in the first quarter of the 1988-89 fiscal year, will focus primarily on compliance policy.

During the fiscal year, we released more detailed and timely information on major cases, starting with the circulation of a news release and background information on the Safeway/Woodwards merger. Similar information materials have been released at the time of other decisions of interest. Work continued on a series of Information Bulletins, scheduled to be released later in the 1988-89 fiscal year, which will describe the Director's position on various topics pertaining to mergers and on the program of compliance. Plans were made for a future series of Interpretation Bulletins to provide a summary of recent advisory opinions, written in a manner which protects confidential information such as the parties' identities. Finally, members of the Bureau participated in trade shows and seminars, and the Deputy Directors and I spoke at conferences and meetings across the country.

Our commitment to providing the public with information about our activities must be carried out in accordance with the confidentiality provisions of the Act. Working within those statutory provisions, we often need to balance private and public interests. Parties involved in matters being reviewed under the Act may have an interest in preserving the privacy of their affairs. On the other hand, the public may benefit from disclosure of information about activities under the Act which may also help them understand how the Act applies to their own business affairs.

During the year, we have also taken steps to enhance the physical security of our premises and to institute more stringent conflict of interest guidelines.

I believe that the increasing level of interest in the activities of the Bureau witnessed over the past year can largely be attributed to the number of exciting developments which have occurred across the full spectrum of the Bureau's activities. In my view, we have made significant progress in developing practical and realistic approaches to enforcement, a more selective focus on priority areas for future enforcement, a more suitable and efficient organizational structure, and an increased sense of communication and interaction between Bureau staff, the business community, and the consumer.

None of these achievements would have been possible without the team effort of Bureau staff and management, or without the enforcement tools provided to us by a strong and forward-looking competition law. The business and legal communities have also provided considerable feedback and constructive commentary on our approach to enforcing the new legislation. This cooperative effort has been of considerable assistance to our continuing effort to ensure that the Competition Act is effectively administered and enforced in Canada.

Calvin S. Goldman, Q.C.

Chapter I

The Competition Act: Its Purpose and Application

Purpose

The Competition Act is a law of general application which establishes basic principles for the conduct of business in Canada. The purpose of the Act, as set out in section 1.1, is to maintain and encourage competition in Canada in order to:

- promote the efficiency and adaptability of the Canadian economy;
- expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada;
- ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy; and
- provide consumers with competitive prices and product choices.

Application

Canada's competition legislation applies to the activities of all sectors of the Canadian economy and consequently affects service, resource, and manufacturing industries. As a result, all business activities in Canada are subject to the law, with the exception of a few activities specifically exempted under the Act, such as collective bargaining activities and amateur sport, or effectively regulated under other legislation. Section 2.1 of the Act expressly provides that the Act is binding on agent Crown corporations in respect of commercial activities engaged in by such corporations in competition with others.

The Competition Act gives the Director of Investigation and Research ("the Director") responsibilities in respect of criminal offences, reviewable matters including mergers, notifiable transactions and representations to regulatory boards.

Part V of the Act prohibits a number of criminal offences including bid-rigging, conspiracy to lessen competition unduly, price maintenance and misleading advertising.

Part VII of the Act identifies a number of matters reviewable by the Competition Tribunal including mergers, abuse of dominant position, refusal to deal, tied selling, delivered pricing and specialization agreements. The Competition Tribunal is a specialized tribunal established by the Competition Tribunal Act. It is composed of judges

from the Federal Court of Canada and lay persons appointed by the Governor in Council on the recommendation of the Minister of Consumer and Corporate Affairs. With one exception, the Director is the only person who may bring an application before the Tribunal. Private parties may apply to the Tribunal for an order registering a specialization agreement.

Part VIII of the Act outlines the circumstances under which certain merger proposals are required to be notified to the Director. Additional information on notifiable transactions is included in Chapter III.

Under sections 97 and 98 of the Act, the Director is authorized to make representations regarding competition before federal and provincial regulatory boards, commissions and tribunals. The Director's role in such cases is to bring to light considerations in respect of competition which are relevant to matters before such boards and to the factors they are entitled to take into consideration. The Director may intervene before federal regulatory boards on his own initiative, at the request of the board or when directed to do so by the Minister. However, he may intervene before provincial regulatory bodies only at their request, or on his own initiative with their consent.

Chapter II

The Enforcement Process

Each year numerous complaints are received from members of the public concerning conduct that may be subject to the Competition Act. Other matters are brought to the Director's attention by media reports, staff research or, as is frequently the case with proposed mergers, by the parties themselves. In each of these instances the Director's staff carries out a preliminary examination and determines whether further action is warranted.

The Director is required to commence an inquiry whenever he has reason to believe that an offence under Part V or VI of the Act has been or is about to be committed, that grounds exist for the Tribunal to make an order relating to a reviewable matter under Part VII of the Act, or that a person has contravened or failed to comply with an order made under the Act. This is how the great majority of inquiries are commenced. However, the Director is also obliged to commence an inquiry when the Minister of Consumer and Corporate Affairs directs him to do so or when six Canadian residents make an application in accordance with section 7 of the Act.

The Director is required to conduct all inquiries in private. This restriction protects the reputation and information of the persons involved in an inquiry and assists the Director in the conduct of his inquiry. An inquiry in progress may come to the public's attention if, for example, a person whose conduct is being inquired into or an applicant under section 7 makes public the existence of the inquiry. Any person whose conduct is being inquired into or any person who applies for an inquiry under section 7 may write to the Director and request to be informed as to the progress of the inquiry.

Once an inquiry has begun the Director may use a number of investigative tools provided in the legislation. He may apply to a court for authorization to enter and search premises and seize records identified in a warrant. The Director may also obtain a court order requiring any person having or likely to have information relevant to an inquiry to produce records, to provide written information under oath or affirmation, or to appear before a presiding officer appointed under the Act and be examined on oath or affirmation.

If the Director concludes that a matter does not justify further inquiry, he may discontinue an inquiry at any time.

For example, an inquiry will be discontinued when it becomes apparent that no offence is disclosed. An inquiry may also be discontinued, in appropriate circumstances, if the Director decides that further inquiry is not warranted because of voluntary corrective conduct,

or because undertakings which remedy the competitive concerns arising from the matter under inquiry have been given and complied with.

The Director is required to make a report in writing to the Minister on any inquiry that is discontinued. If the inquiry was commenced as a result of a six-resident application under section 7, the Director must inform the applicants of the decision and the grounds for the discontinuance. The Minister may, on the written request of applicants under section 7 or on his own motion, review the Director's decision and, if in his opinion the circumstances warrant, instruct the Director to make further inquiry.

In criminal matters, the next step in the enforcement process is the referral of the matter to the Attorney General of Canada. The Attorney General determines whether charges should be laid, and conducts prosecutions of offences under the Act. While most prosecutions are commenced in the courts of criminal jurisdiction in the provinces, prosecutions for certain indictable offences and other proceedings may also be instituted in the Federal Court—Trial Division. Each offence provision of the Act stipulates whether the matter may be prosecuted by way of summary conviction or indictment or either, and sets out the amount of the fine and the term of imprisonment that may be imposed upon conviction.

Subsection 30(1) of the Act provides that in addition to any other penalty imposed on a person convicted of an offence, a court may issue an order prohibiting that person or any other person from continuing or repeating the offence, or from doing any act or thing directed toward the continuation or repetition of the offence.

Prohibition orders may also be issued without securing a conviction in proceedings commenced by information of the Attorney General of Canada or the attorney general of a province pursuant to subsection 30(2). Where it appears that a person has done, is about to do or is likely to do any act or thing constituting or directed towards the commission of an offence under Part V, an order may be made with or without the consent of the persons against whom the order is sought.

The Director initiates legal proceedings in reviewable matters by filing an application with the Competition Tribunal. The Tribunal may issue a variety of orders as provided by the Act to remedy the effects of the conduct in question. For example, the Tribunal may

direct that a completed merger be dissolved in such manner as it directs. In the case of an abuse of dominant position, the Tribunal may issue an order prohibiting any person subject to it from engaging in a practice of anti-competitive acts or, in certain circumstances, directing such person to take such actions as are necessary and reasonable to overcome the effects of the practice in the market. In the case of a refusal to deal, the Tribunal may order a supplier to accept a particular person as a customer on usual trade terms. The Tribunal may also issue orders upon the consent of the Director and the persons in respect of whom the order is sought.

Only the Director can initiate proceedings before the Tribunal, except in the case of specialization agreements. The parties to such an agreement may make an application to have it registered provided that the Director is given notice. Once an application has been filed with the Competition Tribunal any affected person may apply for leave to intervene in the proceeding. The Act also provides certain rights of intervention before the Tribunal to provincial attorneys general.

Historically, enforcement of the Competition Act has focussed on investigating violations of the Act, with a view to prosecution and the imposition of criminal penalties. However, it has become clear that in many instances the goals of maintaining and encouraging competition can be pursued with greater effectiveness and certainty, and with less time and expense, through an approach to enforcement which stresses the promotion of continuing voluntary compliance with the Act and relies on a broader range of responses to non-compliant behaviour.

For this reason, the Director is placing more emphasis than in the past on communication and public education as a means of promoting a better understanding of the Act and its application. As well, the Director is encouraging business persons to make more use of the Program of Advisory Opinions, and to discuss proposed conduct or transactions with his office at the earliest possible stage. Finally, the Director is relying to a greater extent on alternative case resolution instruments in appropriate circumstances as a means of achieving early and effective remedies for non-compliant behaviour.

Selected Activities of the Bureau of Competition Policy (Excluding Misleading Advertising and Deceptive Marketing Practices Provisions*)										
	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87	1987-88
Complaints received	N/A	N/A	N/A	381	692	839	1 075	1 013	1 028	930
Preliminary examinations requiring two or more days of review	N/A	N/A	N/A	199	218	223	269	237	237**	328
Applications for inquiries under section 7	7	7	8	9	8	2	2	8	13	9
Inquiries in progress at the end of the year	73	78	69	69**	71	58	54	58	78	84
Inquiries discontinued	16	21	26	20	19	19	12	11	11	17
Matters referred to the Attorney General of Canada	14	24	21	33**	24	20	27	21	9	15
Matters referred where the Attorney General decides no further action warranted	6	3	5	6	5	6	4	11	4	3
Matters in which prosecutions or other proceedings commenced	11	21	6	24	21	16	17	19	14	9
Applications to the Competition Tribunal***	1	2	–	–	1	–	–	1	1	2
Interventions before federal regulatory bodies	–	3	4	6	4	15	17	15	8	7
Interventions before provincial regulatory bodies	2	1	–	9	7	8	6	7	10	9
* Comparable statistics for activities under these provisions can be found in Chapter VII. ** Revised. *** Prior to 1986/87, this figure indicates applications to the Restrictive Trade Practices Commission.										

Chapter III

Mergers

The Director reviews all mergers, proposed or otherwise, which come to his attention to determine whether they prevent or lessen or are likely to prevent or lessen competition substantially in Canada. In the great majority of instances, it is quickly determined that the matter raises no issue under the Act. However, about ten percent of all such matters require a more significant examination, i.e. more than two days of review.

Most cases examined in a significant fashion are ultimately determined to raise no competition issue and are eventually closed. In such cases, when requested by the parties, the Director has provided either an advance ruling certificate or an advisory opinion. In a small number of cases the Director has concluded that sufficient grounds existed for him to bring an application before the Competition Tribunal for a remedial order. In these situations the parties have chosen to abandon the transaction, to proceed to the Tribunal on a contested basis, or alternatively to restructure the transaction to alleviate the Director's concerns.

If an application is made to the Tribunal, and if the Tribunal finds that the merger prevents or lessens, or is likely to prevent or lessen competition substantially, it may issue a variety of orders. For example with respect to proposed mergers, the Tribunal may, among other things, order the parties not to proceed with the merger, or not to proceed with part of the merger. In the case of completed mergers, the Tribunal may issue an order of dissolution, require divestiture of assets or shares, and/or, on consent, direct that any other action be taken.

To ensure that both the quantitative and qualitative aspects of a matter are considered, the Act provides a list of factors for the Tribunal to consider in determining whether the merger prevents or lessens or is likely to prevent or lessen competition substantially. Furthermore the Act specifically states that the Tribunal cannot find that a merger or proposed merger prevents or lessens or is likely to prevent or lessen competition substantially solely on the basis of evidence of concentration or market share. In addition, the law also provides an exception in situations where the merger brings about or is likely to bring about gains in efficiency that will be greater than, and will offset, the effects of any prevention or lessening of competition and the gains would not likely be attained if the order were made.

The Director is authorized to issue advance ruling certificates with respect to proposed merger transactions where he is satisfied that he would not have sufficient grounds on which to apply to the Tribunal. The issuance of a certificate precludes the Director from bringing an application before the Tribunal with respect to the merger on the basis of the same or substantially the same information as that upon which the certificate was based, if the merger is substantially completed within one year after the certificate is issued.

In certain circumstances the Director may conclude that, while he does not have grounds to apply to the Competition Tribunal in respect of a specific transaction, he nonetheless has sufficient concerns about the competitive effects of the transaction that he cannot issue an advance ruling certificate. In such a case the Director may provide an opinion pursuant to his Program of Advisory Opinions. An opinion may indicate that the merger will be monitored by the Bureau during the three-year limitation period provided by the Act. In addition, an advisory opinion would likely be given in situations where a merger proposal raises no immediate concern, but, because of the nature of the market, the potential anti-competitive effect of the merger is not sufficiently certain. Advisory opinions may be issued subject to the fulfilment of certain undertakings by the parties, for example, in a situation where the parties have indicated a willingness to restructure a proposed merger to alleviate competition concerns that would otherwise arise under the Act.

As the following table illustrates, the Director commenced the examination of 146 merger transactions requiring 2 days or more of examination during the year. In addition, he continued his examination of 14 matters commenced in the previous year. Of the mergers examined during the year, four were restructured, primarily through preclosing divestitures or undertakings to divest, in order to address Competition Act concerns. Two mergers were abandoned and two resulted in applications to the Competition Tribunal. Information on the total number of mergers which have been reported publicly as having taken place in Canada in 1988 is provided in Appendix II. A list of the mergers that were examined by the Director during the fiscal year is found in Appendix III. The list does not include any mergers that have not been made public by the merging parties.

Merger Examinations		
	1986-87*	1987-88
Merger examinations commenced**	40	146
Examinations concluded		
As posing no issue under the Act	17	120
With monitoring only	5	7
With preclosing restructuring	–	2
With post-closing restructuring	1	2
Parties abandoned proposed merger, in whole or in part as a result of Director's position	3	2
Total examinations concluded	26***	133****
Examinations ongoing at year end	14	25
Applications before Tribunal		
Concluded	1*****	–
Ongoing	–	2

* Statistics commence as of June 19, 1986.

** Two or more days of review. Total merger examinations in any year includes those commenced during the year and those ongoing at the end of the previous year, e.g. during 1987-88, there were 146 examinations commenced plus 14 ongoing for a total of 160 examinations.

*** Includes 3 Advance Ruling Certificates and 8 Advisory Opinions.

**** Includes 26 Advance Ruling Certificates and 21 Advisory Opinions but excludes the 2 ongoing matters before the Competition Tribunal.

***** Matter also counted as abandoned as a result of Director's position.

Note: For statistics relating to the total number of mergers recorded in the Merger Register during the calendar year, see Appendix II.

Notifiable Transactions

Part VIII (sections 80 to 96) of the Competition Act deals with notifiable transactions. It provides that persons proposing a transaction that exceeds certain size thresholds must notify the Director in advance of completion of the transaction. There are two general thresholds which must be met for the requirements to apply. First, the parties to the transaction, together with their affiliates, must have assets in Canada or gross annual revenues from sales, in, from or into Canada that exceed

\$400 million. Second, in respect of a proposed acquisition of assets of an operating business, the value of the assets to be acquired, or the annual gross revenues from sales in or from Canada generated by these assets, must exceed \$35 million. In the case of an amalgamation, this second threshold is \$70 million.

Notification is also required with respect to certain acquisitions of voting shares of a corporation that carries on an operating business, or controls a corporation that carries on an operating business. In this regard, in addition to the first threshold mentioned above, the value of the assets of the operating business or the annual gross revenues from sales in or from Canada must exceed \$35 million and the persons acquiring the shares would acquire an interest in the corporation exceeding either 20 percent in the case of a public corporation, or 35 percent in the case of a private corporation. If the parties already surpass either the 20-percent or 35-percent threshold, and make a subsequent share purchase which results in their owning more than a 50-percent interest, then the subsequent transaction also requires notification.

Once notification has been completed, the transaction cannot be closed before the expiration of seven to twenty-one days, depending on whether the short form or long form filing procedure is used. Where the transaction is effected through a stock exchange and a long form is filed, the period is a minimum of ten trading days. The applicable time period may be shortened where the Director is satisfied that he does not have grounds to make an application to the Competition Tribunal in respect of the matter and so informs the notifier. Upon expiration of the designated time period, parties are free to complete the transaction. However where the Director's examination is still ongoing, the parties complete the transaction at their own risk. Compliance with the prenotification requirements does not preclude the application of the substantive merger provisions.

Proposed transactions involving only affiliated firms or with respect to which an advance ruling certificate has been issued are exempt from notification. In addition, other exemptions are provided in the legislation. However, all transactions, whether or not they are subject to prenotification, are subject to review by the Director under the merger provisions and may be brought before the Competition Tribunal within the three-year period allowed by the Act.

Merger Reviews Concluded During the Year

The following is a brief summary of some of the more significant mergers examined by the Director this year and that have now been completed. A detailed list of the mergers the Director examined during the year can be found in Appendix III. The list does not include any mergers that have not been made public by the parties.

Canada Safeway Limited/Woodward Stores Limited

On December 12, 1986, Canada Safeway Limited (Canada Safeway) publicly announced its intention to acquire 23 food floors of Woodward Stores. A formal inquiry was subsequently commenced following receipt of an application by six residents under section 7 of the Act. The facts revealed that had the merger not been completed there was a distinct possibility that the Woodward food stores would have closed.

Following an extensive inquiry the Director identified six markets in Alberta and British Columbia where, in his view, competition was likely to be prevented or lessened substantially by the transaction. These markets were in the following areas: Edmonton, Lethbridge and Red Deer, Alberta and Vancouver, Port Alberni and Penticton, British Columbia. Safeway subsequently provided undertakings to the Director to divest 12 stores in these markets within a 24-month period. Safeway also undertook, for a three-year period, to provide certain types of information to the Director at his request to enable him to monitor the impact of the acquisition on competition.

These undertakings mitigated the Director's concerns regarding the effects of the transaction. The Director anticipated that the undertakings would facilitate the entry of new firms and/or the expansion of other existing firms through acquisition of the stores to be divested. Upon fulfilment of the undertakings, the level of concentration in the retail grocery industry is not, as a result of the transaction, expected to increase significantly in the six urban markets of primary concern. By allowing the merger to proceed in this fashion, the Director has attempted to minimize the disruption to customers who will benefit from the ongoing operation of those stores.

The Director informed the parties in May 1987 that the transaction as restructured would not be challenged at that time before the Tribunal. However, the Director will be monitoring the industry during the three-year limitation period to ensure that a material change in circumstances does not alter his conclusion.

Nabisco Brands Canada Ltd./Interbake Foods Division of George Weston Limited

In June 1987 the Director was advised of the proposed acquisition by Nabisco Brands Canada Ltd. (Nabisco) of all of the assets of the Interbake Foods Division of George Weston Limited (Interbake). Nabisco proposed to acquire Interbake's production facilities in Longueuil, Quebec, London, Ontario, and Winnipeg, Manitoba, which produced cookies, soda, snack and graham crackers and confectionery products.

Following an extensive examination of the matter, the Director informed the parties he had concluded that the proposed transaction would result in a substantial lessening of competition in both the cookie and the cracker markets. This conclusion was based on a number

of factors, including the fact that the merger would result in the removal of Interbake as a vigorous and effective competitor in the cookie and cracker market and would considerably increase Nabisco's market share, particularly in the cracker market. The Director also expressed concerns about the effectiveness of the competition which would remain in the cookie and cracker market and the absence of a likelihood of significant new entry into any segment of the biscuit market in the near future.

Interbake subsequently advised the Director that it would sell to Nabisco only those assets that accounted for the majority of its export sales in the snack cracker market, along with the Longueuil production facility used to manufacture these items. An alternate buyer would be found to purchase the remaining assets. Ultimately, these assets were sold to Les Aliments Culinar Inc.

The restructured proposal mitigated the Director's main concerns about the competitive implications of the merger. In addition, the proposal should allow Nabisco to realize efficiencies in the production, marketing and distribution of snack cracker products and to increase its level of exports to the United States.

Nestlé Enterprises Limited/Nabisco Brands Canada Ltd. and General Foods Inc./Nabisco Brands Canada Ltd.

In April 1987 Nestlé Enterprises Limited (Nestlé) announced that it had agreed to buy the Club, Melrose and Dickson's coffee operations of Nabisco Brands Canada Ltd. (Nabisco), which sold coffee and related products to the food service sector. Club operated primarily in Ontario, Melrose in Manitoba and Saskatchewan, and Dickson's in Alberta and British Columbia.

Following an extensive examination, the Director concluded that the proposed merger would result in a substantial prevention or lessening of competition, particularly in the four western provinces. The Director considered that there would be little effective competition remaining following the removal of Nabisco, a vigorous and effective competitor, that barriers to new entry were substantial and that a serious increase in concentration would result. Based on these considerations, the Director initiated an inquiry in this matter.

Nestlé subsequently proposed that it would acquire only the Club operations in Ontario. An alternate buyer would be located for the Melrose and Dickson's operations, which were subsequently sold to General Foods Inc. in September 1987.

The restructured transaction removed the Director's concerns regarding a substantial lessening of competition in Western Canada. As General Foods had previously held a very small share of the food service coffee market in the West, the Director found that its acquisition would not likely lessen competition substantially in these markets. While Nestlé's acquisition of Club

would increase concentration in Ontario, the Director concluded that the resultant lessening of competition was not likely to be substantial.

On September 25, 1987, the Director reported to the Minister that he had discontinued the inquiry into this matter. However, the Director intends to monitor the Ontario market during the three-year limitation period to ensure that a material change in circumstances does not alter his conclusion.

Unilever Canada Limited/Nabisco Brands Canada Ltd.

On April 28, 1987, Unilever Canada Limited (Unilever) signed a letter of intent to acquire from Nabisco Brands Canada Ltd. (Nabisco) certain assets used by Nabisco in the operation of its margarine and egg beater (egg substitute) businesses. Unilever's acquisition of the egg beater assets raised no issue under the Act. However, in light of the fact that Unilever and Nabisco were the number one and number two suppliers, respectively, of margarine in Canada, the Director thoroughly examined the competitive effects of the acquisition.

The examination revealed that, postmerger, Unilever would significantly enhance its position as the leading supplier of margarine to the retail food market in Canada. The acquisition would also result in significant increases in concentration on a provincial basis and remove a vigorous and effective competitor to Unilever in certain segments of the market.

Nevertheless, considering the absolute size of Unilever's postmerger market shares in the sale of margarine, both nationally and provincially, combined with the conclusion that there would be effective competition in the intermediate and lower price brand segments of the market and that opportunities existed for entry into the premium segment of the market, the Director concluded that the transaction was not likely to lessen competition substantially. However, the Director will monitor the effects of the acquisition on the market for the three-year period provided by the legislation to ensure that a material change in circumstances does not alter his conclusion.

Multi-Marques Inc./Boulangerie POM Limitée

On June 17, 1987, Multi-Marques Inc., the largest supplier of bakery products in the province of Quebec, acquired all the issued and outstanding shares of Boulangerie POM Ltée., a major competitor in the Montréal region. Following his examination of this matter, the Director concluded that, while the acquisition would bring about an increase in concentration in the market, it would not likely result in a substantial lessening of competition under the Act. This decision was reached having regard to the fact that substantial competition would remain in the market postmerger, and that barriers to entry are not high in this particular market. This latter conclusion was supported in part by the fact that there was recent entry into the relevant market. The Director will monitor

developments in the industry over the three-year limitation period to ensure that a material change in circumstances does not alter his conclusion.

C.I.B.C. Securities Inc./Gordon Capital Corporation (Gordon Capital)

During the year, the parties announced their intention to form a new entity, Gordon Investment Corporation. Under the terms of the transaction the Gordon Group, which owns Gordon Capital, would purchase 50 percent of the shares of the new company, C.I.B.C. Securities Inc., a subsidiary of the Canadian Imperial Bank of Commerce, would purchase shares equalling no more than 24.9 percent, while the balance would be sold to a group of foreign-owned financial services firms.

Following an examination of the transaction, the Director concluded that it would not likely result in a substantial prevention or lessening of competition in the market, and issued an advance ruling certificate. This conclusion was based on the fact that the transaction would introduce a new competitor into the merchant banking industry without limiting the existing operations of the parties to the transaction. The Director also considered that the merger would be procompetitive to the extent that the new entity would be well placed to compete in the international market and to the extent that the transaction would provide Gordon Capital, a leading innovator in the industry, with benefits resulting from access to a greater capital pool.

Subsequent to the Director's examination, the terms of the transaction were modified in accordance with the requirements of the Office of the Superintendent of Financial Institutions. The Director was fully apprised of these developments.

Chrysler Corporation/American Motors (Canada) Inc.

On August 5, 1987, Chrysler Corporation (Chrysler) purchased the 46.1 percent interest in American Motors Corporation that was held by the French auto manufacturer, Régie Nationale des Usines Renault. Following an examination of the transaction, the Director concluded that it would not likely prevent or lessen competition substantially. This decision was reached having regard to the market share of the parties and the significant level of domestic and import competition that would remain postmerger. An advance ruling certificate was issued on August 3, 1987.

Amoco Canada Petroleum Company Limited/Dome Petroleum Limited

During the year the Director commenced an examination of Amoco Canada Petroleum Company Limited's (Amoco) proposed acquisition of Dome Petroleum Limited (Dome). Both Amoco and Dome are engaged in four sectors of the Canadian oil and gas industry: sulphur, crude oil, natural gas, and natural gas liquids. However, with

the exception of the natural gas liquids sector, their market shares in the Canadian oil and gas industry are relatively small. Following an extensive examination, the Director concluded that he would not challenge the merger before the Competition Tribunal. Concerns over the effects of the merger on competition in natural gas liquids were tempered by the constraining influence of international market forces on the Canadian petroleum industry, by the jurisdiction of federal and provincial regulatory authorities over certain aspects of the industry, and by potential new and alternative sources of natural gas liquids. The Director will be monitoring the industry during the three-year limitation period to ensure that a material change in circumstances does not alter his conclusion.

Southam Inc./Brabant Newspapers Ltd.

On January 8, 1988, following a thorough examination, the Director announced that he would not challenge the acquisition by Southam of Brabant Newspapers Ltd. (Brabant). Brabant published seven weekly community newspapers and a real estate guide in the Hamilton area. Southam publishes the daily *Hamilton Spectator*.

While the acquisition of Brabant would enhance Southam's position in the Hamilton newspaper market, the Director determined that the daily *Spectator* and the Brabant weeklies serve largely different markets in terms of their news and editorial content and advertising customers. The Director also took into account the fact that entry barriers into the community newspaper business are relatively low, and that innovations in publishing and printing technology are further reducing the barriers to entry. The Director will be monitoring developments in the Hamilton newspaper market over the three-year limitation period provided in the Act, to ensure that a material change in circumstances does not alter his conclusion.

Trailmobile Group of Companies Ltd./Fruehauf Canada Inc.

On January 18, 1988, the Director announced that as a result of specific undertakings given by the Trailmobile Group of Companies Ltd. (Trailmobile), he would not challenge Trailmobile's acquisition of Fruehauf Canada Inc. (Fruehauf). As originally proposed, Trailmobile would have acquired Fruehauf and operated the two companies independently. The Director concluded that this proposal would likely have substantially prevented or lessened competition in the market for highway trailer vans. Fruehauf and Trailmobile are, respectively, the largest and second largest manufacturers of highway trailer vans in Canada.

As part of its voluntary undertakings, Trailmobile agreed to sell its highway trailer van business on an economically viable basis in a public bidding process and to operate the van business of Trailmobile and Fruehauf separately until the completion of this sale. These undertakings were designed to ensure that the Trailmobile van

business would continue as a national, competitive enterprise and to enhance the likelihood of new entry or expansion by an existing producer.

In light of marketplace developments which indicated an increased likelihood of entry into Canada by U.S. firms, the Director was requested by Trailmobile to consider a modified merger proposal and to revise the scope of the January undertakings. Trailmobile's revised proposal involved a full merger of the trailer manufacturing operations of the two companies which would enable Trailmobile to achieve significant efficiency gains and to better compete in a free trade environment. To alleviate remaining competitive concerns and to facilitate the likelihood of entry into the Canadian van market, the company also undertook to sell the Trailmobile name and associated intellectual property, including drawings and designs used in the manufacture of vans. In light of the significant market developments, the likely efficiency gains to be achieved by the revised proposal, and Trailmobile's undertaking to sell the trade name, the Director agreed to revise the original undertakings and accept Trailmobile's undertaking to sell the trade name. The Director will monitor developments in the market for the three-year period allowed by the Act.

Applications to the Competition Tribunal

During the fiscal year two applications were filed with the Competition Tribunal under the merger provisions of the Competition Act.

Alex Couture Inc., Sanimal Industries Inc./Lomex Inc., Paul & Eddy Inc.

Early in 1987 the Director commenced an examination of the acquisition by Alex Couture Inc. (Couture) and Sanimal Industries Inc., owner of Alex Couture Inc., of the Quebec-based waste-rendering firms Lomex Inc. and Paul & Eddy Inc. The waste-rendering industry retrieves non-edible animal by-products and restaurant grease and processes them into products such as tallow and bone meal which are used in the animal feed and cosmetic industries. After an extensive examination, the Director concluded that the merger would prevent or lessen competition substantially in the relevant market. An application was filed with the Tribunal on June 26, 1987, requesting relief by way of dissolution of the merger or divestiture of assets or shares.

The parties to the merger subsequently brought proceedings in the Quebec Superior Court for a declaration that certain provisions of the Competition Act are ultra vires the federal government. The application also questioned the validity of several sections of the Competition Act in light of the Charter of Rights. The Superior Court issued an order staying proceedings before the Tribunal until October 1, 1987, pending its hearing on the merits

of the application. An appeal by the Crown against the issuance of the order to stay proceedings was dismissed by the Quebec Court of Appeal on September 15, 1987. However, the Superior Court on September 29, 1987, ordered that the undertakings given to the Director by the parties to hold the two businesses separate pending the outcome of the constitutional challenge and Tribunal's subsequent ruling be included in the order staying proceedings.

Reservec (Air Canada)/Pegasus (Canadian Airlines International)

Following the Director's examination of this matter, an application was filed with the Tribunal on March 4, 1988, to challenge the merger of the Reservec and Pegasus computer reservation systems. Computer reservation systems are used by airlines and travel agents for the distribution and sale of airline seats and related travel services. Prior to the merger, Reservec was owned by Air Canada and Pegasus was owned by Canadian Airlines, International. The transaction would result in the merger of the two reservation systems which would be operated through the Gemini Group Automated Distribution Systems Inc., a company equally owned by Air Canada and PWA Corporation, parent company of Canadian Airlines International.

In his application, the Director contended that the merger "prevents or lessens, or is likely to prevent or lessen competition substantially in the provision of computer reservation systems services to airlines, travel agents and consumers in Canada." Relief is sought in the form of an order for the dissolution of the merger, or any other order which the Tribunal may deem appropriate.

Discontinued Inquiries

Grocery Products Manufacturing

On August 7, 1987, the Director discontinued an inquiry which had been commenced following receipt of an application by six residents, into a proposed acquisition by a competitor of a company involved in grocery products manufacturing. The applicants alleged that the proposed acquisition, if completed, would be contrary to the provisions of section 64 of the Act. While the Director was conducting his inquiry into this matter, he was informed that the target company had been sold to another party. He concluded that no further inquiry was therefore justified.

Air Transportation

During the fiscal year the Director's inquiry into the acquisition by Air Canada of Air BC, Air Ontario and a 75 percent interest in Austin Airways, as commented on in the 1987 Annual Report, was discontinued.

Chapter IV

Other Reviewable Matters

Part VII of the Competition Act describes a number of situations or practices which may or may not be anticompetitive depending upon the facts of the particular case. Where the Director concludes that the criteria listed by the Act have been met, he may apply to the Competition Tribunal for a remedial order. The Act sets out the types of orders that may be issued in relation to each of the matters it describes.

The following are reviewable matters under the legislation:

- Refusal to deal, where a person is substantially affected in his or her business by the refusal, the person is willing and able to meet the usual trade terms of the supplier, the product is in ample supply, and the inability to obtain supply is due to insufficient competition among suppliers (section 47);
- Consignment selling, where a supplier who ordinarily sells a product for resale introduces a practice of consignment selling to control dealer prices or discriminate between consignees (section 48);
- Exclusive dealing, where a purchaser is required to deal only or primarily in particular products or refrain from dealing in specific products, the practice is engaged in by a major supplier or is widespread, and competition is or is likely to be lessened substantially (section 49);
- Tied selling, where a supplier as a condition of supplying product A, requires a purchaser to purchase product B, or refrain from using a particular brand of product in conjunction with product A, the practice is engaged in by a major supplier or is widespread, and competition is or is likely to be lessened substantially (section 49);
- Market restriction, where a supplier as a condition of sale, imposes restrictions as to the market in which his or her customer may deal, the practice is engaged in by a major supplier or is widespread, and competition is or is likely to be lessened substantially (section 49);
- Abuse of dominant position, where one or more persons substantially or completely control a class or species of business, and have engaged in, or are engaging in a practice of anticompetitive acts which have the effect of preventing or

lessening competition substantially; the Act provides a non-exhaustive list of types of conduct which would constitute an anticompetitive act (sections 50 and 51);

- Delivered pricing, where a supplier engages in a practice of refusing delivery of an article at any place where deliveries are made to other customers, the supplier is a major one or the practice is widespread, and the practice has the effect of denying a customer or potential customer of an advantage that would otherwise be available in the market (sections 52 and 53);
- Specialization agreements where the Tribunal finds that the implementation of the agreement is likely to bring about gains in efficiency and the Director has been given a reasonable opportunity to be heard; on the application of any party the Tribunal may register an agreement exempting it from the conspiracy and exclusive dealing provisions of the Act (sections 58 to 62).

Other provisions in Part VII relate to the implementation of foreign laws or directives and refusals to supply by foreign suppliers. Several limitations and exceptions apply to the various reviewable matters provisions. For greater certainty, readers are advised to consult the legislation.

Activities Relating to Inquiries

During the fiscal year, the Bureau initiated five formal inquiries into reviewable matters other than mergers. No reviewable practice cases were placed before the Competition Tribunal this year. However, a number of matters which had been the subject of inquiry or examination were effectively resolved by means of an alternative case resolution instrument or information contact employed by the Director's staff to ensure cessation of the practice in question.

Considerable time is devoted in the course of inquiries to gathering the evidence necessary to establish that grounds exist for an application to the Competition Tribunal. Each year a number of inquiries are discontinued after further investigation demonstrates that no application would be warranted. The Director is required to report to the Minister on the discontinuance of any inquiry. The following paragraphs provide a brief account of the two inquiries into reviewable matters that were discontinued during the year.

Music duplication licences

On March 31, 1988, the Director discontinued an inquiry relating to a refusal to supply duplication licences for copyrighted musical works to a disc jockey. The refusal to supply was alleged to violate sections 47 and 51. The existence of a conspiracy was also alleged. The Director subsequently found that the parties complained against were unable to provide duplication licences because they had not been authorized by the copyright holders of the musical works to do so. The Director also concluded that alternative sources of the musical works were available to the complainant and hence he was not precluded from carrying on business by the refusal.

Academic journals

On March 31, 1988, the Director discontinued an inquiry into the sale and supply of academic journals and periodicals. The inquiry was commenced following receipt of a section 7 application alleging, among other things, that European publishers had abused their dominant position with respect to the publishing of individual titles by engaging in delivered pricing, contrary to sections 51 and 53. The Director subsequently concluded that no contravention of section 51 could be found because purchasers of Canadian and European publications, being in separate geographic markets, are not in competition with each other. The Director also considered that section 53 would not likely apply to foreign suppliers in a foreign market selling articles to Canadian customers in locations outside Canada. It was also alleged that through imposing substantially higher prices for North American purchasers than for Europeans, section 32 and paragraph 34(1)(a) of the Act had been violated. However, no such violations could be established.

Chapter V

Criminal Offences in Relation to Competition

Part V of the Competition Act prohibits under criminal sanction certain specified trade practices, bid-rigging, agreements or arrangements which lessen competition unduly, misleading advertising and deceptive marketing practices. For operational and statistical purposes, those offences found in sections 32 to 35 and section 38, which may be loosely characterized as offences in relation to competition, are treated separately from the misleading advertising and deceptive marketing practices provisions found in sections 36 through 37.3. The following offences are included in this group:

- Conspiracies, combinations, agreements or arrangements to lessen competition unduly in relation to the supply, manufacture or production of a product (section 32);
- Bid-rigging, where two or more persons agree that one party will refrain from bidding in a call for tenders, or where there is collusion in the submission of bids, unless such actions are made known to the tendering authority (section 32.2);
- Knowingly engaging in a practice of discriminating against competitors of a purchaser of an article by granting a discount or other advantage to a purchaser that is not available to competitors purchasing articles of like quality and quantity (paragraph 34(1)(a));
- Engaging in a policy of selling products in any area of Canada at prices lower than those exacted elsewhere in Canada, where the effect or design is to lessen competition substantially or eliminate a competitor (paragraph 34(1)(b));
- Engaging in a policy of selling products at unreasonably low prices where the effect or design is to lessen competition substantially or eliminate a competitor (paragraph 34(1)(c));
- Granting to a purchaser an allowance for advertising or display purposes that is not offered on proportionate terms to competing purchasers (section 35);
- Attempting to influence upward or discourage the reduction of the price at which another person supplies or advertises a product or refusing to supply or otherwise discriminating against anyone because of that person's low pricing policy (subsection 38(1));
- Attempting to induce a supplier to refuse to supply a product to a particular person because of that person's low pricing policy (subsection 38(6)).

Other provisions relate to the implementation of foreign directives, agreements relating to participation in professional sport and agreements among banks. A number of exclusions and exceptions are applicable to these provisions, as well as certain defences. For greater certainty, readers are advised to consult the legislation. Information on the penalties applicable for violation of these provisions is provided in Appendix I.

Court Proceedings Concluded

During the year ended March 31, 1988, 57 proceedings were considered by the Courts under the offences against competition provisions. These consisted of 18 proceedings commenced during the year and 39 proceedings before the courts from previous years. Twenty-one proceedings were concluded during the year, of which seven resulted in conviction, ten resulted in the acquittal of the accused and four resulted in the issuance of orders of prohibition without conviction. Fines totalling \$686 100 were imposed during the year. In addition, in the 36 proceedings before the courts at the end of the year, \$880 000 in fines was outstanding in 5 matters that were under appeal or in which proceedings against some accused were still pending.

All court proceedings relating to the disposition of charges following a preliminary inquiry or trial are described in the paragraphs which follow. In addition, a listing of the cases in which all court proceedings were concluded during the year is provided in Appendix IV and an account of all cases in which charges have been laid and court proceedings are pending is provided in Appendix V.

Court Proceedings: 1986 to 1988

Section	Charges laid		Completed Proceedings					
			Conviction		Order of Prohibition		Non-conviction	
	1986-87	1987-88	1986-87	1987-88	1986-87	1987-88	1986-87	1987-88
32	4	5	1	2	—	4	1	2
32.2	3	2	2	—	—	—	—	1
33*	—	—	—	1	—	—	—	—
34(1)(a)	1	—	1	—	—	—	—	—
35	2	—	1	—	—	—	—	—
38(1)(a)	5	6	6	2	—	—	2	4
38(1)(b)	6	4	6	2	—	—	7	2
38(6)	—	1	—	—	—	—	1	1
Totals	21**	18***	17	7	—	4	11	10

* Combines Investigation Act.

** 21 proceedings arising from 14 court cases relating to violations of the identified offence provisions of the Act.

*** 18 proceedings arising from 9 court cases relating to violations of the identified offence provisions of the Act.

Agreements to Lessen Competition/Bid-rigging

Hotels

In April 1987 court proceedings were concluded against six major hotels in the Ottawa/Hull area. Two charges had been laid on May 25, 1985, one under each of sections 32 and 32.2, in relation to alleged bid-rigging activities by the hotels in the setting of room rates to be charged to government employees. On March 13, 1987, three of the hotels — Four Seasons Hotels Limited, Delta Hotels Limited and Plaza Hotels Inc. — pleaded guilty to the charge under section 32 and were convicted and fined \$60 000 each. The charge under section 32.2 was withdrawn. On April 27, 1987, the three remaining accused — York-Hannover Hotels Ltd., Commonwealth Holiday Inns of Canada Limited and CN Hotels Inc. — pleaded guilty to the same charge and were convicted and fined \$80 000 each. The charge under section 32.2 against these accused was stayed. All six firms were also made subject to an order of prohibition under subsection 30(1). (Services Branch)

Aluminum siding

On May 5, 1987, an order of prohibition was issued against 10 companies and individuals involved in the installation of siding, soffit, fascia and accessories for home renovation projects within the city of Kamloops, British Columbia and environs. The order was issued under subsection 30(2) after the respondents agreed to the terms of the order and the accompanying admissions. The admissions indicate that the respondents, by attending certain meetings and participating in discussions about the level of prices they would agree to charge, engaged in acts or things directed towards the commission of an offence under paragraph 32(1)(c). Named in

the order are: Jack Danielson, Russell L. Edgington (doing business as Russ's Aluminum Siding and Soffit), Donald G. Floodstrom and Todd Products Inc., Kevin J. Martens and W.C. Home Improvements Limited, Veijo Pontinen (doing business as Velo's Aluminum), David Royce (doing business as Royce Aluminum), Gary Sandulescu (doing business as Kamloops Eavestroughing) and Robert Sturm (doing business as Storm Home Services). (Resources and Manufacturing Branch)

Driving schools

On August 24, 1987, four accused — École de Conduite Lauzon Saguenay Lac St-Jean Inc., École de Conduite Robert Riverin Ltée, Michel Larouche and Jean-Guy Claveau — were convicted of one charge laid under paragraph 32.2. The two companies were fined \$1 000 each and the two individuals were fined \$500 each. This inquiry was commenced following receipt of a complaint alleging that several Chicoutimi driving school owners had submitted bids arrived at by agreement in response to calls for tenders by the local CEGEP. One accused — Roubec Auto École de Chicoutimi Enr. — was discharged at the preliminary inquiry. Appeals by the accused against conviction and by the Crown against sentence remain outstanding. The accused were also acquitted of a further charge under section 32(1)(c). (Services Branch)

Business forms

On November 6, 1987, two conspiracy charges, one under each of paragraphs 32(1)(b) and 32(1)(c), were dismissed following a preliminary inquiry into alleged collusive activities engaged in by several major business forms suppliers in the Prairie region. The charges were laid in April 1986 against Lawson Business Forms

Manitoba Ltd., Harold K. St. John, Alfred Dean Allen, R. L. Crain Inc., John B. Lynch, George M. Wilson, Moore Corporation Limited, Gordon B. Wainwright, Gordon E. Menuz, James A. Scarsbrook, Paragon Business Forms (Western) Ltd., and Alfred I. Rein. The accused were committed to trial on charges which were laid under the bid-rigging and price maintenance provisions concerning this inquiry, and these charges remain outstanding. (Services Branch)

Legal services

On January 11, 1988, orders of prohibition were issued against the Kent County Law Association and the Waterloo Law Association and their respective members and executives for the years 1985, 1986 and 1987. The orders were issued under subsection 30(2) after both associations consented to the terms of the orders and the accompanying admissions. The admissions describe the various steps that each of the associations took in attempts to achieve and enforce agreements on the legal fees members would charge the public for residential real estate legal services.

In the case of the Waterloo Law Association, it was admitted that the executive of the Association had met to discuss a proposed fee schedule and the sanctions that could be used against members to enforce it. Following the promulgation of a fee schedule, which was to take effect in November 1985, the executive suggested to members that non-adherence to the fee schedule would be regarded as a breach of accepted ethical and professional standards. At an Association meeting held in December 1985 and attended by the vast majority of lawyers providing residential real estate legal services in Waterloo, the real estate fee schedule was ratified by a unanimous vote.

In the Kent County Law Association case, it was admitted that, at a meeting held in June 1984 and attended by 80 percent of the Association's members, a motion of agreement was unanimously passed to adhere to a suggested fee schedule regarding residential real estate matters. Each member was subsequently asked by letter to sign an acknowledgment of agreement with the fee schedule and to agree and undertake to charge fees only in accordance with the schedule. The Association also approved an unprofessional conduct by-law which included, as grounds for unprofessional conduct, a failure to agree to adhere to the fee schedule.

The orders of prohibition issued against the Kent County and Waterloo Law Associations are basically the same. They specifically prohibit any agreement to unduly prevent or lessen competition in the supply of legal services. The orders also prohibit communications of any kind among members concerning the fees charged clients, the promulgation of fee schedules and the formation of committees respecting fees. In addition, each Association was ordered to publish a copy of the applicable order in their local newspaper and comply with certain measures that will assist the Director to monitor compliance with the terms of the order. (Services Branch)

Gaspé cure

On January 14, 1988, Exportation Gaspé Cured Inc., an export consortium of all producers of Gaspé Cure, a lightly salted fish, and 10 members of the consortium, were found guilty of one charge under section 32. This inquiry was commenced following the receipt of a complaint from a Canadian exporter who was refused supply of Gaspé Cure by the consortium. The 11 accused — Manigo Inc., Exportation Gaspé Cured Inc., Lelièvre, Lelièvre et Lemoignan Ltée, Poisson Salé Gaspésien Ltée, Pêcheries Sheehan Inc., Poissonerie Anse-À-Beaufils Inc., Pêcheries Malbaie Inc., Pêcheries de l'Anse Au Griffon Inc., Pêcheries Cartier Inc., Poissoneries Boulay Inc., and Pêcheries Gaspésienne Inc. — were each fined \$1 000 and made subject to an order of prohibition under subsection 30(1). (Resources and Manufacturing Branch)

Hogs

On January 15, 1988, a decision was rendered by the Alberta Court of Queen's Bench in relation to Canada Packers Inc. in the Alberta hogs case. This case involved allegations that the major meat packers operating in Alberta had agreed to share hogs offered for sale, to purchase hogs at an agreed price and to sell pork product to the distributive market at predetermined prices. Three of the accused — Burns Food Limited, Eschem Canada Inc. and Gainers Limited — pleaded guilty on December 9, 1983, to the charge of conspiring with respect to the purchase of slaughter hogs and were fined \$125 000 each. Canada Packers proceeded to trial and was acquitted on all charges. Intercontinental Packers Ltd. pleaded guilty during the trial and was fined \$100 000 on February 23, 1988.

The Court found that while there had been communications between Canada Packers and competitors, the evidence failed to establish that the communications resulted in agreements, which the parties intended to be binding, concerning the prices at which hogs were to be purchased. The Court also held that the Crown failed to prove beyond a reasonable doubt that there was an agreement to share hogs offered for sale. On the question of an agreement relating to the price of products to be sold to the distributive market, the Court also found a lack of intent to be bound by any agreement. This decision is under appeal by the Crown. (Resources and Manufacturing Branch)

Trucking services

On March 29, 1988, an order of prohibition was issued by the Alberta Court of Queen's Bench against 18 motor carrier companies, the Western Transportation Association and their respective directors, officers, agents or employees. The order, which was issued under subsection 30(2) upon the consent of the parties, represents the conclusion of a long-standing inquiry. Twenty companies and eleven individuals were originally charged under paragraph 32(1)(c) on November 5, 1979. They were alleged to have conspired to lessen competition in the Western Canadian trucking market for less-than-truckload service.

Under the terms of the order, the respondents are prohibited, among other things, from fixing or co-ordinating single-line rates in the market, and from forcing adherence to single-line rates in the market as published by any motor carrier tariff bureau or industry association. The order also prohibits the respondents from taking any discriminatory action against any motor carrier because of any rate adopted or offered by such carrier. The Association is prohibited from initiating tariff rate proposals and from developing a collective response among members of the Association to rates put forward by any motor carrier.

The respondents made subject to the order are: Alltrans Express Ltd., Atomic Interprovincial Transportation System Ltd., Atomic Transfer Ltd., Canadian Freightways Limited, Canadian National Railway Company, Canadian National Transportation, Limited, Canadian Pacific Express & Transport Limited, Inter-City Truck Lines (Canada) Inc. — Camionnage Inter-City Canada Inc., Kingsway Transports Ltd., Kingsway Freightlines Limited, Kingsway Freightlines (Saskatchewan) Limited, Transport Route Canada Inc., Direct Transportation System Limited, Porter Trucking Ltd., Reimer Express Lines Ltd., Reimer Express (Pacific) Ltd., Reimer Express Lines (Western) Ltd., Motorways (1980) Limited, and Western Transportation Association. (Regulatory Affairs)

Merger

Funeral homes

On April 15, 1987, Hamilton Funeral Homes Limited pleaded guilty to one charge under section 33, the criminal merger provision of the Combines Investigation Act. This case related to the December 1981 acquisition of five funeral homes in the Hamilton market by the accused. Following the acquisitions, Hamilton Funeral Homes Limited, together with an associated company, Funeral Financial Services Limited, controlled seven of the ten funeral homes in the Hamilton area. Hamilton Funeral Homes was fined \$200 000. An order of prohibition under subsection 30(1) was also issued which, among other things, called for the dissolution of the merger. At the same time, charges against Funeral Financial Services Inc. and Arbor Capital Resources Inc. were withdrawn. (Services Branch)

Price Maintenance

Art prints

On November 16, 1987, Gyrfalcon Corporation pleaded guilty to two charges under the price maintenance provision. The inquiry into this matter was commenced following receipt of a complaint from a Toronto retailer alleging that the accused had refused to supply him with limited edition art prints due to his low pricing policy. The accused pleaded guilty to one charge under each of paragraphs 38(1)(a) and 38(1)(b) and was convicted and

fined \$25 000 on each charge. A charge under subsection 38(6) was withdrawn. (Resources and Manufacturing Branch)

Magazine advertising

Court proceedings against Brave Beaver Press-works Limited concluded on October 19, 1987, after the accused pleaded guilty to one charge under paragraph 38(1)(b) and was fined \$100. An order of prohibition under subsection 30(1) was also imposed. The inquiry into this matter commenced in April 1984 following the receipt of information which suggested that the accused had a policy of discouraging low price advertisements on current model year motorcycles in the firm's *Cycle Canada* and *Moto Journal* magazines. An additional charge under paragraph 38(1)(a) was withdrawn. (Resources and Manufacturing Branch)

Stereophonic products

In June 1987 Sony of Canada Ltd. was acquitted of four charges, two under each of paragraphs 38(1)(a) and 38(1)(b). The charges related to the sale of stereophonic products. Six charges had been laid against Sony on July 19, 1983, but the company was discharged on two charges at the preliminary inquiry. (Resources and Manufacturing Branch)

Soft drinks

On August 11, 1987, Blackwoods Beverages Ltd. and Beverage Services Ltd. were discharged at the preliminary inquiry on two counts under paragraph 38(1)(a). This inquiry was commenced in 1980 upon receipt of complaints alleging that Blackwoods Beverages had attempted to influence upward the price at which Beverage Services Ltd. sold soft drinks in Winnipeg and Brandon, Manitoba. The accused were committed to trial on charges of conspiracy. (Resources and Manufacturing Branch)

Computer printers

On December 11, 1987, Epson (Canada) Limited pleaded guilty to 10 charges under paragraph 38(1)(a) and was convicted and fined \$20 000 on each charge for a total fine of \$200 000. Thirteen remaining charges against the company and twenty-three charges against Maurice LaPalme and Sam Patterson were withdrawn on the same date. The Director's inquiry into this matter was commenced following receipt of complaints that Epson had adopted a policy which prevented retailers from advertising Epson computer printers and related products at less than the suggested retail price. Epson has filed an appeal against sentence. (Services Branch)

Woodstoves

Pacific Energy Woodstoves Ltd. and Paul Erickson were acquitted of two charges, one under each of paragraphs 38(1)(a) and 38(1)(b) on June 16, 1987. The charges were laid on October 8, 1986, following an inquiry into complaints alleging that the accused had

attempted to influence upward the price at which one of its customers sold stoves and related accessories. (Resources and Manufacturing Branch)

Wrist watches

On December 7, 1987, Les Must de Cartier Canada Inc. was ordered to stand trial on two charges, one under each of paragraphs 38(1)(a) and 38(1)(b). This inquiry was commenced following receipt of a complaint by a Toronto jeweller alleging that the accused had attempted to influence upward the price at which the retailer sold Cartier wrist watches, and had refused to supply the retailer with wrist watches because of his low pricing policy. (Resources and Manufacturing Branch)

Watches

On February 12, 1988, following a preliminary inquiry, Wenger Ltd. was ordered to stand trial on one charge under paragraph 38(1)(b). This inquiry was commenced following receipt of a complaint alleging that Wenger had refused to supply the complainant with Cardinal watches because of his low pricing policy. The trial is scheduled to take place on June 1, 1988. (Services Branch)

Farm implements

Court proceedings against Canadian Cooperative Implements Ltd. concluded on March 15, 1988, after the accused pleaded guilty to one charge under paragraph 38(1)(a) and was convicted and fined \$5 000. This inquiry was commenced following receipt of a complaint from a farm implements dealer alleging that the accused had attempted to influence upwards his price. (Resources and Manufacturing Branch)

Court Proceedings Relating to Ongoing Cases

A number of court proceedings take place each year relating to cases that have yet to proceed to trial. Frequently, the proceedings involve court challenges to the evidence-gathering procedures that were used in the course of the inquiry. A brief description of some of the major decisions of this nature handed down during the year is provided in the paragraphs that follow.

Two decisions were rendered during the year relating to the Director's right to retain copies of documents seized under the former Combines Investigation Act. In the *Southam v. Hunter* case, the Supreme Court of Canada found that this earlier legislative procedure violated the Charter of Rights and Freedoms (see the 1985 Annual Report, page 15). In the matter of *Skis Rossignol Canada Ltée/Ltd. and Société de Distribution Rossignol du Canada Ltée v. Lawson A.W. Hunter*, the Federal Court—Trial Division declared in 1985 that the searches and seizures at issue were illegal, but allowed the Crown to retain copies of documents needed for prosecution. On May 13, 1987, the Federal Court of Appeal allowed an

appeal from this decision. The Court indicated that there may be cases where it would be justified in refusing to order the return of illegally seized property to its rightful owner. However, the Court cautioned that the Crown bears a very heavy burden when it seeks to profit from a Charter-barred seizure, which was not satisfied by a simple assertion that the things seized were needed for a prosecution. On February 11, 1988, leave to appeal was denied by the Supreme Court of Canada.

A different conclusion was reached by the Ontario Court of Appeal in *Commodore Business Machines Limited v. Calvin S. Goldman et al.* On February 25, 1988, the Court of Appeal upheld a lower court decision allowing the retention of copies needed for prosecution even though these had been seized under the Combines Investigation Act. The Court considered that no serious prejudice would result to the appellant, and noted that the decision would not affect the issue of the admissibility of the documents at trial. Also noted was the fact that the search had been reasonably conducted and had not caused any disruption to the applicant's business. The Court commented that in many, if not most, of the situations where a search has been conducted in violation of a Charter-guaranteed right, the goods seized should be returned but that the trial judge had properly exercised his discretion on the special facts of the case.

Court proceedings are continuing in several inquiries which have been held in abeyance pending a decision by the Supreme Court of Canada on the status of oral examinations pursuant to section 17 of the former legislation. Section 17 empowered a member of the Restrictive Trade Practices Commission to order persons resident or present in Canada to be examined under oath.

In the matter of *Stelco Inc. v. The Attorney General of Canada*, on October 22, 1987, the Federal Court of Appeal upheld a decision of the Trial Division on the question of whether the provisions relating to oral examinations in section 17 of the Combines Investigation Act violate section 7 of the Charter. The Court of Appeal indicated that it agreed with the reasoning of the Ontario Court of Appeal in *Thomson Newspapers Ltd. et al. v. Director of Investigation and Research et al.* that the oral examination provisions in section 17 do not violate section 7 of the Charter. Both *Thomson* and *Stelco* are scheduled to be heard by the Supreme Court of Canada in November 1988. Additional oral examinations in an inquiry into the flat rolled steel industry were stayed by the Federal Court of Appeal in January 1988 pending the outcome of the *Thomson* and *Stelco* cases.

During the year, the scope and interpretation to be given the document retention procedures described in section 15 of the Act were challenged before the Courts. In *Cottrell Transport Inc. v. Canada (Director of Investigation and Research)*, certain companies from whom records had been seized pursuant to section 13 brought an application before the Ontario High Court for an order directing that the companies were entitled to notice and an

opportunity to be heard in any proceedings or presentation by the Director to a judge under section 15. Section 15 provides that where the director has seized a record pursuant to a search authorization, he must either make a report in respect of the record to a judge, or take the record before a judge, who may authorize its retention. In this case, the Director had or was prepared to return all records seized, and only wished to retain photocopies. The Ontario High Court held on October 9, 1987, that the Director is not required under section 15 to give notice to persons searched of either a request for authorization to retain seized property or a report to a judge. While this finding, in itself, was sufficient to dispose of the application, the Court commented that in its view, subsection 15(3) is concerned only with records that are seized, not copies of seized records, and the Director need not ask a judge for permission to retain copies made pursuant to subsection 16(3). This decision was appealed to the Ontario Court of Appeal and, on January 22, 1988, upheld on the basis that the term "record" as used in section 15 and, therefore, the procedures regarding the retention of records do not apply to photocopies made by the Director.

Activities Relating to Inquiries

During the fiscal year, the Director initiated 16 formal inquiries in relation to sections 32 to 35 and section 38. Search orders issued under section 13 of the Act were employed to obtain additional information relating to eight inquiries.

At the close of the last fiscal year, 14 cases which had been referred to the Attorney General for consideration as to whether prosecution or other proceedings ought to be commenced were still under review. An additional 15 cases were referred to the Attorney General during 1987-88. Three summaries of evidence were returned to the Director because prosecution was not warranted. The summaries returned related to inquiries into the household appliance, concrete pumping and funeral monument industries.

Considerable time is devoted in the course of inquiries to gathering the evidence necessary to establish that an offence has occurred. Each year a number of inquiries are discontinued after investigative efforts fail to yield evidence of an offence. The Director is required to report to the Minister on the discontinuance of any inquiry. Thirteen inquiries under sections 32 to 35 and section 38 were discontinued during the year. Discontinuances are described briefly in Appendix VI.

Chapter VI

Misleading Advertising and Deceptive Marketing Practices Offences

The misleading advertising and deceptive marketing practices provisions are contained in sections 36 to 37.3 of the Competition Act. These provisions apply generally to all persons promoting the supply or use of a product or promoting any business interest. However, certain of the provisions apply solely to representations in the form of advertisements. The practices prohibited by this group of offences include the following:

- Representations which are false or misleading in a material respect (paragraph 36(1)(a));
- Misleading representations as to the price at which a product is ordinarily sold (paragraph 36(1)(d));
- Double ticketing, where the product is not supplied at the lower of two or more prices clearly expressed (section 36.2);
- Advertising a product at a bargain price, where the advertiser does not have the product available in reasonable quantities (section 37);
- Selling a product at a price higher than the price which is currently being advertised by the vendor (section 37.1); and
- Conducting a promotional contest, unless there is adequate and fair disclosure of the number and approximate value of prizes, and of material information relating to the chances of winning, the distribution of prizes is not unduly delayed, and certain other requirements are met (section 37.2).

Other provisions relate to performance claims, warranties, tests and testimonials, and pyramid and referral selling. A number of exclusions, limitations and defences are applicable to the provisions. For greater certainty, readers are advised to consult the legislation. Information on the penalties provided by the Act for violations of the provisions is provided in Appendix I.

Court Proceedings

During the year ended March 31, 1988, 245 misleading advertising and deceptive marketing practices cases were considered by the Courts. These consisted of 125 proceedings commenced during the year and

120 proceedings before the Courts from previous years. This includes 20 cases that had received court consideration in previous fiscal years but were under appeal at the start of the year. There were 130 cases concluded during the year, 84 of which resulted in convictions, 44 in acquittals, charges withdrawn and other completions of court proceedings and 2 cases resulted in the issuance of orders of prohibition without conviction. Fines totalling \$661 500 were imposed during the year. In addition, of the 115 cases before the Courts at the end of the year, \$172 850 in fines was outstanding in 10 matters that were under appeal or in which proceedings against some accused were still pending.

Prosecutions completed during the year are listed in Appendix VII showing the products involved, the persons charged, the location of the offence and details of the disposition. Prosecutions still in progress are listed in Appendix VIII. The following paragraphs describe some of the more significant court proceedings that took place during the year.

Tires

On May 25, 1987, the Federal Court of Canada issued an order of prohibition under subsection 30(2) against Sears Canada Inc. The order relates to representations made by Sears concerning the traction performance of all-season radial tires. The representations were alleged to violate paragraphs 36(1)(a) and 36(1)(b). In addition to prohibiting Sears from doing any act or thing directed or constituted towards a repetition of the conduct, among other terms, the order requires Sears to submit advertisements containing claims relating to the traction performance of all-season radial tires to the Marketing Practices Branch. The order will be in effect for three years.

Air transportation

In May 1985 Air Canada was charged with failing to supply an advertised product in reasonable quantities in promoting a seat sale, contrary to subsection 37(2). The charges were dismissed in March 1986, but that decision was reversed on appeal to the District Court of Ontario, which found that the trial judge had erred in several respects.

The trial judge considered the difficulties encountered by Air Canada in being able to know at any given moment what its seat availability situation is. Air Canada had presented evidence at trial to show that, due to the number of air travellers who book passage but do not show up for their flight, seat availability is difficult

to determine precisely, and is calculated by factoring in an oversale element. However, in the view of the appellate court, inability to comply with the provision of subsection 37(2) is no excuse for non-compliance, unless that inability falls within one of the exceptions outlined in the section.

The appellate court also held that the trial judge had wrongly considered as relevant a disclaimer which appeared in the ad stating "some flights may be sold out." In the Court's view, such a disclaimer cannot excuse failure to provide reasonable quantities of the product. On September 15, 1987, Air Canada was fined \$5 000 on each of three charges for a total fine of \$15 000. An appeal has been filed by Air Canada against conviction and by the Crown against sentence.

Corrosion control system

On July 9, 1987, Conroy Electronics Incorporated was convicted of two charges, one under each of paragraphs 36(1)(a) and 36(1)(b). Both charges related to statements made in a brochure to promote the sale of a corrosion control system for cars, the Rustbuster. The brochure contained several claims relating to the effectiveness of the device. However, at trial, the Ontario Provincial Court found that the claims were false and misleading, based on the expert evidence placed before the Court. In considering the application of paragraph 36(1)(b), the Court considered certain tests performed on the device which were introduced by the defence. In two instances tests were not found to support the claims made, while factual road tests conducted by the Director of the corporation were held to be insufficient for the purposes of paragraph 36(1)(b). The Court also commented that testimonials of satisfied users would be of no assistance to the accused, and could not cure the omission of failing to conduct adequate and proper tests. The accused was fined \$10 000 on each charge for a total fine of \$20 000.

Diamond ring promotion

Muralex Distribution Inc./Les Distribution Muralex Inc., and Pierre Benoit were charged on May 23, 1986, with having made false or misleading representations in promoting the sale of mail order items through a diamond-ring promotion. Catalogues and promotional brochures that were mailed to households indicated that the recipient need only mail in a certificate to win one of three "super" prizes — \$25 000, a Brut diamond ring, or \$5 000. All persons who sent in their winning certificate received a ring with a retail value of approximately \$9.

On April 29, 1987, the Provincial Court of British Columbia found that the representations made in the brochure were false or misleading as the ring was not a super prize and the brochure gave the clear impression that the winner would receive a valuable diamond ring. This impression was given by the use of the words

"super prize," and by the placement of the ring in the order of the other prizes listed. With respect to the application of the statutory due diligence defence, the Court noted that the accused had received legal advice with respect to the brochures, but held that due diligence can only apply to matters of fact, not to matters of law, and hence the accused could not avail himself of the defence in this instance.

The accused were each fined \$15 000 for a total fine of \$30 000. On July 9, 1987, an appeal by the accused was dismissed.

Electronic home entertainment products

On June 25, 1987, the Manitoba Court of Queen's Bench denied an application brought by CLP Can-market Lifestyle Product Corporation and R. Hugh Thorsten to have portions of the pyramid selling provision struck down. The applicants had argued that the pyramid selling provision violated section 15 of the Charter of Rights and Freedoms which guarantees equality before the law. They contended that the existence of the "provincial licensing exemption" in subsection 36.3(4) would result in unequal application of the law depending upon the existence of provincial pyramid selling legislation.

The Court found that this state of affairs did not offend the constitution or the rights of individuals, but rather was a direct result of the constitutional division of powers. In a decision handed down on December 4, 1987, the Manitoba Court of Appeal dismissed a further appeal by the company. While the Court of Appeal agreed that the pyramid selling provision does not violate the Charter, it based its reasoning on the proposition that the Charter does not prohibit geographic disparities in the application of laws, provided that all persons similarly situated are treated in a similar fashion.

Activities Relating to Inquiries

During the fiscal year, the Director initiated 98 formal inquiries in relation to sections 36 to 37.2.

Included in this group is one application for a formal inquiry from six residents pursuant to section 7. Search orders issued under section 13 of the Act were employed to obtain information relating to seven inquiries, while written returns of information were requested in two cases.

At the close of the 1986-87 fiscal year, 51 cases which had been referred to the Attorney General for consideration as to whether prosecution or other proceedings ought to be commenced were still under review. An additional 113 cases were referred to the Attorney General during 1987-88.

Considerable time is devoted in the course of inquiries to gathering the evidence necessary to establish that an offence has occurred. Each year, a number of inquiries are discontinued after investigative efforts fail to

yield evidence of an offence. The Director is required to report to the Minister on the discontinuance of any inquiry. The three inquiries under sections 36 to 37.2

which were discontinued during the year are described in Appendix IX.

The following table shows operations under sections 36 to 37.2 of the Act, beginning with 1983-84.

Operations under the Misleading Advertising and Deceptive Marketing Practices Provisions					
	1983-84	1984-85	1985-86	1986-87	1987-88
Total complaints received	11 054	10 632	10 668	12 382	13 496
Number of files opened	10 091	9 816	9 809	11 514	12 374
Applications for inquiries under section 7	—	1	—	—	1
Number of complete examinations	2 068	2 145	2 151	2 188	2 187
Inquiries formally discontinued	—	4	—	—	3
Matters referred to the Attorney General of Canada	181	136	175	151	113
Matters referred where the Attorney General decides no further action warranted	13	10	19	10	—
Proceedings commenced during year	163	148	158	149	125
Completed cases: convictions	138	137	109	111	84
Prohibition orders without conviction	—	—	—	—	2
Completed cases: non-convictions*	44	54	33	41	44

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

Chapter VII

Representations to Boards, Commissions, or Other Tribunals

Under sections 97 and 98 of the Competition Act, the Director of Investigation and Research is authorized to make representations to, and to call evidence before, federal and provincial boards, commissions or other tribunals. In addition, the Minister of Consumer and Corporate Affairs may direct that a representation shall be made by the Director before a federal regulatory board. In the case of provincial regulatory boards, the Director may only make representations at the request of the board or with the board's consent.

A considerable number of the representations made in past years relate to hearings into the communications and transport industries. However, the Director has also appeared before the Canadian Import Tribunal, federal and provincial energy boards, and agricultural products marketing boards. In each case, the Director has focussed his attention on providing a qualitatively sound assessment of the relevant facts and the likely impact on competition of the matter under review.

Director's Representations to Regulatory Boards

Canadian Import Tribunal – Hyundai Motor Company

On July 18, 1987, the Department of National Revenue, Customs and Excise commenced an antidumping investigation following receipt of a complaint from General Motors of Canada and Ford Motor Company of Canada alleging injurious dumping into Canada of cars produced by Hyundai. On January 6, 1988, the Director intervened in subsequent proceedings before the Canadian Import Tribunal held to determine the issue of material injury. The Director argued that Hyundai had been a positive influence on competition in the Canadian automobile market, and that Hyundai had filled a market niche essentially abandoned by domestic producers and Japanese manufacturers as a result of voluntary export arrangements. The Director also asserted that a large percentage of the competing cars sold in Canada by the complainants are, in fact, imported from the United States, or increasingly, from outside North America.

On March 23, 1988, the Tribunal announced its finding that the dumping by Hyundai had not caused, is not causing, and is not likely to cause material injury. The reasons for the decision reflected many of the

Director's arguments. Ford and General Motors have given notice of their intention to seek judicial review of the Tribunal's decision. (Resources and Manufacturing Branch, Economics and International Affairs Branch)

CRTC Telecom Cost Inquiry – Phase III

Phase III of the CRTC Cost Inquiry commenced on December 15, 1981, with the announcement that public hearings would be held to consider the development of methods of allocating costs for the existing categories of telecommunications carrier services. Since that date, the Director has participated in all aspects of the Inquiry.

On June 25, 1985, the CRTC issued a decision consistent with the submissions of the Director, in which it rejected the five-way split methodology proposed by Bell Canada and B.C. Tel. The CRTC elected to rely on a system similar to one currently being used by the Telecom Canada companies to divide long distance revenues among themselves. On August 8, 1986, Bell and B.C. Tel were ordered to provide detailed costing manuals, which were filed with the CRTC on September 30, 1987. The Director filed his comments on the manuals on January 29, 1988. In his submission, the Director made representations on (a) the completeness and accuracy of the manuals, (b) assignment techniques used by carriers in the manuals, and (c) further improvements to Phase III methodology. The CRTC has yet to announce its decision. (Regulatory Affairs Branch)

New Brunswick Telephone Company Limited (N.B. Tel) – Interconnection in the Telecommunications Industry

On September 12, 1983, the Board of Commissioners of Public Utilities of the Province of New Brunswick announced that public hearings would be held to consider issues relating to interconnection in the province's telecommunications industry. As previous Annual Reports have indicated, the Director participated fully in all aspects of the hearing. In its decision the Board advised that it would consider future private line and public long distance system interconnection applications once a suitable costing methodology has been approved and implemented.

A separate hearing was held in February 1987 to consider the unbundled rates for terminal attachment filed by N.B. Tel. In this proceeding, the Director argued that N.B. Tel's proposed network access rates appeared discriminatory for those customers who choose to own

their terminal equipment. The Director also asserted that interim safeguards similar to those established by the CRTC were required pending the development of an appropriate cost accounting methodology.

The Board announced on January 27, 1988, that public hearings to review these matters would be held in the fall of 1988 to develop a cost accounting methodology. (Regulatory Affairs Branch)

Bell Canada – Revenue Requirement

On October 14, 1986, the CRTC issued its decision on Bell Canada's rate of return for 1985, 1986 and 1987. In its decision, the CRTC concluded that Bell had earned excess revenues in 1985 and 1986 amounting to \$206 million, and that revenue adjustments of \$234 million would be required for 1987. The CRTC ordered that the excess revenues be returned to subscribers through a one-time credit on local service, and that the 1987 revenues be adjusted by lowering long-distance telephone rates. The CRTC also adopted many of the Director's recommendations relating to intercorporate pricing. For example, it directed Bell to implement new accounting procedures and modify existing ones to assist the CRTC to monitor possible inappropriate transfers between non-arm's length companies.

Bell Canada appealed the portion of the decision calling for the return of revenues to subscribers. The appeal was allowed by the Federal Court of Canada on the ground that the CRTC had overstepped its jurisdiction through the retroactive application of the CRTC's decision. This matter is under further appeal by the CRTC. (Regulatory Affairs Branch)

Newfoundland Telephone Company Limited (Nfld. Tel) – Terminal Attachment

On June 19, 1986, Corner Brook Pulp and Paper Limited, the Governing Council of the Salvation Army Canada East, and five Newfoundland hospitals filed a complaint with the Newfoundland and Labrador Board of Commissioners of Public Utilities requesting permission to attach customer-owned telephones to the public-switched network of Nfld. Tel.

On November 5, 1986, the Director filed with the Board the written submission of two expert witnesses who argued in favour of granting the request. The submission asserts that competition in the provision of telecommunications terminal equipment will provide subscribers with greater choice of equipment, lower prices and increased flexibility. Public hearings in this matter commenced in April 1987. In his final oral argument before the Board, the Director maintained that the application was in the public interest and should be approved. In particular, the Director argued that (a) the terminal equipment market is not a natural monopoly and, therefore, there is no public benefit to it being a non-competitive market, (b) liberalized terminal attachment would benefit subscribers without adversely affecting quality of service or basic exchange rates, and (c) revenue losses, should

they occur, can be addressed by the Board through an increase in the access charge for business subscribers. As of March 31, 1988, the Board had not released its decision in this matter. (Regulatory Affairs Branch)

CNCP – Application for Regulatory Forbearance

On September 10, 1986, CNCP Telecommunications applied to the CRTC for orders exempting them from (a) the requirement to file tariffs for their offerings and (b) the requirements of the Cost Inquiry. In support of its request, CNCP argued that it was not a dominant force in the markets that it served, offered no monopoly services and, hence, should be regulated in a manner which reflects its competitive environment.

On July 3, 1987, the Director submitted arguments in favour of granting CNCP's request. In particular, the Director noted that CNCP had no dominant power in any market, had its prices dictated by market forces, and had a limited ability to act in an anticompetitive manner. CNCP's application was granted by the CRTC on September 22, 1987. On March 11, 1988, the Telecommunications Workers Union was granted leave to appeal this decision to the Federal Court of Canada. (Regulatory Affairs Branch)

Saskatchewan Telecommunications 1985 Net Income Study and Financial Targets

On January 21, 1987, the Saskatchewan Public Utilities Review Commission announced that a public hearing would be held to consider Sask Tel's 1985 Net Income Study and Financial Targets. The purpose of the study was to determine whether a cross-subsidy exists between Sask Tel's regulated and unregulated activities, and to consider possible measures to prevent such subsidies from occurring in the future. This matter was concluded when the provincial government announced on May 12, 1987, that the Commission would be wound up effective immediately. (Regulatory Affairs Branch)

CRTC – Rate Rebalancing

On October 27, 1987, the CRTC commenced public hearings into an application by Bell Canada to initiate a multi-phase process of restructuring its rates for local and long-distance telephone services. Essentially Bell argued for the need to cease the current practice of subsidizing local service with long-distance tolls, and therefore raise local service charges. Bell also argued that its suggestion of rate rebalancing would best restore efficient prices.

The Director participated in the public hearing and argued against Bell's position in several respects. While agreeing on the need to change the current price structure, the Director recommended that more efficient pricing would result if Bell levied an access charge separate from the local service charge and provided subscribers with greater options in the purchase of local service. The Director also opposed Bell's position that

efficient pricing should be maintained through regulatory means. He argued that rate rebalancing through increased competition would generate significant economic benefits through gains in efficiency without unduly affecting access to local telephone service.

In its decision released March 17, 1988, the CRTC concluded that rate rebalancing was desirable, but expressed concern that an increase in local rates would affect universality of access. It therefore allowed a decrease in long distance service charges, but rejected an increase in local service charges indicating instead that it would be willing to consider a new filing for rate rebalancing by Bell. (Regulatory Affairs Branch)

CNCP Request to Bell Canada for Inter-connection to Private Line Services

On May 12, 1987, CNCP applied to the CRTC for approval of tariff services for Canada/U.S. Broadband services and for approval of an operating agreement between CNCP and Western Union. This would enable CNCP's customers to take advantage of lower U.S. toll services. The CRTC subsequently requested public comment on the CNCP application in Public Notice 1987-80.

In August 1987, the Director filed a written submission regarding this matter in which he argued that CNCP's request was in the public interest and should be approved. The Director noted in particular that Bell had failed to present any persuasive evidence to support its argument that the proposed private line services would erode Canada/U.S. message toll service revenue to an appreciably greater degree than exists at present. In Order 87-739, the CRTC concurred with many of the Director's comments and approved CNCP's application. (Regulatory Affairs Branch)

Régie des services publics du Québec

On February 26, 1988, the Régie indicated that it would initiate a major public proceeding in order to review the scope and degree of competition it should allow in its jurisdiction. Concurrently, the Régie will review and adopt a standard costing methodology for all carriers operating in its jurisdiction. The general goal of this public process is to set a uniform level of competition and costing methodology throughout the province that will be compatible with that found at the federal level.

The Director appeared at the prehearing conference held on March 1, 1988, and may seek leave to participate in any subsequent proceeding to be held by the Régie. (Regulatory Affairs Branch)

Federal Express — Application to Amend its Commercial Air Services Licence

In December 1982 the Director intervened before the Air Transport Committee of the Canadian Transport Commission in support of an application by Federal Express. Federal Express requested an extension of its international specific point licence in order to facilitate its courier service operation. Details of the Director's argu-

ments before the Committee, the Committee's decision, as well as the subsequent appeal application to the Federal Court and the Canadian Transport Commission can be found at page 82 of the 1984 Annual Report.

On June 29, 1987, the Federal Court directed the Committee to reconsider the application. However, in a decision issued on December 31, 1987, the Commission confirmed the Committee's original determination granting the Federal Express application with minor amendments. (Regulatory Affairs Branch)

National Farm Products Marketing Council — Inquiry into the Merits of Establishing a National Marketing Scheme for Potatoes

The National Farm Products Marketing Council completed hearings into the merits of establishing a national marketing scheme for potatoes in July 1987. The Director participated in these hearings, and argued in favour of establishing an agency for the purposes of domestic and international market development. However, he recommended that supply management powers not be assigned to a national potato marketing agency.

On February 17, 1988, the Council recommended that an agency be established to assist in the development of the industry and to implement programs of market information, promotion and research. On the issue of supply management powers, the Council recommended that the new agency prepare a plan for a national supply management scheme and submit it to the Council for review. (Resources and Manufacturing Branch)

Ontario Energy Board Hearing — Contract Carriage

At page 49 of the 1987 Annual Report, it was reported that the Director intervened before the Ontario Energy Board (OEB) in a hearing convened to consider changes in the Ontario natural gas distribution system in light of the October 31, 1985, Agreement on Natural Gas Markets and Prices between the federal government and the producing provinces.

In a procompetitive decision dated March 23, 1987, the OEB held that gas marketers and brokers would be permitted to contract for transportation services on the distributors' delivery system. Furthermore, the formation of groups of end-users would be permitted to purchase competing supplies of gas. The Board also endorsed the separation of the distributors' marketing function from their function of transporting gas. It ordered the distributors to propose a timetable for separation of their marketing functions into separate corporate entities.

On April 8, 1987, the Board invited further submissions on the role of brokers as potential suppliers in Ontario. On August 15, 1987, the Director made a further submission on the procompetitive role of brokers in Ontario. The Board's decision on this issue is pending. (Resources and Manufacturing Branch)

Manitoba Public Utilities Board Hearing – Cost Pass Through

At page 49 of the 1987 Annual Report, it was reported that the Director intervened before the Manitoba Public Utilities Board (PUB) in a hearing convened to decide whether to pass through to end-users of natural gas the prices negotiated between the Manitoba distributors and TransCanada Pipelines Limited in light of the Agreement on Natural Gas Markets and Prices. The Manitoba government also requested the PUB to inquire whether these prices exceeded the competitive market price for gas, and whether the current regulatory, contractual, administrative and institutional arrangements for the supply of gas ensured that in the future gas would be provided to Manitoba consumers at competitive prices.

In his submission addressing the matter of competitive gas prices the Director argued that contract carriage on the distributors' delivery systems was necessary in order to obtain a competitive price of gas. The Director also argued that the Board should reconsider its earlier preliminary decision not to permit contract carriage.

In its decision of May 13, 1987, the PUB approved the pricing agreement between TransCanada and the Manitoba distributors to October 31, 1987. The PUB decided not to reconsider its prior decision concerning contract carriage at that time. (Resources and Manufacturing Branch)

La Régie de l'Électricité et du Gaz – Contract Carriage

In June 1987, the Director intervened in a rate hearing before La Régie de l'Électricité et du Gaz. Although the hearing related to proposed rates of Gaz Métropolitain, the Régie granted industry participants and the Director an opportunity to address more general competition concerns. The Director urged the Régie to permit brokers to contract for transportation service on the delivery system of the distribution company. The Director also recommended that where a distributor competes on the sale of gas he should do so by means of a separate corporate affiliate that would be unregulated and would contract for transportation service with the regulated distributor. Final argument was heard in March 1988. The decision by the Régie is pending. (Resources and Manufacturing Branch)

National Energy Board – Distributor Self-displacement

On March 3, 1988, the Director intervened before the National Energy Board in a hearing dealing with the reconsideration by the Board of its earlier decision prohibiting distributor self-displacement. Self-displacement refers to the obtaining by the distributor of competing supplies that would displace gas under bundled long term contracts between the distributor and TransCanada Pipelines. The hearing was scheduled to commence in May 1988. (Regulatory Affairs Branch)

Court Proceedings Relating to Sections 97 and 98

Prior to the 1986 amendments to the Act, the Director's statutory authority only empowered him to make representations before federal regulatory bodies. However, appearances were often made before provincial regulatory bodies with their consent. The issue of the Director's right to participate in hearings at the provincial level before the Act was amended was decided by the Supreme Court of Canada on November 19, 1987. On that date, the Court issued its judgment in two cases which had been heard together, *Director of Investigation and Research v. Newfoundland Telephone Company Limited*, and *The New Brunswick Telephone Company Limited v. L.A.W. Hunter*.

Although the Court indicated that the issues under appeal may have been rendered academic by the change in the legislation and the Director's decision not to seek a resumption of the hearings in question, the Court decided the case in view of the possible general significance of the issues under appeal. Essentially, the Court held that a public officer requires statutory authority, express or implied, to intervene in an official capacity before an administrative tribunal. Neither the Newfoundland nor the New Brunswick Board in question could validly permit an intervention by a public officer such as the Director who had been denied the necessary authority to intervene by his governing statute.

Chapter VIII

Information and Compliance Programs

In many instances, compliance with the Competition Act and the promotion of competition can be best achieved by enhancing public awareness of the law and by assisting business people to develop practices that will conform to the law. This year, the Director placed considerable emphasis on communication and education to foster a better understanding of the Act and its application. The following programs and initiatives comprise the major elements of the Bureau's expanded information and compliance program.

The Speech Program

The Director and many of the senior officials of the Bureau undertook numerous speaking engagements throughout the year on a variety of subjects related to competition policy administration. During 1987-88, the Director and senior officials spoke at more than 30 conferences and presented seminars to members of associations and other groups on areas of particular concern. Speech topics ranged, for example, from the merger review process to free trade and the Competition Act, to the application of the legislation to franchising activities. Information on speeches which are publicly available is provided in Appendix X.

The Director's Consultative Forum

The Director's Consultative Forum is an informal gathering comprising a small number of academics, business people, lawyers, consumer representatives and others, who are invited to meet with the Director to provide feedback on issues relating to the enforcement of the Competition Act. In order to allow the broadest cross section of participants there is no fixed membership for the Forum and an effort is made to involve participants from different regions of the country. While attendance at the Forum is by invitation, those interested in the administration and enforcement of competition law in Canada are welcome to request an invitation to be a participant.

The first meeting of the Forum, held in September 1987 to discuss the merger review process, resulted in a positive exchange of information on matters such as the use of advance ruling certificates and the need for merger guidelines. The second meeting of the Forum is scheduled to take place in April 1988.

The Program of Advisory Opinions

The Program of Advisory Opinions is designed to assist business people who wish to avoid coming into conflict with the Act. Under this program, formerly known as the Program of Compliance, the Director invites company officials, lawyers and others to request an opinion on whether the implementation of a proposed business plan or practice would give him grounds to initiate an inquiry under the Act.

Opinions take into account previous jurisprudence, previous opinions and the stated policies of the Director. The Director has no authority to regulate business conduct or to determine its legality. Therefore, those who seek an opinion are not bound by the advice provided and remain free to adopt the plan or practice in question on the understanding that the matter may be tested before the Competition Tribunal or the courts. Similarly, the Director cannot bind himself or his successors by giving an opinion. Advisory opinions are given in relation to a specific set of facts. Should the details of the proposed plan differ when implemented from the plan presented to the Director, or should conditions change in a way that would alter the impact of the proposed plan on the market, the matter could be subject to further examination.

In addition, the Act authorizes the Director to issue advance ruling certificates in respect of mergers. These are described more fully in Chapter III.

The Program of Information Bulletins

During the year a series of Information Bulletins were developed for publication. Targeted towards the business community and the legal and economic professions, the bulletins will outline various provisions of the Act and provide the Director's position on particular subjects. The first bulletin, to be released in June 1988, will deal with the merger provisions of the Act. Other bulletins are scheduled to discuss advance ruling certificates, efficiency gains, barriers to entry, and the Director's Program of Compliance as it relates to both criminal and reviewable matters. A series of interpretation bulletins which will contain summaries of opinions provided under the Director's Program of Advisory Opinions, written in a manner that protects confidential information such as the parties' identities, is planned.

Information and Compliance

	Misleading Advertising Offences		Remaining Section of Act		Total	
	1986-87	1987-88	1986-87	1987-88	1986-87	1987-88
Requests for Information	21 051	21 937	760	1 499	21 811	23 436
Oral Advisory Opinions	938	1 089	109	101	1 047	1 190
Written Advisory Opinions	343	296	33	33	376	329
Media Contacts	277	224	234	182	511	406
Speeches/Educational Seminars	161	188	42	31	203	229

Chapter IX

Competition Policy Development and International Affairs

Policy Development

Government policies, whether they relate to specific business activities or the economy as a whole, frequently impact upon competition in the industries affected. In recognition of this fact, over the last few years the Director has become increasingly involved in departmental and interdepartmental policy development work in a number of areas. This involvement has frequently taken the form of assistance provided in the early stages of the development of legislative proposals. The Director has also been called upon in the past to testify before parliamentary committees seeking his views on the impact of proposed legislation on competition. In each case, the Director has endeavoured to ensure that competition policy considerations are taken into full account by policymakers. The following paragraphs describe some of the more significant policy development activities which the Director's staff engaged in during the reporting period.

Shipping Conferences Exemption Act, 1987

During the year, the Director's staff assisted in providing analytical support for passage and implementation of Bill C-21, the Shipping Conferences Exemption Act, 1987. The Act provides the legislative framework for the operation of shipping conferences in Canada. Conferences are cartels that regulate rates and conditions of service in international ocean shipping. The Act also exempts certain prescribed activities from the application of the Competition Act. In the summer of 1987, the new Shipping Conferences Exemption Act was passed by Parliament, and on February 17, 1988, it came into force.

The 1987 legislation incorporates important pro-competitive reforms in the legislative framework for shipping conferences. It restricts the conferences' exemption from the Competition Act, by deleting the pre-existing exemption for collusive agreements between conference and non-conference carriers. It facilitates price competition within the conferences, through the instruments of confidential service contracts and the right of independent action by conference member lines. Independent action refers to the offering of rates which are different from those agreed to in the published conference tariffs. The Act also clarifies that predatory pricing by conference members remains subject to the Competition Act. Finally, the 1987 Act includes new procedures for the review of conference agreements and practices by the National Transportation Agency. It designates the Director as an interested person with authority to initiate such review procedures.

During the Legislative Committee hearings into the 1987 Act the Deputy Director (Operations) appeared before the Committee on behalf of the Director. He requested two amendments to the Bill which were subsequently adopted by the Committee. These amendments clarified that the Competition Act remains applicable to conference activities that are not specifically exempted pursuant to the Act, and simplified the procedures for the use of evidence obtained by the Director in an investigation under the Act. (Economics and International Affairs Branch)

Copyright Act

Members of the Bureau also continued to play an active role in respect of the development and analytical support for passage of Bill C-60, which would substantially revise Canada's Copyright Act. The Director's interest in this matter arises in part from the fact that Bill C-60 contains two proposals which would affect the application of the Competition Act.

One important thrust of the Bill is to encourage the formation of collective societies to gather royalties in new fields, such as photocopying, now subject to copyright protection. In this regard, the legislation provides for the establishment of an expanded Copyright Board to fix royalties and related terms and conditions when collectives and users fail to reach a voluntary agreement. Such agreements, once filed with the Copyright Board, will be exempt from the application of the conspiracy provisions of the Act. However, if the Director considers that an agreement is contrary to the public interest, he may apply to the Copyright Board to vary the agreement.

An important additional matter covered by Bill C-60 is a related amendment to expand the scope of section 29 of the Competition Act. That section currently provides a remedy in situations where a patent or trademark is used to restrain trade. The amendment would provide protection against anticompetitive abuse of copyright as well. Bill C-60 received third reading in the House of Commons in February 1988. It was still before the Senate as of March 31, 1988. (Economics and International Affairs Branch)

Petroleum Industry

This year the Director's staff continued with follow up work relating to the report of the Restrictive Trade Practices Commission (RTPC) on an inquiry into the

Canadian petroleum industry. Following receipt of the Commission's conclusions and recommendations in May 1986, the Minister asked the Director to consult with the oil companies concerning certain of the recommendations. Particular issues were the use by the industry of "rack pricing" policies, under which refiners announce that they will not grant discounts off published prices, and the use of restrictive covenants forbidding the marketing of petroleum products from properties sold by oil companies.

The Director's consultations with the oil companies showed that many of the industry practices targeted by the Restrictive Trade Practices Commission are no longer prevalent. Virtually all companies indicated that discounts off the rack price are available to independent wholesalers, and in many cases they are willing to waive non-petroleum use covenants. Also, several companies have introduced new distribution and pricing schemes which reduce the degree of control the oil companies have over retail gasoline prices.

The companies agreed with the RTPC that restrictions on competition through government regulation of gasoline retailing could operate to the detriment of consumers. They urged the Director to advocate the benefits of free competition in the market, as opposed to regulation, in instances where a provincial government contemplates regulation as a means of controlling the conduct of their gasoline industries.

The Minister of Energy, Mines and Resources was also consulted on the Commission's recommendations dealing with Petro-Canada. He agreed that the new accountability of Petro-Canada under the Competition Act, together with existing government review mechanisms, are adequate to deal with Petro-Canada's competitive orientation. The Minister confirmed the Government's commitment to maintaining the import option as a valuable source of alternative fuel supply. (Resources and Manufacturing Branch)

Canada-U.S. Free Trade Agreement

An important activity of the Director's staff during the year was the provision of support for aspects of the Canada-U.S. free trade negotiations relating to competition policy. The staff collaborated with the Trade Negotiations Office in the development of the Canadian position respecting contingency trade-law remedies. This work focussed on the development of a proposal for reliance on Canadian and U.S. competition law provisions respecting price discrimination and predatory pricing as an alternative to existing antidumping laws. The analysis suggested that competition law provisions could deal with anticompetitive pricing practices while providing greater freedom for procompetitive pricing. Staff members also contributed to the analysis of intellectual property issues in the context of the free trade negotiations. They prepared a study of the treatment of intellectual property licensing practices under the Canadian and U.S. competition laws.

Members of the Director's staff prepared a study of the impact of non-tariff barriers on Canada-U.S. trade in the steel industry. The study illustrated a number of concerns regarding the bilateral impact of contingency trade measures aimed primarily at third countries and the possibility that antidumping proceedings may in some cases be initiated in response to procompetitive price cutting. The study supported the need for a new framework to govern bilateral trade disputes and limit the role of non-tariff barriers in Canada-U.S. trade.

In April 1987, the Director delivered a speech to the Canada-U.S. Law Institute which dealt with the potential role of competition law in relation to the free trade negotiations. He commented on the potential benefits of reliance on Canadian and U.S. competition law provisions as an alternative to existing antidumping laws in the context of a Canada-U.S. free trade area.

The Canada-U.S. Free Trade Agreement was tabled in the House of Commons in December 1987 and was formally signed on January 2, 1988. A central feature of the Agreement, was the provision for a binational tribunal to hear applications for judicial review respecting the application of antidumping and countervailing duty laws in the two countries' bilateral trade. In addition, the Agreement provided for the development over a five- to seven-year period of a new regime to govern unfair pricing practices and the use of subsidies affecting Canada-U.S. trade.

In March 1988, the Director delivered a speech in which he discussed the significance of the Free Trade Agreement for competition policy. In his speech, the Director argued that while competition policy and trade liberalization share a common goal – the promotion of open and free markets – the creation of a free trade environment does not eliminate the need for competition law. Anticompetitive practices can still occur and may cancel out some of the benefits that might be expected from free trade. The Director also pointed out that the Competition Act explicitly recognizes the importance of international trade to the Canadian economy. Finally, the Director noted that, while the Canadian and U.S. competition laws should be compatible, the Free Trade Agreement does not require that they be identical. (Economics and International Affairs Branch, Compliance Branch)

International Air Transport

In 1987-88, the Bureau was engaged in two significant activities relating to air transport: assisting in the negotiation of a new bilateral air service agreement with the United Kingdom, and the deliberations of the International Civil Aviation Organization (ICAO) on the application of domestic competition laws to international air transport.

The Director's interest in the outcome of the Canada-United Kingdom negotiations was with the question of the scope of application of the Competition Act to scheduled international air service activities covered by the air service agreement. The Director's views were sought in light of the recognition by both parties that difficulties

may arise from the unilateral application of their respective competition laws. Upon concluding the agreement, on September 18, 1987, the parties agreed to initiate further discussions on ways to address this matter and to avoid or resolve any disputes that might occur.

The Director also reviewed and provided comments on draft guidelines and model clauses prepared by an ICAO special study group on the application of domestic competition laws to the international air transport industry. The Director focussed on matters concerning the relationship between domestic competition laws and bilateral and multilateral air service agreements and on the development of the most appropriate mechanisms for conflict resolution. (Regulatory Affairs Branch)

National Telecommunications Policy

During the year, the Director's staff continued their participation in the development of a national telecommunications policy, embracing a wide range of regulatory and competition policy issues. The Director's involvement in this matter reflects his desire to see the continued development of an efficient and dynamic telecommunications industry in Canada. In particular, the Director has stressed the importance of uniform levels of competition in all jurisdictions as a key element in a policy framework.

The federal government's telecommunications policy was announced in July 1987. The key elements of the policy framework are that there should be fair and equitable competition among telecommunications common carriers, that the owners of telecommunications facilities and infrastructure should be at least 80 percent Canadian-owned, and that agreements with the provinces should be sought regarding a national policy on interconnections and an appropriate division of respective roles and responsibilities. (Regulatory Affairs Branch)

International Relations

The Bureau of Competition Policy maintains bilateral relations with antitrust agencies in several foreign countries. It also participates in the work of multilateral fora such as the Organization for Economic Cooperation and Development (OECD) Committee on Competition Law and Policy, and the United Nations Conference on Trade and Development (UNCTAD) Intergovernmental Group of Experts on Restrictive Business Practices.

Bilateral Relations

The Bureau's bilateral relations are generally carried out within the framework of the 1979 OECD Council Recommendation (revised in 1986) concerning cooperation between member countries on restrictive business practices matters. Under the terms of the Recommendation, countries are to notify and consult with one another whenever the actions of one member concerning a restrictive business practice may affect the important national interests of another.

The bulk of Canada's bilateral antitrust work involves cooperation with United States antitrust agencies. This particular bilateral relationship is governed by the terms of a Memorandum of Understanding, signed in 1984, which provides for notification, consultation and cooperation between the two countries regarding antitrust matters. During the fiscal year Canada gave 13 notifications to, and received 24 notifications from, the U.S. authorities. Canada sent four notifications to other OECD member countries and received six notifications from this group. Overall, the most common reason for the contact was a request for third-party information. Most of the notifications related to merger cases.

On a less formal basis, officials of the Bureau held meetings in Canada with officials from New Zealand, Japan, and France and attended bilateral meetings in England, France and Portugal. An executive interchange also took place between Canada and Australia.

Multilateral Relations

For several years the Bureau has been active in the work of the OECD Committee on Competition Law and Policy. The Director has served as a vice-chairman of the Committee since February 1987. The Committee provides a forum for the exchange of information on topics of mutual concern and helps ensure greater uniformity of international antitrust policy among participant countries. In addition to directing the studies carried out by the working parties, the Committee focusses on policy-oriented discussions. Each member country tables an annual report reviewing competition policy developments in their country, and at each session two countries are subject to a detailed examination by the delegates of the other countries. During the February 1988 meeting, Canada assumed the role of examiner of the report submitted by France.

In May 1987, the Bureau made a substantial contribution to the development of a report on predatory pricing prepared by the Working Party on Competition and International Trade. In addition, a report on competition and air transport was completed in February by the Working Party on Competition and Deregulation. The Bureau also participated in the development of a study on the use of patents and know-how licensing agreements being carried out by the OECD Working Party on Competition Policy and Intellectual Property.

In addition to OECD activities, the Bureau participates in the UNCTAD Intergovernmental Group of Experts on Restrictive Business Practices. This forum focusses on promoting greater consistency in the international competition law environment. A delegate from the Bureau assumed the chairmanship of the Sixth Session of the Group of Experts held in November 1987. Also, during 1987-88, work continued on the preparation of a handbook on competition laws as a reference resource for countries seeking to improve domestic competition legislation. The Group of Experts also decided to commence a study on mergers and concentration.

Chapter X

Organization of the Bureau

The Director of Investigation and Research is an officer appointed by the Governor in Council, who has statutory responsibility for administering and enforcing the provisions of the Competition Act. The Director is the head of the Bureau of Competition Policy, which is part of the federal department of Consumer and Corporate Affairs. The Bureau provides the administrative and enforcement support for the Director's statutory responsibilities. Since May 1986 the Director has been Calvin S. Goldman, Q.C.

For a number of years, the Bureau has been organized largely along sectoral lines. Passage of the 1986 Competition Act required that this be reassessed to determine the most effective structure to discharge the Director's significantly altered mandate. The new organizational structure which was developed and implemented is shown in the chart at the end of this chapter. Current senior management assignments are also identified.

The major changes reflected by the new organization are:

- the creation of a new Mergers Branch, which is responsible for the administration of the merger provisions of the Act, including the notifiable transaction requirements, in all sectors of the Canadian economy. The critical importance of the merger review function to the continuing development of a dynamic and competitive economy is recognized in the reporting of this Branch to the Senior Deputy Director of Investigation and Research;
- an increase in the number of Deputy Directors of Investigation and Research, to a total of six. The Deputy Directors may be authorized, pursuant to subsection 6(4) of the Competition Act, to perform the duties and exercise the powers of the Director with respect to individual inquiries under the Act; and
- the creation of the Compliance and Coordination Branch, to promote proactive compliance and alternative case resolution techniques and to pursue public communication/information objectives designed to encourage compliance with the Act.

The three major sector Branches — Resources, Manufacturing and Services — have been consolidated into two. Each is responsible for enforcing both the criminal offence sections of the Act and the provisions relating to

reviewable practices within their respective sectors of the economy. Each branch has been divided internally into specialized Criminal Matters and Reviewable Practices Divisions. In addition those branches provide industry sector expertise to the Merger Branch.

Administration of the misleading advertising and deceptive marketing practices provisions of the Act, in all sectors of the economy, continues to be the responsibility of the Marketing Practices Branch. The Branch operates on a decentralized basis with investigative staff stationed in 12 offices across Canada.

The new Economics and International Affairs Branch provides economic analysis and advice regarding enforcement and policy matters to the Director and the Bureau and has a strengthened mandate to provide case support to the enforcement branches with respect to both inquiries and general industry practices. It participates in departmental and interdepartmental development of government policies and legislation affecting competition. The Branch is also responsible for Canada's contribution to the work of international organizations such as the Organization for Economic Cooperation and Development in the field of competition policy.

The preparation of interventions before federal and provincial regulatory boards and tribunals in all sectors of the economy is the responsibility of the new Regulatory Affairs Branch. The Branch is also responsible for competition policy development in the major regulated sectors.

A Deputy Director of Investigation and Research has overall responsibility for the Economics and Regulatory Affairs functions of the Bureau, reflecting the need to ensure an effective relationship between the administration of the Act and the ongoing development of Canadian economic and regulatory policies and programs.

The Management Systems and Services Branch is responsible for Bureau strategic, operational, and resource planning and reporting, operational review, information systems and support, and financial, administrative and personnel services.

This Branch, and the new Compliance and Coordination Branch, report to the newly-created position of Director General, Compliance Policy and Management Coordination, whose mandate focusses on the development and coordination of general enforcement policies and techniques, and effective resource management, to maximize the application of the Act within the general context of government resource restraint.

Administration

The Bureau of Competition Policy has an authorized strength for 1987-88 of 255 person years. Of these 198 are located in headquarters, 55 are located in field offices of the Marketing Practices Branch in Vancouver, Edmonton, Calgary, Winnipeg, London, Toronto, Hamilton, Montréal, Québec City, Dartmouth and St. John's, and 2 are located in the Vancouver office of Restraints to Competition, which covers those sections of the Act other than mergers and marketing practices.

In 1987-88 the operating budget for the administration of the Bureau, apart from staff salaries and benefits, was \$4 421 000, of which \$4 231 000 was spent. The Bureau's major expenditure during the year was \$11 033 000 for staff salaries and benefits, reflecting the fact that the Bureau is highly labour intensive. The Bureau incurred \$1 327 470 in legal fees and disbursements in relation to its activities under the Act.

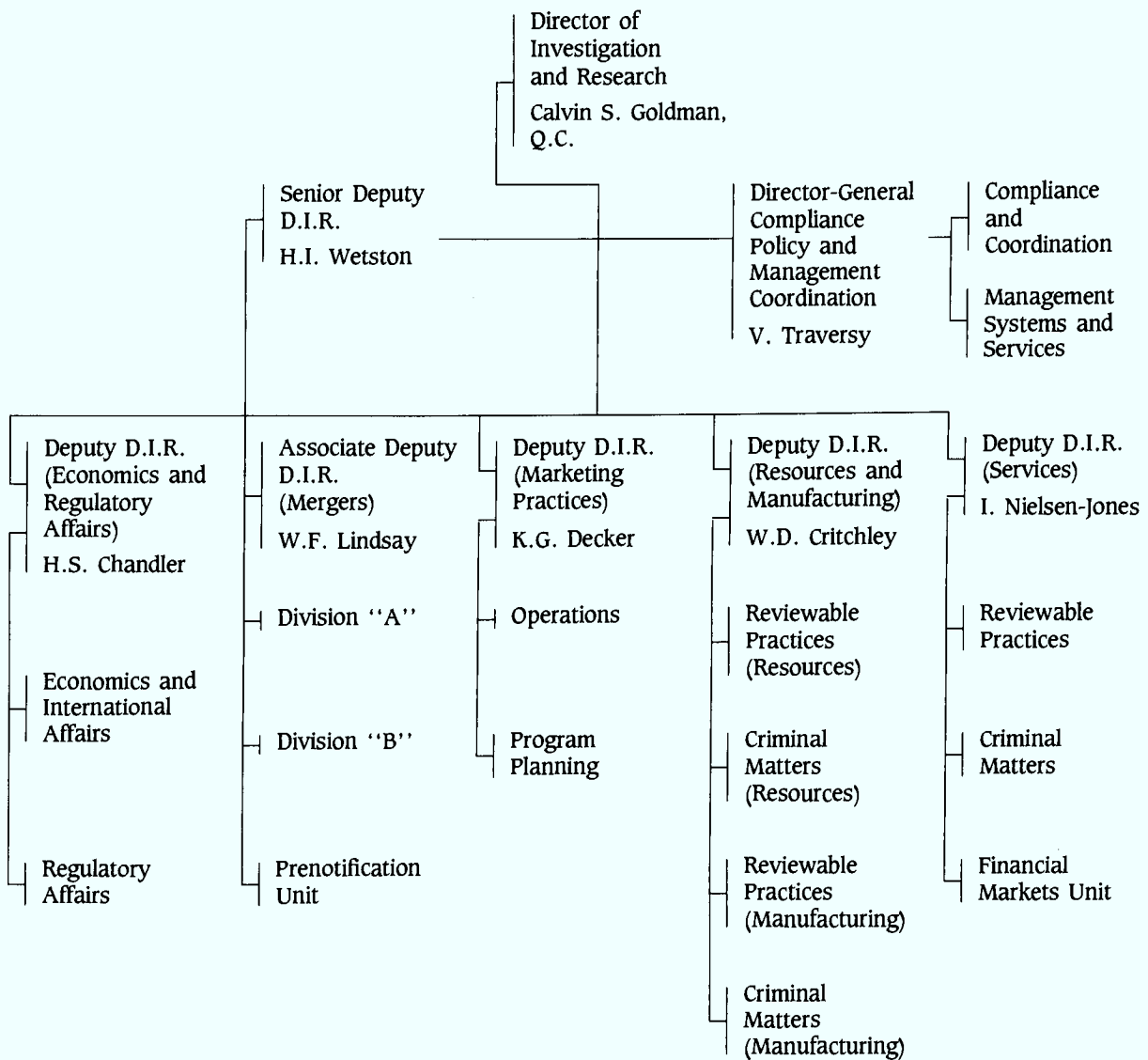
The Bureau collects fines imposed by the courts following successful prosecutions under the Act. During 1987-88, the total was \$1 265 000, which was credited to the government's Consolidated Revenue Fund.

The resource levels of the Bureau are in the process of change. The 1987-88 operating budget referred to above included a permanent increase of \$1.39 million for expenses relating to the new Competition Act, such as increased use of industry experts to assist in the analysis of merger transactions. In addition, late in 1987-88 the Treasury Board approved the inclusion in Supplementary Estimates 1988-89 of additional person-years and associated salary funds to bring the total Bureau strength to 262 person-years.

A further request was made for funding to increase the use of modern office technology, primarily computer systems, essential to enforce the Act with existing resource levels. The Treasury Board deferred a decision on this request pending the submission of a full project description and cost/benefit analysis, which will be completed in mid-1988-89.

The Bureau receives and holds considerable information of high commercial sensitivity – for example, details of proposed merger transactions – which must be protected. Steps are being taken to enhance this protection through the construction of additional secure office premises. Special funds for this purpose were provided in 1987-88, but when construction could not proceed in the fiscal year these funds were reprofiled into 1988-89. The construction program is expected to be completed in the next fiscal year.

Bureau of Competition Policy



Appendix I

Penalties under the Competition Act

Offence	Section	Class of Offence	Maximum Fine	Maximum Term Imprisonment	
Conspiracy	32	I	\$10 Million	and/or	5 years
Foreign directives	32.1	I	Discretion of Court		
Bid-rigging	32.2	I	Discretion of Court	and/or	5 years
Agreements re professional sport	32.3	I	Discretion of Court		5 years
Bank agreements	33	I	\$5 Million	and/or	5 years
Price discrimination and predation	34	I	Discretion of Court	or	2 years
Promotional allowances	35	I	Discretion of Court	or	2 years
Misleading representations	36	a) I, or b) SC	a) Discretion of Court b) \$25 000	and/or and/or	5 years 1 year
Tests and testimonials	36.1	a) I, or b) SC	a) Discretion of Court b) \$25 000	and/or and/or	5 years 1 year
Double ticketing	36.2	SC	\$10 000	and/or	1 year
Pyramid selling	36.3	a) I, or b) SC	a) Discretion of Court b) \$25 000	and/or and/or	5 years 1 year
Referral selling	36.4	a) I, or b) SC	a) Discretion of Court b) \$25 000	and/or and/or	5 years 1 year
Nonavailability	37	SC	\$25 000	and/or	1 year
Sale above advertised price	37.1	SC	\$25 000	and/or	1 year
Promotional contest	37.2	a) I, or b) SC	a) Discretion of Court b) \$25 000	and/or and/or	5 years 1 year
Price maintenance	38	I	Discretion of Court	and/or	5 years

I Indictable Offence
SC Summary Conviction Offence

Appendix II

Bureau Merger Register

The Bureau Merger Register is compiled from published reports of acquisitions that appear in the financial and daily press and industry and trade publications. The register records reported mergers in industries subject to the Competition Act. Accordingly, until 1976 mergers in most service sectors of the economy were largely excluded. Since the establishment of foreign investment review legislation in 1974, all foreign mergers allowed to proceed have been included in the register.

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
1983	395	233	628
1984	410	231	641
1985	466	246	712
1986	641	297	938
1987	622	460	1 082

* 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).

Appendix III

Merger Examinations Concluded 1987-1988

The following table records mergers that have been examined by the Director under the Competition Act, where the Director concluded his examination during fiscal year 1987-88. Only those mergers requiring two or more days of examination are recorded. Any mergers that have not been made public by the merging parties are not listed. The table may include some transactions which did not go forward, or which did not go forward as described.

Name of Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
AFG Glass Inc.	Ford Glass Limited	Float glass manufacturing	FC	
Air Canada	Air Ontario Limited	Air transportation	MO	AO
Air Canada	Austin Airways Limited	Air transportation	MO	AO
Air Canada	Air B.C.	Air transportation	MO	AO
Air Canada	Northwest Territorial Airways Ltd.	Air transportation	FC	
Air Canada (Reservec)	Canadian Airlines International (Pegasus)	Reservation systems	CT	
Amoco Canada Petroleum Company Ltd.	Dome Petroleum Limited	Oil and gas	MO	AO
ASEA Inc./Brown Boveri Canada Ltd.	ABB ASEA Brown Boveri Ltd.	Heavy electrical equipment	FC	
Bank of England, The	British Petroleum Company P.L.C.	Oil and gas	FC	ARC
Bank of Nova Scotia	McLeod Young Weir Ltd.	Financial services	FC	
Bannister Continental Ltd.	Canadian Foundation Co. Ltd.	Construction	FC	
BASF Canada Inc.	Polysar Limited (Canadian Latex Division)	Latex polymers	FC	
BCE Commcor Inc.	National Pagette Ltd.	Radio paging and telephone answering services	FC	
Borden Company Limited, The	Humpty Dumpty Foods Limited	Food manufacturing	FC	
British Gas PLC	Bow Valley Industries Ltd.	Oil and gas	FC	ARC
Canada Packers Inc.	Black Diamond Cheese Ltd.	Food manufacturing	FC	

FC	File closed; concluded as posing no issue under the Act.
ARC	Transaction processed under advance ruling certificate.
AO	Transaction processed under Program of Advisory Opinions.
MO	The Director will be monitoring the effects of the merger during the three-year limitation period.
RE-A	Transaction to be restructured after closing.
RE-B	Transaction restructured before closing.
CT	Application to the Competition Tribunal.

Name of Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Canada Safeway Limited	Woodward Stores Limited (Food Floors)	Food retailing	RE-A	AO
Canadian Imperial Bank of Commerce	Wood Gundy Corporation, The	Financial services	FC	
Canadian Occidental Petroleum Ltd.	BCM Technologies Ltd.	Sodium chlorate	FC	
Canam Manac Inc., Le Groupe	Manitoba Rolling Mills Ltd.	Steel	FC	
Canam Manac Inc., Le Groupe	Noverco Inc.	Natural gas	FC	
Cargill Limited	Maple Leaf Mills Limited (Grain Division)	Grain elevator operation	FC	
Chauvco Resources Ltd.	Rycroft Petroleums Ltd.	Oil and gas	FC	
Chrysler Corporation	American Motors (Canada) Inc.	Automobile manufacturing	FC	ARC
C.I.B.C. Securities Inc.	Gordon Capital Corporation	Financial services	FC	ARC
Cinram Ltd.	Praxis Technologies Corp.	Records/compact disks manufacturing	FC	
Continental Can Canada Inc.	Anchor Cap and Closure Corporation of Canada Limited	Caps and closures	FC	
Culinar Inc., Les Aliments	Interbake Foods Division of George Weston Limited	Food/confectionery manufacturing	FC	
Emco Ltd.	Building Products of Canada Ltd.	Construction materials manufacturing	FC	
Enfield Corp. Inc., The	Consumers Packaging Inc.	Glass/plastic containers manufacturing	FC	
Enfield Corp. Inc., The	Numac Oil & Gas Ltd.	Oil and gas	FC	
Esso Resources Canada Limited	Sulpetro Limited/Sulbath Exploration Ltd.	Oil and gas	FC	ARC
Federal Industries Ltd.	AMCA International(e) Limited/Limitée	Steel warehousing	FC	
Federal Industries Ltd.	Drummond-McCall Division of Marshall Steel Ltd.	Steel warehousing	FC	
Financial Trustco Ltd.	Walwyn Inc.	Financial services	FC	
First Pacific Credit Union	Westcoast Savings Credit Union	Financial services	FC	ARC
Fletcher Challenge Limited	B.C. Forest Products Limited	Newsprint	MO	AO
Gainers Inc.	Z & W Foods Limited	Food manufacturing/meat processing	FC	ARC
General Electric Credit Corporation	Gelco Canada Inc.	Vehicle fleet and management services	FC	
General Foods Inc.	Nabisco Brands Canada Ltd. (Melrose Coffee/Dicksons Food)	Food/beverage manufacturing	FC	

Name of Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
General Foods Inc.	Nabisco Brands Canada Ltd. (Chase & Sanborn Division)	Food/beverage manufacturing	FC	AO
General Foods Inc.	Nabisco Brands Canada Ltd. (Royal Desserts Division)	Food manufacturing	FC	AO
Giant Yellowknife Mines Limited	Dome Mines Ltd.	Gold mines	FC	
Grey Advertising Ltd.	R.T. Kelly Inc.	Advertising agency services	FC	
Guaranty Trustco Ltd.	Yorkshire Trust Company	Financial services	FC	
Gulf Canada Resources Ltd.	Asamera Inc.	Oil and gas	FC	
GYR Properties Ltd.	Pagecorp Inc.	Real estate management	FC	
Hershey Canada Inc.	Nabisco Brands Canada Ltd. (Confectionery)	Food/confectionery manufacturing	FC	AO
Hillsdown Holdings PLC	Maple Leaf Mills Limited	Food/flour manufacturing	FC	
Hollinger Inc.	Unimedia Inc.	Newspapers	FC	
Housewares Holding Company (Nacco Industries)	Proctor-Silex Canada Inc.	Electrical appliances	FC	ARC
Howe Sound Pulp and Paper Limited	Canfor Corporation (Certain Divisions)	Pulp and paper/wood products	FC	ARC
Hughes Tool Co. (Canada) Inc.	Baker International (Canada) Ltd.	Oil drilling products	FC	
Hurricane Rescue Craft Inc.	Zodiac Marine Limited	Boat manufacturing	FC	AO
Intercan Leasing Investments Inc.	Visway Transport Inc.	Highway tractors/trailers/ trucks leasing	FC	AO
John Labatt Ltd.	Le Groupe Lactancia Ltée	Food/dairy products manufacturing	FC	
Kinburn Technology Corporation	SHL Systemhouse Inc.	Computer systems integration services	FC	
KRH Holdings, Inc. (Eastman Kodak)	Sterling Drug Ltd.	Pharmaceuticals/ household products manufacturing	FC	
Lavalin Inc.	Hawker Siddeley Canada Inc. (Trenton Works Division)	Railway cars	FC	
Loomis Armoured Car Services Ltd.	Wells Fargo Armcar Inc.	Armoured car/courier services	FC	
MCW Computers Ltd.	Crownstek Inc., Datamaster Corp.	Micro-computer hardware and software	FC	
Métro-Richelieu Inc.	Ferme Carnaval Inc., La	Food retailing	FC	
Multi-Marques Inc.	Boulangerie Pom Limitée	Food/bread manufacturing	MO	AO

Name of Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Nabisco Brands Canada Ltd.	Interbake Foods Division of George Weston Limited	Food manufacturing	RE-B	AO
Nestlé Enterprises Limited	Brazilian Coffee Limited	Food/beverage manufacturing, food service	FC	
Nestlé Enterprises Limited	Nabisco Brands Canada Ltd.	Food/beverage manufacturing, food service	RE-B	AO
Noranda Inc.	Norcen Energy Resources Limited	Oil and gas	FC	
Noranda Inc.	North Canadian Oil	Oil and gas	FC	
Normick Perron Inc.	Forpan Inc. (Panafor Division)	Waferboard manufacturing	FC	
158341 Canada Inc. (Sub. of Hiram Walker)	McGuinness Distillers Limited	Food/beverages/distilled spirits, wine	FC	
156220 Canada Inc. (Management)	Balfour Guthrie (Canada) Ltd.	Wood products	FC	
149018 Canada Inc.	Forpan Inc.	Wood products	FC	AO
Onex Corporation	Beatrice Foods Canada Limited	Food/dairy products manufacturing	FC	ARC
Oxdon Investments Inc.	Steinberg Inc.	Food retailing	FC	
Placer Dome Inc.	Amoco Canada Petroleum Company Ltd. (Detour Lake Mine)	Gold mining	FC	ARC
PMC Inc.	Kingsley & Keith (Canada) Inc.	Chemical distribution	FC	
Pocklington Financial Corp. Ltd.	Canbra Foods Ltd.	Food manufacturing	FC	
Provigo Inc.	Consumers Distributing Co. Ltd.	Retail merchandising	FC	
Quebecor Inc.	Donahue Inc.	Pulp and paper/ wood products	FC	
Reuters Holdings PLC	I.P. Sharpe Associates Limited	Computer time-sharing and communications consultants	FC	
Rio Algom Limited (Rio Tinto Zinc)	East Kemptville Tin Corporation (EKTC)	Tin mining	FC	ARC
Rogers Communications Inc.	Selkirk Communications Inc.	Radio/television broadcasting	FC	
Royal Bank of Canada	Dominion Securities Inc.	Financial services	FC	
S & P Canada Inc.	PPG Canada Inc. (Kalium Chemicals Division)	Fertilizer chemicals/potash manufacturing	FC	
Sanimal Industries Inc./Alex Couture Inc.	Lomex Inc., Paul & Eddy Inc.	Waste rendering	CT	
Securities Canada Limited	Nesbitt, Thomson Inc.	Financial services	FC	ARC
759286 Ontario Limited	Bell Technical Services Inc.	Computer systems (engineering services)	FC	

Name of Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
739683 Ontario Limited	Cadillac Fairview Company Limited, The	Real estate development	FC	
733146 Ontario Inc.	CAE Webster Ltd.	Zinc/magnesium/aluminum diecasting	FC	ARC
Sceptre Resources Inc.	Soquip Alberta Inc.	Oil and gas	FC	
Southam Inc.	Brabant Newspapers Ltd.	Community newspapers	MO	AO
Stelco Inc.	Jannock Limited	Steel	FC	
T.C.P.L. Energy Limited	Encor Energy Corporation Inc.	Oil and gas	FC	
Thomson C.S.F. (France)	General Electric Canada Inc. (Division of)	Consumer electronics manufacturing	FC	ARC
Thomson Newspapers Limited	Brandon Sun	Newspapers	FC	
Trailmobile Group of Companies Ltd.	Fruehauf Canada Inc.	Highway transport trailers/ vans manufacturing	RE-A	AO
Transamerica Corporation	Borg-Warner Acceptance Canada Ltd.	Financial services/ commercial leasing	FC	
Unicorp Canada Corporation	Intertan Inc.	Consumer electronics/ leather goods manufacturing	FC	
Unicorp Canada Corporation	PCL Industries Ltd.	Resources	FC	
Unilever Canada Limited	Chesebrough-Ponds (Canada) Inc.	Perfumes/cosmetics manufacturing	FC	ARC
Unilever Canada Limited	Nabisco Brands Canada Ltd. (Division)	Food manufacturing	MO	AO
Union Enterprises Ltd. (Unicorp Canada Corporation)	Midland Doherty Financial Corporation	Financial services	FC	
Union Shield Resources Limited	Mark Resources Inc.	Oil and gas	FC	
Voyager Energy Inc.	Voyager Petroleum (II) Ltd.	Oil and gas	FC	
Westbridge Computer Corp.	Mercury Group, Leasecorp, Sask. Computer, Sask. Telecom	Integrated computer services	FC	ARC
Westinghouse Electric Corporation	Commander Electric Equipment Inc.	Electrical equipment	FC	ARC
Weyerhaeuser Canada Ltd.	Owen Construction Co. Ltd.	Construction	FC	ARC
White Consolidated Industries Inc.	Emerson Electric Can. Ltd. (Poulan/Weed Eater Division)	Gas/powered chainsaws manufacturing	FC	
William Neilson Division of George Weston Limited	Cadbury Schweppes Canada Inc. (Candy Operations)	Food/confectionery manufacturing	FC	AO

Appendix IV

Criminal Offences in Relation to Competition: Completed Cases

This appendix contains a listing of the court cases in which all proceedings were concluded during the year. The proceedings are described in Chapter V.

Section 32: Conspiracy

Ottawa Hotels

Four Seasons Hotels Limited, Delta Hotels Limited and Plaza Hotels Inc. York-Hannover Hotels Ltd., Commonwealth Holiday Inns of Canada Limited and CN Hotels Inc. (also section 32.2)

Gaspé Cure

Manigo Inc., Exportation Gaspé Cured Inc., Lelièvre, Lelièvre et Lemoignan Ltée, Poisson Salé Gaspésien Ltée, Pêcheries Sheehan Inc., Poissonerie Anse-À-Beaufils Inc., Pêcheries Malbaie Inc., Pêcheries de l'Anse Au Griffon Inc., Pêcheries Cartier Inc., Poissoneries Boulay Inc., and Pêcheries Gaspésienne Inc.

Proceedings under subsection 30(2)

Aluminum Siding

Jack Danielson, Russell L. Edgington (doing business as Russ's Aluminum Siding and Soffit), Donald G. Floodstrom and Todd Products Inc., Kevin J. Martens and W.C. Home Improvements Limited, Veijo Pontinen (doing business as Velo's Aluminum), David Royce (doing business as Royce Aluminum), Gary Sandulescu (doing business as Kamloops Eavestroughing) and Robert Sturm (doing business as Storm Home Services)

Local Law Associations

Kent County Law Association

Local Law Associations

Waterloo Law Association

Western Trucking

Alltrans Express Ltd., Atomic Interprovincial Transportation System Ltd., Atomic Transfer Ltd., Canadian Freightways Limited, Canadian National Railway Company, Canadian National Transportation, Limited, Canadian Pacific Express & Transport Limited, Inter-City Truck Lines (Canada) Inc. — Camionnage Inter-City Canada Inc., Kingsway Transports Ltd., Kingsway Freightlines Limited, Kingsway Freightlines (Saskatchewan) Limited, Transport Route Canada Inc., Direct Transportation System Limited,

Porter Trucking Ltd., Reimer Express Lines Ltd., Reimer Express (Pacific) Ltd., Reimer Express Lines (Western) Ltd., Motorways (1980) Limited, and Western Transportation Association

Section 32.2: Bid-rigging

Ottawa Hotels

Four Seasons Hotels Limited, Delta Hotels Limited and Plaza Hotels Inc. York-Hannover Hotels Ltd., Commonwealth Holiday Inns of Canada Limited and CN Hotels Inc. (also section 32)

Section 33 (Combines Investigation Act)

Funeral Homes Hamilton

Hamilton Funeral Homes, Funeral Financial Services Inc. and Arbor Capital Resources Inc.

Section 38: Price Maintenance

Art Prints

Gyr Falcon Corporation (paragraphs 38(1)(a) and 38(1)(b) and subsection 38(6))

Magazine Advertising

Brave Beaver Pressworks Limited (paragraphs 38(1)(a) and 38(1)(b))

Stereophonic Products

Sony of Canada Ltd (paragraphs 38(1)(a) and 38(1)(b))

Woodstoves

Pacific Energy Woodstoves Ltd. and Paul Erickson (paragraphs 38(1)(a) and 38(1)(b))

Appendix V

Criminal Offences in Relation to Competition: Proceedings Pending

Product, Names of Accused and Location of Offence	Action Taken and Results
Section 32: Conspiracy	
<p>Hogs — Burns Food Limited, Canada Packers Inc., Intercontinental Packers Limited, Eschem Canada Inc. (formerly Swift Canadian Co. Ltd.) Gainers Limited and Red Deer Packers Ltd. (Calgary, Alberta)</p>	<p>On February 19, 1982, two charges were laid under paragraph 32(1)(c) against all of the accused except Gainers. On June 24, 1982, a revised information was laid under the same paragraph adding Gainers and deleting Red Deer Packers. On December 9, 1983, Burns, Eschem and Gainers each pleaded guilty to one charge and were convicted and fined \$125 000 each. Intercontinental Packers pleaded guilty to one charge on June 26, 1986, and was sentenced on February 23, 1988, to a fine of \$100 000. On January 15, 1988, Canada Packers was acquitted of both charges. Under appeal by the Crown.</p>
<p>Soft drinks — Blackwoods Beverages Ltd., Beverage Services Ltd. and Coca-Cola Ltd. (Winnipeg and Brandon, Manitoba)</p>	<p>On July 20, 1983, one charge was laid under paragraph 32(1)(c) against Blackwoods Beverages and Beverage Services. On August 10, 1983, a further charge was laid under the same paragraph against Blackwoods Beverages and Coca-Cola. The accused have been committed to trial on both charges.</p>
<p>Pharmacy Association — Nova Scotia Pharmaceutical Society, Pharmacy Association of Nova Scotia, Lawton's Drug Stores Limited, William H. Richardson, J. Keith Lawton, Empire Drug Stores Limited, Woodlawn Pharmacy Limited, Nolan Pharmacy Limited, William G. Wilson, Woodside Pharmacy Limited, Frank Forbes (Halifax, Nova Scotia)</p>	<p>On February 24, 1987, two charges were laid under paragraph 32(1)(c). An application by the Director to re seize documents pertaining to the inquiry, which were seized under section 10 of the former legislation, is scheduled to be heard April 26, 1988.</p>
<p>Funeral Services — Nova Scotia Licensed Embalmers and Funeral Directors' Association (Halifax, Nova Scotia)</p>	<p>On March 22, 1988, one charge was laid under paragraph 32(1)(c).</p>
<p>Motorcycles and motorcycle consumer shows — The Motorcycle and Moped Industry Council, Honda Canada Ltd., Yamaha Motor Canada Limited, Suzuki Canada Inc., Canadian Kawasaki Motors Limited and Fred Deeley Imports Limited (Toronto, Ontario)</p>	<p>On March 31, 1988, one charge was laid under paragraph 32(1)(c).</p>
<p>Building Supplies — Beaver Lumber Company Limited, Revelstoke Companies Ltd., Mr. Plywood Enterprises Ltd., Swift Current Building Supplies (1970) Ltd., Pioneer Co-operative Association Limited, Windsor Plywood (The Plywood People) Ltd. (Swift Current, Saskatchewan)</p>	<p>In June 1985, proceedings were commenced for an order of prohibition under subsection 30(2).</p>

Product, Names of Accused and Location of Offence	Action Taken and Results
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Section 32.2: Bid-rigging

Business forms —

Lawson Business Forms Manitoba Ltd., Harold K. St. John, Alfred Dean Allen, R.L. Crain Inc., John B. Lynch, George M. Wilson, Moore Corporation Limited, Gordon B. Wainwright, Gordon E. Menuz, James A. Scarsbrook, Paragon Business Forms (Western) Ltd., Alfred I. Rein (Saskatoon, Saskatchewan)

On April 11, 1986, eight charges were laid under section 32.2. All of the accused were jointly charged on four counts, the first ten named accused were jointly charged on two counts, and the first six accused and the last two accused were jointly charged on the two remaining charges. Following a preliminary inquiry on November 6, 1987, Gordon B. Wainwright, Gordon E. Menuz and George M. Wilson were discharged while the remaining accused were committed to trial.

Driving schools —

École de Conduite Lauzon Saguenay-Lac St-Jean Inc., Michel Larouche, Roubec Auto École de Chicoutimi Enr., École de Conduite Robert Riverin Ltée and Jean-Guy Claveau (Chicoutimi, Quebec)

On May 5, 1986, one charge was laid under section 32.2. Following a preliminary inquiry, all the accused except Roubec Auto École were ordered to stand trial. On August 24, 1987, the accused were convicted. The two companies were fined \$1 000 each, and the two individuals were fined \$500 each. An appeal had been filed by the accused against conviction, and by the Crown against sentence.

School buses —

Association du Transport Écolier du Québec (St-Jean-sur-Richelieu, Quebec)

On December 17, 1987, one charge was laid under section 32.2.

Printed forms —

R.L. Crain Inc., and Moore Corporation Limited (Halifax, Nova Scotia)

On March 29, 1988, one charge was laid under section 32.2.

Section 34: Price Discrimination

Computers —

Commodore Business Machines Limited (Toronto, Ontario)

On April 1, 1986, two charges were laid under paragraph 34(1)(a). On February 25, 1988, the Ontario Court of Appeal ruled that the Director could retain documents seized under section 10 of the former legislation. The date of the preliminary inquiry will be set in May 1988.

Section 35: Promotional Allowances

Computers —

Commodore Business Machines Limited (Toronto, Ontario)

On April 1, 1986, one charge was laid under section 35. On February 25, 1988, the Ontario Court of Appeal ruled that the Director could retain documents seized under section 10 of the former legislation. The date of the preliminary inquiry will be set in May 1988.

Section 38: Price Maintenance

Skis —

49225 Canada Inc. c.o.b. as Raymond Lanctôt Ltée and as Société de Distribution Rossignol du Canada Ltée (Montreal, Quebec)

On August 1, 1984, six charges were laid under paragraphs 38(1)(a) and 38(1)(b). On February 11, 1988, the Supreme Court of Canada denied the Crown leave to appeal a decision ordering the Director to return documents seized under section 10 of the former legislation.

Product, Names of Accused and Location of Offence	Action Taken and Results
Dairy equipment – Dairy Supplies Limited (Winnipeg, Manitoba)	On February 13, 1985, one charge was laid under paragraph 38(1)(b). On June 3, 1986, the accused was acquitted after evidence seized under section 10 of the former legislation was excluded because its seizure was held to violate the Charter of Rights. On January 13, 1987, an appeal by the Crown was allowed and a new trial was ordered. Under appeal by the accused to the Supreme Court of Canada.
Gasoline – Sunoco Inc. (Toronto, Ontario)	On May 24, 1985, two charges were laid, one under each of paragraphs 38(1)(a) and 38(1)(b). On June 24, 1986, the company was convicted of the charge under paragraph 38(1)(a) and fined \$200 000. The accused was acquitted on the remaining charge. Under appeal by the Crown and the accused.
Watches – Wenger Ltd. (Chicoutimi, Quebec)	One charge was laid on February 27, 1985, under paragraph 38(1)(b). On February 12, 1988, the accused was ordered to stand trial following a preliminary inquiry.
Bread – George Lanthier & Fils Limitée (Cornwall, Ontario)	On November 21, 1985, one charge was laid under paragraph 38(1)(a). On September 23, 1986, the accused was convicted and fined \$2 000. Under appeal by the accused.
Sunglasses – Raymond Lanctôt (1982) Limitée and Diane Lanctôt (Montréal, Quebec)	On October 17, 1985, one charge was laid under paragraph 38(1)(b).
Computer printers – Epson (Canada) Limited, Maurice LaPalme and Sam Patterson (Toronto, Ontario)	On March 13, 1986, twenty-three charges were laid under paragraph 38(1)(a). On December 11, 1987, the company pleaded guilty to ten charges and was convicted and fined \$20 000 on each charge for a total fine of \$200 000. The remaining charges were withdrawn. The sentence is under appeal by the accused.
Computers – Commodore Business Machines Limited (Toronto, Ontario)	On April 1, 1986, four charges were laid under paragraph 38(1)(a) and one under paragraph 38(1)(b). On February 25, 1988, the Ontario Court of Appeal ruled that the Director could retain documents seized under section 10 of the former legislation.
Wristwatches – Les Must de Cartier Canada Inc. (Toronto, Ontario)	On January 13, 1987, two charges were laid, one under each of paragraphs 38(1)(a) and 38(1)(b). On December 7, 1987, the accused was committed to trial following a preliminary hearing. The trial is scheduled to commence on December 12, 1988.
Business forms – Lawson Business Forms Manitoba Ltd., Harold K. St. John, Alfred Dean Allen, R.L. Crain Inc., John B. Lynch, George M. Wilson, Moore Corporation Limited, Gordon B. Wainwright, Gordon E. Menuz, James A. Scarsbrook, Paragon Business Forms (Western) Ltd., Alfred I. Rein (Saskatoon, Saskatchewan)	Two charges were laid on April 11, 1986, under paragraph 38(1)(a). All of the accused were jointly charged with respect to one charge, while Lawson Business Forms and H. St. John were jointly charged with respect to the second charge. On November 6, 1987, Gordon B. Wainwright, Gordon E. Menuz, and George M. Wilson were discharged following a preliminary inquiry. The remaining accused were committed to trial.
Gasoline – Shell Canada Products Limited (Winnipeg, Manitoba)	On October 15, 1987, two charges were laid, one under each of paragraphs 38(1)(a) and 38(1)(b).

Product, Names of Accused and Location of Offence	Action Taken and Results
Watchbands -- Les Industries du Bracelet-Montre Stylecraft Inc. (Montréal, Quebec)	On February 2, 1988, three charges were laid, two under paragraph 38(1)(a) and one under paragraph 38(1)(b).
Fire extinguishers -- The Williams Brothers Corporation (Québec, Quebec)	On February 17, 1988, two charges were laid, one under each of paragraphs 38(1)(a) and 38(1)(b).
Power tools -- Makita Power Tools Canada Ltd. (Québec, Quebec)	On February 17, 1988, two charges were laid, one under each of paragraphs 38(1)(a) and 38(1)(b).
Motorcycles and motorcycle consumer shows -- The Motorcycle and Moped Industry Council (MMIC), Honda Canada Inc., Yamaha Motor Canada Limited, Suzuki Canada Inc., Canadian Kawasaki Motors Limited and Fred Deeley Imports (Toronto, Ontario)	On March 31, 1988, five charges were laid, three under paragraph 38(1)(a) and two under subsection 38(6).

Appendix VI

Criminal Offences in Relation to Competition: Discontinued Inquiries

Industry	Section of Act	Nature of Inquiry and Conclusion Reached
Rock salt — Central Canada	32	Complaints received from municipalities alleged a conspiracy among rock salt suppliers. However, the delivery charges which were one source of complaint were not found to be identical as alleged. There was also no evidence that the practice of two firms in following the pricing of a third in posting freight-on-board prices for rock salt was the result of an agreement.
Gasoline and petroleum products — Gaspé region	32	Complaints alleged that prices in the region had risen as a result of an agreement among retailers. While some industry members had met to discuss industry problems and economic conditions generally, no evidence of an agreement on prices was found.
Newsprint	32, 33*	Several acquisitions in the newsprint industry were examined under the merger provisions of the former Act. While no offence was disclosed, the possible existence of an agreement among newsprint producers was brought to light. After a full inquiry, the Director determined that the existence of such an agreement could not be proven.
Bakeries Eastern Canada	33*	The acquisition of the assets of an east coast bakery by a major competitor in the market was examined under the merger provisions of the former Act. Information subsequently obtained revealed that, although the acquiror had achieved a position of dominance by virtue of the acquisition, no evidence of detriment to the public was identified in the two years following completion of the transaction.
Scheduled airline services	32	Allegations were received concerning a market sharing agreement among three competing airlines in Canada, and an inquiry was commenced at the direction of the then Minister. The existence of such an agreement could not be established, nor could it be shown that such an agreement, if established, would lessen competition unduly.
Car rental firms — Victoria	32	Complaints were received alleging that various car rental firms in Victoria had agreed among themselves on the rental rates to be charged to customers. Despite a similarity of prices among the firms, no evidence of an agreement was established.
Rock concert promotions — Toronto	32, 47	A complaint was received alleging that a major venue for rock concerts had a policy of refusing access to its facilities to rock concert promoters with one exception, and that the exclusive access given to one promoter was the result of an agreement to lessen competition. The existence of such an agreement was not established, and no refusal to grant access was found to have occurred as no formal request for access had ever been made.

* Refers to section 33 of the
Combines Investigation Act.

Industry	Section of Act	Nature of Inquiry and Conclusion Reached
Architectural finishes – Newfoundland	32.2	A complaint was received alleging that a last-minute upward revision by similar amounts of bids submitted by two companies amounted to bid-rigging. The revisions were found to be caused by a common subcontractor submitting a late quotation to each company for an unexpectedly high amount.
Container shipping – North Atlantic	34	A complaint from a carrier alleged that a competitor was engaging in a policy of below-cost pricing. The prices complained of were not found to be unreasonably low, given that the industry was in the midst of a period of excess capacity and reduced price levels, nor could the low prices, therefore, be attributed to an anticompetitive intent. Other issues brought to light under sections 32 and 33 were not found to disclose an offence.
Prescription drugs – Regina	34	A complaint was received alleging predatory pricing on the part of a Regina pharmacy. The product was not found to be sold at an unreasonably low price, nor had the price charged led to a substantial lessening of competition in Regina.
Magazine publishing – Hamilton	34	A complaint was received from a publisher alleging that a competitor was charging advertising rates that were below cost. No evidence was found to show that the publisher intended to substantially lessen competition or eliminate a competitor through its pricing policy.
Air transportation products and air carrier leasing – Atlantic region	33*, 34	A complaint alleged predatory pricing on the part of a local carrier. Concerns were also raised under the monopoly provisions of the former legislation. The tolls alleged to be predatory were found to have been approved by federal transport authorities, and thus the regulated conduct defence would apply. Further, while the company was found to have substantial control of the market, there was no evidence of detriment to the public flowing from such control.
Waste disposal services – Alberta	34	A complaint alleged that a major supplier was engaged in anticompetitive acts designed to eliminate a competitor. The supplier's prices were not found to be unreasonably low, nor were they lower than those charged elsewhere in Canada. Finally the existence of a monopoly could not be proven in view of the lack of evidence of detriment to the public.

* Refers to section 33 of the
Combines Investigation Act.

Appendix VII

Misleading Advertising and Deceptive Marketing Practices Provisions: Proceedings Concluded

Product, Names of Accused and Location of Offence	Action Taken and Results
Paragraph 36(1)(a): False or Misleading Representation in a Material Respect:	
Videocassette recorders — 95093 Canada Inc. c.o.b. as Wacky Wheatley's T.V. and Stereo (Mount Pearl, Newfoundland)	Two charges were laid on September 9, 1985, against Wacky Wheatley Limited, and withdrawn on September 25, 1985. Two further charges laid against the same company were withdrawn on April 16, 1986. On April 18, 1986, two charges were laid against 95093 Canada. On April 3, 1987, the accused was convicted and fined \$2 000 on one charge and \$1 000 on the second charge for a total fine of \$3 000.
Jewellery — Importateur E. Lavoie Inc. c.o.b. as Lavoie Importateur (Jonquière, Quebec)	One charge was laid on February 12, 1985. On April 6, 1987, the accused was convicted and fined \$1 000.
Real estate sales and service — Century 21 Capital Equities Limited (Dartmouth, Nova Scotia)	Two charges were laid on February 24, 1987. On April 13, 1987, the accused pleaded guilty to one charge and was convicted and fined \$1 500. The remaining charge was dismissed.
Employment opportunities — J. Hickman Investments Ltd. c.o.b. as Capital Kirby (Ottawa) (Ottawa, Ontario)	One charge was laid on August 12, 1985. On July 16, 1986, the accused was acquitted. On April 16, 1987, an appeal by the Crown was dismissed.
Vertical blinds — Romuald Turgeon & Fils Inc. (Rimouski, Quebec)	One charge was laid on May 14, 1986. The accused was convicted on March 27, 1987, and sentenced on April 21, 1987, to a fine of \$750.
Tires — Les Pneus Marquis Ltée and Richard St-Onge (Rimouski, Quebec)	Ten charges were laid on November 8, 1985. The company was convicted on March 27, 1987, and sentenced on April 21, 1987, to a fine of \$350 on each charge for a total fine of \$3 500. The charges against the individual were withdrawn.
Central vacuum systems — Paradoc Investments Inc. c.o.b. as Centra Clean Canada and Arman Azadi (Markham and Toronto, Ontario)	Eleven charges were laid on November 20, 1986. On April 28, 1987, the accused pleaded guilty to four charges and were convicted. The company was fined \$2 000 on each charge and the individual was fined \$375 on each charge, for a total fine of \$9 500. The remaining charges were withdrawn.
Stereo units — Stereo People of Canada Ltd. and Danny C. Leung (Vancouver, British Columbia)	Seven charges were laid on March 30, 1987. On April 30, 1987, a stay of proceedings was entered.

Product, Names of Accused and Location of Offence	Action Taken and Results
Television and video-cassette recorders – Audio Perfection Inc. (Sherbrooke, Quebec)	Six charges were laid on January 27, 1987. On May 7, 1987, the accused pleaded guilty to three charges and was convicted and fined \$1 000 on each charge for a total fine of \$3 000. The remaining charges were withdrawn.
Jewellery – Bijouterie J.G.L. Inc. (Montréal, Quebec)	One charge was laid on December 17, 1986. On May 6, 1987, the accused pleaded guilty and was convicted and fined \$500.
Stereo cassette-players – 95093 Canada Inc. c.o.b. as Wacky Wheatley's T.V. and Stereo (St. John's, Newfoundland)	Two charges were laid on July 31, 1986, under paragraph 36(1)(a). On May 8, 1987, the accused pleaded guilty and was convicted and fined \$1 000. The remaining charge was withdrawn.
Carpets – Carpita Corporation c.o.b. as Factory Carpet Outlet (Regina, Saskatchewan)	Seven charges were laid on September 24, 1986. On May 11, 1987, the accused pleaded guilty and was convicted and fined \$15 400.
Motorcycles – 600548 Ontario Limited c.o.b. as Honda Cycle Sports Toronto, and 570039 Ontario Ltd. c.o.b. as Yamaha Toronto and Toronto Yamaha (Toronto, Ontario)	On August 14, 1986, eight charges were laid against 600548 Ontario Limited and six charges were laid against 570039 Ontario Ltd. On May 12, 1987, the accused were acquitted.
Cassette car stereos – Majestic Sound Warehouse Limited (Toronto, Ontario)	Two charges were laid on January 7, 1987. On May 13, 1987, the accused pleaded guilty to one charge and was convicted and fined \$10 000. The remaining charge was withdrawn.
Video cassette recorders and video cameras – Torlawn Development Limited c.o.b. as Action Video Audio, Andy Redmond and Christopher Ursini (London, Ontario)	Twenty-six charges were laid on November 20, 1986. On May 14, 1987, the company pleaded guilty to eight charges. It was convicted and fined \$3 000 on each of six charges and \$4 000 on each of two charges for a total fine of \$26 000. The remaining charges against the company and all charges against the individual were withdrawn.
Electronic mosquito repellant – Guy Samson c.o.b. as G.S. Promotion (Laval and Montréal, Quebec)	One charge was laid on April 9, 1987. On May 20, 1987, the accused pleaded guilty and was convicted and fined \$500.
Remanufactured engines – Canadian Tire Corporation Limited and Cantire Products Limited (Winnipeg, Manitoba)	Two charges were laid on July 16, 1985. On July 9, 1986, Canadian Tire was convicted of both charges, and Cantire Products was acquitted of both charges. On August 29, 1986, Canadian Tire was fined \$75 000 on the first charge and \$25 000 on the second charge for a total fine of \$100 000. On May 25, 1987, an appeal by the accused against conviction was dismissed but the sentence was reduced to a fine of \$25 000 on the first charge and \$10 000 on the second charge, for a total fine of \$35 000.
Gold chains – F.W. Woolworth Co. Limited c.o.b. as Woolco (Halifax, Nova Scotia)	One charge was laid on April 8, 1987. On May 25, 1987, the accused was convicted and fined \$3 000.
Tires – Sears Canada Inc. (Nation-wide)	Proceedings were instituted in the Federal Court on May 25, 1987, under subsection 30(2) for an order of prohibition. On May 25, 1987, the order was granted.

Product, Names of Accused and Location of Offence	Action Taken and Results
Gym memberships – Roman Walter Bobalek c.o.b. as Diamond Gyms (St. Catharines, Ontario)	Two charges were laid on February 20, 1987. On May 28, 1987, the charges were withdrawn.
Employment opportunities – 566230 Ontario Limited c.o.b. as C.M.I., 491538 Ontario Limited c.o.b. as Canadian Merchandising International, Eric Bresler and Daniel Robert Crothers (Toronto, Ontario)	Eighteen charges were laid on June 6, 1985. One charge was also laid against the two individuals under paragraph 423(1)(d) of the Criminal Code. On May 4, 1987, all charges against 491538 Ontario and D. Crothers were stayed. On the same date 566230 Ontario pleaded guilty to six charges and was convicted. On June 1, 1987, 566230 Ontario was fined \$10 000 on each of five charges and \$20 000 on the sixth charge for a total fine of \$70 000. The remaining charges against 566230 Ontario and all charges against E. Bresler were withdrawn.
Fur garments – Furs By Michel Ltd. and Mike E. Sommers Jr. (Calgary, Alberta)	Fifteen charges were laid against the company and seven charges were laid against the individual on May 15, 1986. On June 2, 1987, the company pleaded guilty to one charge and was convicted and fined \$3 300. The remaining charges against both accused were withdrawn.
Vinyl and leather repair business – Tentan Vinyl Inc. c.o.b. as Speedy Vinyl, Dennis Kwasdicki and Dan Ryall (Toronto, Ontario)	Two charges were laid on December 5, 1986. On June 3, 1987, the company pleaded guilty to one charge and was convicted and fined \$7 500. The remaining charge against the company was dismissed and all charges against the individuals were stayed.
Promotional contest – 132131 Canada Inc. c.o.b. as Promotions Voyage Bonis, Antonio Soccio, Marcel Prévost, and Yvon Parisée (Trois-Rivières and Cap-de-la-Madeleine, Quebec)	Eight charges were laid on June 12, 1986. Four charges were laid jointly against 132131 Canada and A. Soccio, one charge was laid jointly against 132131 Canada and M. Prévost, and three charges were laid jointly against 132131 Canada and Y. Parisée. On April 24, 1987, A. Soccio and M. Prévost pleaded guilty and were convicted and fined \$100 on each charge for a total fine of \$500. On June 5, 1987, Y. Parisée was convicted and fined \$100 on each charge for a total fine of \$300. All charges against 132131 Canada were withdrawn.
Automobiles – Cruikshank Motors Limited (Toronto, Ontario)	Three charges were laid on June 18, 1986. The accused pleaded guilty to one charge and on June 5, 1987, was convicted and fined \$11 000. The remaining charges were withdrawn.
Lighting fixtures – Astra-Lite Studio Limited (Halifax, Nova Scotia)	Two charges were laid on January 27, 1987. The accused pleaded guilty to one charge and on June 8, 1987, was convicted and fined \$2 000. The remaining charge was withdrawn.
Employment opportunities – 336590 Alberta Ltd. c.o.b. as Edmonton Juicers and Allan Andrew Bessada (Edmonton, Alberta)	One charge was laid on May 8, 1987. On June 9, 1987, the accused pleaded guilty and were convicted. The individual was fined \$1 000 and the company was fined \$1 500, for a total fine of \$2 500.
Books – William Russell Hamilton c.o.b. as H.B. Enterprises (Nation-wide)	Fourteen charges were laid on February 27, 1987. On June 17, 1987, the accused pleaded guilty to two charges and was convicted and fined \$200 on each charge for a total fine of \$400. The remaining charges were withdrawn. An order of prohibition was also issued.

Product, Names of Accused and Location of Offence	Action Taken and Results
Books — Postal Promotions Limited c.o.b. as Halbert's (Nepean and Don Mills, Ontario)	Three charges were laid on November 6, 1984. On December 6, 1985, the accused was convicted and fined \$3 000 on each charge for a total fine of \$9 000. On July 28, 1986, an appeal by the accused was allowed and the conviction quashed. On June 11, 1987, an application by the Crown for leave to appeal was denied.
Tablecloths, carpets — Les Magasins D.J. Shiller Inc. (Montréal, Quebec)	Two charges were laid on September 11, 1986. On June 16, 1987, a nolle prosequi was entered by the Crown.
Employment opportunity — 136143 Canada Limited c.o.b. as Wholesale Warehousing Industries (Dartmouth, Nova Scotia)	Eight charges were laid on November 27, 1985. On June 18, 1987, the charges were withdrawn.
Automobiles and trucks — A.E. Fowles 1986 c.o.b. as MacLellan Lincoln Mercury Sales Limited (Halifax, Nova Scotia)	Two charges were laid on February 17, 1987. On July 9, 1987, the accused pleaded guilty to one charge and was convicted and fined \$1 000. The remaining charge was withdrawn.
Diamond ring promotion — Muralex Distributions Inc./Les Distributions Muralex Inc. c.o.b. as Orford Collection, and Pierre Benoit (Vancouver and elsewhere in the Province of British Columbia)	One charge was laid on May 23, 1986. On February 27, 1987, the accused were convicted and on April 29, 1987, the accused were each fined \$15 000 for a total fine of \$30 000. On July 9, 1987, an appeal by the accused against conviction and sentence was dismissed.
Rust prevention device — Conroy Electronics Inc. (Caledonia, Ontario)	One charge was laid on July 25, 1986. On July 9, 1987, the accused was convicted and fined \$10 000.
Waterbeds — Windsor House of Waterbeds Inc. c.o.b. as House of Waterbeds and Timothy Critchlow (Leamington, Ontario)	One charge was laid on September 22, 1986. The company pleaded guilty and on July 14, 1987, was convicted and fined \$500. The charge against the individual was withdrawn.
Bicycles — Eastern Sports Ltd. c.o.b. as Eastern Sports Ltd. (Saint John, New Brunswick)	One charge was laid on May 12, 1987. The accused pleaded guilty and on July 20, 1987, was convicted and fined \$1 500.
Automobiles — Taylor Ford Sales Ltd. c.o.b. as Taylor Ford Sales (Moncton, New Brunswick)	Nine charges were laid on June 19, 1987. The accused pleaded guilty to one charge and on July 23, 1987, was convicted and fined \$1 500. The remaining charges were withdrawn.
Security and alarm systems and services — DES Security Systems Corporation and Peter Di Murro (London, Windsor, Chatham, Wallaceburg, Petrolia and Sarnia, Ontario)	Twenty-two charges were laid against the company on May 15, 1986. A further twenty-two charges were laid on the same date against the individual. On May 4, 1987, the company was convicted of twenty charges. On July 23, 1987, the company was fined \$1 000 on each of fourteen charges and \$500 on each of six charges, for a total fine of \$17 000. The remaining charges against the company were dismissed, and all charges against the individual were withdrawn.
Camera and video equipment — Incentive Promotions Inc. and Allan Diamond (Montréal, Quebec)	Four charges were laid on January 8, 1987. On July 23, 1987, the company pleaded guilty to three charges and was convicted and fined \$5 000 on each charge, for a total fine of \$15 000. The remaining charge against the company and all charges against the individual were withdrawn.

Product, Names of Accused and Location of Offence	Action Taken and Results
Gold chains – Two Plus Two Jewellery Limited and 147443 Canada Inc. c.o.b. as Lynn's Jewellery (Halifax and Dartmouth, Nova Scotia)	One charge was laid on July 30, 1987. On the same date, both accused pleaded guilty and were convicted and fined \$4 000 each for a total fine of \$8 000.
Gold Jewellery – Gail's Holding Limited c.o.b. as Lynn's Jewellery (Halifax, Bedford, Sackville and Dartmouth, Nova Scotia).	Five charges were laid on April 9, 1987. On July 30, 1987, the charges were withdrawn.
Furniture – Emix Ltd. c.o.b. as The Furniture Mall and as Interhome (Markham, Ontario)	Forty-eight charges were laid on December 22, 1986. On August 13, 1987, the accused pleaded guilty to three charges and was convicted and fined \$6 000 on each charge for a total fine of \$18 000. The remaining charges were withdrawn.
Memberships – Fairview Racquet Sports Limited and Ergometrics Consulting Inc. (Burlington, Ontario)	One charge was laid on January 14, 1986. On July 11, 1986, both accused were acquitted. An appeal by the Crown was abandoned on August 19, 1987.
Automobiles – W.A. McDowell (Toronto) Limited c.o.b. as McDowell Motors and Ray Anskis (Toronto, Ontario)	Three charges were laid on December 30, 1986. On September 9, 1987, the charges were withdrawn.
Cameras – 537994 Ontario Limited c.o.b. as Value House and Cana- dian Collector Society and Claude Anthony Broos (Vancouver, British Columbia)	Three charges were laid on July 24, 1987. On September 24, 1987, the company pleaded guilty and was convicted and fined \$3 000 on each charge for a total fine of \$9 000. The charges against the individual were stayed.
Gas-saving device – A.B.C. Mileage Maker Industries Inc. and Derek L. Lucas (Burnaby and Coquitlam, British Columbia)	Twelve charges were laid on July 11, 1986. On September 28, 1987, both accused were convicted of all charges. The company was fined \$2 500 and the individual was fined \$750.
Automobiles – Ford Motor Company of Canada, Limited (St. John's, Newfoundland)	One charge was laid on April 9, 1987. On October 6, 1987, the accused was convicted and fined \$1 500.
Advertising material – Telecan Advertising Industries Inc./Telecan Publicité Inc., Daniel Planetta and Jeffrey Baron (Vancouver and elsewhere in the province of British Columbia)	Eight charges were laid on March 5, 1987. On October 15, 1987, the accused pleaded guilty to two charges and were convicted and fined \$3 000 each on each charge for a total fine of \$18 000. The remaining charges were stayed.
Gas-saving device – Bernard Teixeira c.o.b. as Compagnie Internationale Globern (Valleyfield, Quebec)	Three charges were laid on January 6, 1984. On October 26, 1987, the accused pleaded guilty and was convicted and fined \$500.
Publicity items – Amfar National Business Profiles Inc. and Anzaad Allie (Montréal, Quebec)	Seven charges were laid on June 26, 1987. On November 10, 1987, the company pleaded guilty to four charges and was convicted and fined \$4 000 on each charge for a total fine of \$16 000. All remaining charges were withdrawn.
Advertising services and related products – Cembal Publications (1981) Limited and Joseph Cembal (Marmora and Toronto, Ontario)	Seven charges were laid on July 28, 1987. On November 18, 1987, both accused pleaded guilty. The company was fined \$4 000 on one charge and \$1 000 on each remaining charge, and the individual was fined \$1 300 on one charge and \$200 on each remaining charge for a total fine of \$12 500.

Product, Names of Accused and Location of Offence	Action Taken and Results
Stereo equipment – Electronic Market (East) Inc. (Ottawa, Ontario)	Three charges were laid on August 18, 1987. On November 24, 1987, the charges were withdrawn.
Audio and video equipment – Video Source Direct Inc., Philips Electronics Ltd./Philips Electronics Ltée and Stephen Taylor (Toronto, Ontario)	Two charges were laid on June 25, 1986. On November 3, 1987, the accused were convicted on one charge and the remaining charge was dismissed. On December 1, 1987, Video Source Direct was fined \$10 000 and Philips Electronics was fined \$20 000 for a total fine of \$30 000. S. Taylor was granted an absolute discharge.
Cablevision subscriptions – Timothy William McGee (Middle Musquodoboit, Nova Scotia)	One charge was laid on June 9, 1987. On December 1, 1987, the accused was acquitted.
Doors – Dartmouth Building Supply Limited c.o.b. as Buildrite Centres (Lower Sackville and Upper Lawrencetown, Nova Scotia)	Two charges were laid on July 7, 1987. On December 2, 1987, the charges were withdrawn.
Automobiles, trucks – Fairley & Stevens Limited (Dartmouth, Nova Scotia)	One charge was laid on June 26, 1987. On December 3, 1987, the accused pleaded guilty and was convicted and fined \$4 000.
Electronic products, household furnishings, appliances – Pamley Enterprises Ltd. c.o.b. as Bianco's Audio & Video, House of Broadloom Limited, Bouchard Home Furnishings Ltd. c.o.b. as Sudbury Appliances, 497045 Ontario Inc. c.o.b. as Furniture Unlimited, Mattress Factory Outlet, Guy R. Pellerin, Philip Stewart and Richard Bouchard (Sudbury, Ontario)	Five charges were laid on July 28, 1986. On December 9, 1987, the four companies pleaded guilty to one charge and were convicted and fined \$2 000 each for a total fine of \$8 000. All remaining charges were withdrawn.
Crop fertilizer – King Grain (1985) Limited c.o.b. as King Grain Farm Service Centre (Chatham, Ontario)	Two charges were laid on June 17, 1987. The accused pleaded guilty to one charge and on December 7, 1987, was convicted and fined \$5 000. The remaining charge was withdrawn.
Promotional items, video game system, luggage set – Pro-ad Marketing Inc./Marketing Pro-ad Inc. (Montréal, Quebec)	Four charges were laid on April 2, 1987. On December 7, 1987, the accused pleaded guilty and was convicted and fined \$2 000 on each charge for a total fine of \$8 000.
Furniture – George Ketter Furniture Ltd. and George W. Ketter (Sudbury, Ontario)	Two charges were laid on April 1, 1987. On January 5, 1988, the accused were acquitted on both counts.
Rental accommodation – Myriad Holding Corporation Limited and Hereditary Holdings Limited c.o.b. as Evergreen Property Management (Toronto, Ontario)	Eight charges were laid on June 24, 1987. On January 5, 1988, both accused pleaded guilty to six charges and were convicted and fined \$2 500 on each charge for a total fine of \$30 000. The remaining charges were withdrawn.
Pens, promotional items – MGO Industries Inc. and Manfred Ottinger (Montréal, Quebec)	Four charges were laid on May 20, 1987. On January 6, 1988, the corporate accused pleaded guilty and was fined \$5 000 on each charge for a total fine of \$20 000. The charges against the individual were withdrawn.
Golf clubs – Caddy Shed Sports Inc. (Winnipeg, Manitoba)	Four charges were laid on July 8, 1987. On January 12, 1988, the accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$2 000.

Product, Names of Accused and Location of Offence	Action Taken and Results
Waterbeds — Windsor House of Waterbeds Inc. c.o.b. as House of Waterbeds and Timothy Critchlow (Chatham, Ontario)	One charge was laid on January 29, 1987. On September 14, 1987, the company was convicted and fined \$8 000, and the charges against the individual were withdrawn. On January 18, 1988, an appeal by the company against conviction was dismissed, but the sentence was reduced to \$2 000.
Insurance — Paymaster Cheque-Writers (Canada) Limited, Robert M. Warner, Paymaster Cheque Writer Limited, Ivan W. Brewster and Donald G. McCallum (Rexdale, Ontario, Calgary and Edmonton, Alberta)	Three charges were laid on July 29, 1987, against D.G. McCallum. Eight further charges were laid on the same date against the remaining accused. On January 19, 1988, the two companies pleaded guilty to three charges and were convicted and each fined \$1 500 on each charge for a total fine of \$9 000. The remaining charges against the two companies and all charges against the three individuals were withdrawn.
Rugs — 625851 Ontario Limited c.o.b. as Abbas Oriental Carpets, Abbas Husain and Tabriz Bokhara Rugs Inc. (Toronto, Ontario)	Six charges were laid on November 10, 1987. On January 20, 1988, Tabriz Bokhara rugs pleaded guilty to one charge and was convicted and fined \$1 600. The remaining charges were withdrawn.
Groceries — People's Food Fair Ltd. and La Ferme Carnaval Inc. c.o.b. as Super Carnaval (Québec and Montréal, Quebec)	Twenty-seven charges were laid on May 28, 1987, five against La Ferme Carnaval and twenty-two against the two accused jointly. On January 21, 1988, the charges were dismissed.
Real estate service — John C. Hamlyn & Son Ltd. (St. John's, Newfoundland)	One charge was laid on April 24, 1987. On January 21, 1988, the accused pleaded guilty and was convicted and fined \$500.
Doors and windows — Eastern Discount Building Centres (1982) Limited c.o.b. as Eastern Discount Building Centres (Dartmouth, Nova Scotia)	Two charges were laid on September 22, 1987. On February 1, 1988, the accused pleaded guilty to one charge and was convicted and fined \$2 500. The remaining charge was withdrawn.
Water purifier — Les Purifications Vie-Tal Inc. and Theo Ouellette (St-Amable, Quebec)	One charge was laid on August 20, 1987. On February 9, 1988, the company pleaded guilty and was convicted and fined \$700. The charge against the individual was withdrawn.
Gas-saving device — M. & L. Oil Co. Ltd. and Louis McInnes, c.o.b. as Newman Automotive (Vancouver, British Columbia)	Three charges were laid on September 3, 1986. On February 13, 1987, the accused were acquitted of all charges. An appeal by the Crown was dismissed on February 3, 1988.
Fitness club memberships — Fitopco Inc., 508453 Ontario Ltd., 508450 Ontario Ltd., 508451 Ontario Ltd., Catherine Cole and Ron Krayewski (Hamilton, Ontario)	Fourteen charges were laid on July 27, 1986. On February 15, 1988, seven charges were dismissed and the remaining seven charges were withdrawn.
Weight loss products — Nutri/System Ltd. (Vancouver, British Columbia)	Six charges were laid on December 22, 1987. On February 25, 1988, the accused pleaded guilty to one charge and was convicted and fined \$2 500. The remaining charges were stayed.
Automobiles — Steel City Chrysler Plymouth Ltd. (Hamilton, Ontario)	One charge was laid on February 25, 1987. On March 3, 1988, the accused was convicted and fined \$2 000.
Food — Prime Cut Food Services (Edmonton, Alberta)	Two charges were laid on October 14, 1987. On March 7, 1988, the accused was convicted and fined \$3 000 on each charge for a total fine of \$6 000.

Product, Names of Accused and Location of Offence	Action Taken and Results
Blinds — Boutique Évolution Décor Inc. (Rimouski, Quebec)	Two charges were laid on May 14, 1986. On March 17, 1988, the accused was acquitted of both charges.
Bicycles — Bungay's Bicycle Shop Ltd. (Moncton, New Brunswick)	Two charges were laid on October 2, 1987. On March 28, 1988, the accused pleaded guilty to one charge and was convicted and fined \$1 500. The remaining charge was withdrawn.
Grandfather clocks — King Arthur Clock Company of Canada Ltd. (Ottawa, Ontario)	Two charges were laid on April 1, 1987. On March 29, 1988, the charges were withdrawn.

Paragraph 36(1)(b): Representation Without Proper Test

Trailer couplings — Canadian Tire Corporation Limited and Algonquin Industries International Inc. carrying on business as Algonquin Mfg. Ltd. (Gloucester, Ottawa and Nepean, Ontario)	Seven charges were laid on April 18, 1984. The accused were charged jointly with respect to one charge. Canadian Tire was charged solely with respect to two charges and Algonquin Industries was charged solely with respect to four charges. On November 5, 1985, Algonquin Industries was convicted on four charges and Canadian Tire was convicted on two charges. On November 12, 1985, the accused were each fined \$8 000 for a total fine of \$16 000. On April 7, 1987, an appeal by Canadian Tire was dismissed.
Tires — Sears Canada Inc. (Nation-wide)	Proceedings were instituted in the Federal Court on May 25, 1987, under subsection 30(2) for an order of prohibition. On May 25, 1987, the order was granted.
Books — William Russell Hamilton c.o.b. as H.B. Enterprises (Nation-wide)	Fourteen charges were laid on February 27, 1987. The accused pleaded guilty to two charges and on June 17, 1987, was convicted and fined \$200 on each charge for a total fine of \$400. The remaining charges were withdrawn. An order of prohibition was also granted.
Rust prevention device — Conroy Electronics Inc. (Caledonia, Ontario)	One charge was laid on July 25, 1986. On July 9, 1987, the accused was convicted and fined \$10 000.
Gas-saving devices — A.B.C. Mileage Maker Industries Inc. and Derek L. Lucas (Coquitlam, British Columbia)	Twelve charges were laid on July 11, 1986. On September 28, 1987, both accused were convicted. The company was fined \$2 500 and the individual was fined \$750 for a total fine of \$3 250.
Gas-saving devices — Bernard Teixeira c.o.b. as Compagnie Internationale Globern (Valleyfield, Quebec)	Three charges were laid on January 6, 1984. On October 26, 1987, the accused pleaded guilty and was convicted and fined \$500.
Advertising services and related products — Cembal Publications (1981) Limited and Joseph Cembal (Marmora and Toronto, Ontario)	Five charges were laid on July 28, 1987. On November 18, 1987, the charges were withdrawn.
Crop fertilizer — King Grain (1985) Limited c.o.b. as King Grain Farm Service Centre (Chatham, Ontario)	Two charges were laid on June 17, 1987. On December 7, 1987, the charges were withdrawn.
Tires — Provincial Bandag Tires Limited (Edmunston, New Brunswick)	One charge was laid on October 13, 1987. On December 8, 1987, the accused pleaded guilty and was convicted and fined \$1 000.

Product, Names of Accused and Location of Offence	Action Taken and Results
Water purifiers – Les Purifications Vie-Tal Inc. and Theo Ouellette (St-Amable, Quebec)	One charge was laid on August 20, 1987. On February 9, 1988, the charge was withdrawn.
Gas-saving device – M. & L. Oil Co. Ltd. and Louis McInnis c.o.b. as Newman Automotive (Vancouver, British Columbia)	Three charges were laid on September 3, 1986. On February 13, 1987, the accused were acquitted of all charges. On February 3, 1988, an appeal by the Crown was dismissed.
Paragraph 36(1)(d): Misleading Price Representation	
Tires – Les Pneus Marquis Ltée and Richard St-Onge (Rimouski, Quebec)	Ten charges were laid on November 8, 1985. On March 27, 1987, the charges were withdrawn.
Windows, doors – Schurman Enterprises Ltd. c.o.b. as Schurman Supply (Charlottetown, Prince Edward Island)	One charge was laid on August 14, 1986. On September 9, 1986, the accused pleaded guilty and was convicted and fined \$500. On April 10, 1987, an appeal by the Crown was allowed, increasing the fine to \$2 500.
Central vacuum systems – Paradoc Investments Inc. c.o.b. as Centra Clean Canada and Arman Azadi (Markham, Ontario)	Three charges were laid on November 20, 1986. On April 28, 1987, the charges were withdrawn.
Audio equipment – Stereo People of Canada Ltd. and Danny C. Leung (Vancouver, British Columbia)	Nine charges were laid on March 30, 1987. On April 30, 1987, the company pleaded guilty to three charges and was convicted. On May 14, 1987, the company was fined \$1 000 on each charge for a total fine of \$3 000. The remaining charges against the company and all charges against the individual were stayed.
Jewellery – Bijouterie J.G.L. Inc. (Montréal, Quebec)	Two charges were laid on December 17, 1986. On May 6, 1987, the accused pleaded guilty and was convicted and fined \$500 on each charge for a total fine of \$1 000.
Motorcycles – 600548 Ontario Limited c.o.b. as Honda Cycle Sports Toronto, and 570039 Ontario Ltd. c.o.b. as Yamaha Toronto and Toronto Yamaha (Toronto, Ontario)	Three charges were laid against each accused on August 14, 1986. On May 12, 1987, the accused were acquitted.
Goldchains – F.W. Woolworth Co. Limited c.o.b. as Woolco (Halifax, Nova Scotia)	One charge was laid on April 8, 1987. On May 25, 1987, the charge was withdrawn.
Fur garments – Furs By Michel Ltd. and Mike E. Sommers Jr. (Calgary, Alberta)	Twelve charges were laid on May 15, 1986. On June 2, 1987, the company pleaded guilty to five charges and was convicted and fined \$3 300 on each charge, for a total fine of \$16 500. The remaining charges against the company and all charges against the individual were withdrawn.
Lighting fixtures – Astra-Lite Studio Limited (Halifax, Nova Scotia)	Two charges were laid on January 27, 1987. On June 8, 1987, the charges were withdrawn.
Automobiles and trucks – A.E. Fowles 1986 c.o.b. as MacLellan Lincoln Mercury Sales Limited (Halifax, Nova Scotia)	Two charges were laid on February 17, 1987. On July 9, 1987, the charges were withdrawn.

Product, Names of Accused and Location of Offence	Action Taken and Results
Bicycles – Eastern Sports Ltd. c.o.b. as Eastern Sports Ltd. (Saint John, New Brunswick)	One charge was laid on May 12, 1987. On July 20, 1987, the charge was dismissed.
Gold jewellery – Gail's Holdings Limited c.o.b. as Lynn's Jewellery (Halifax, Nova Scotia)	Five charges were laid on April 9, 1987. On July 30, 1987, the charges were withdrawn.
Stereo equipment – Electronic Market East Inc. (Ottawa, Ontario)	Three charges were laid on August 18, 1987. On November 24, 1987, the charges were withdrawn.
Doors – Dartmouth Building Supply Ltd. c.o.b. as Buildrite Centres (Lower Sackville and Upper Lawrencetown, Nova Scotia)	Two charges were laid on July 7, 1987. On December 2, 1987, the accused pleaded guilty and was convicted and fined \$2 500. The remaining charge was withdrawn.
Pens – Pro-Ad Marketing Inc./Marketing Pro-Ad Inc. (Montréal, Quebec)	One charge was laid on April 2, 1987. On December 7, 1987, the accused pleaded guilty and was convicted and fined \$2 000.
Microwave oven stands and refrigerators – George Ketter Furniture Ltd. and George W. Ketter (Sudbury, Ontario)	Two charges were laid on April 1, 1987. On January 5, 1988, the corporate accused was convicted of one charge and fined \$400 and was acquitted on the remaining charge. The individual accused was acquitted on both charges.
Gemstone rings – Rodan Enterprises Ltd. c.o.b. as Simply Charming and Robert Steven Davidson (Surrey, and elsewhere in British Columbia)	Two charges were laid on July 9, 1987. On January 27, 1988, the charges were dismissed.
Doors and windows – Eastern Discount Building Centres (1982) Limited c.o.b. as Eastern Discount Building Centres (Dartmouth, Nova Scotia)	Two charges were laid on September 22, 1987. On February 1, 1988, the charges were withdrawn.
Clothing – 275199 Alberta Ltd, 272215 Alberta Ltd. and 275186 Alberta Ltd. c.o.b. as Francine's and as St. Clair Shop (Weyburn, Saskatchewan)	Seven charges were laid on May 6, 1987. On February 1, 1988, the charges were stayed.
Books – W.H. Smith Ltd. and W.H. Smith Canada Ltd. (Toronto, Ontario)	Twenty-three charges were laid on December 16, 1986. On February 9, 1988, W.H. Smith Canada pleaded guilty to five charges and was convicted and fined \$5 000 on each charge for a total fine of \$25 000. The remaining charge against this accused and all charges against W.H. Smith Ltd. were withdrawn.
Blinds – Boutique Évolution Décor Inc. (Rimouski, Quebec)	Two charges were laid on May 14, 1986. On March 17, 1988, the accused was acquitted of both charges.
Pianos – The T. Eaton Company Limited (Toronto, Ontario)	One charge was laid on September 5, 1986. On March 23, 1988, the accused was acquitted.
Bicycles – Bungay's Bicycle Shop Ltd. (Moncton, New Brunswick)	Two charges were laid on October 2, 1987. On March 28, 1988, the charges were withdrawn.
Grandfather clock – King Arthur Clock Company of Canada Ltd. (Ottawa, Ontario)	Two charges were laid on April 1, 1987. On March 29, 1988, the accused pleaded guilty and was convicted and fined \$2 500 on each charge for a total fine of \$5 000.

Product, Names of Accused and Location of Offence	Action Taken and Results
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Section 36.2: Double Ticketing

Grocery items –
659484 Ontario Ltd. c.o.b. as Mr. Grocer
(Toronto, Ontario)

Two charges were laid on June 3, 1987. On February 1, 1988, the accused was convicted and fined \$1 000 on each charge for a total fine of \$2 000.

Section 36.3: Pyramid Selling

Gold wafers –
Itec Gold Marketing Inc., John Holuk and Harold Ferster
(Edmonton, Alberta)

One charge was laid on November 10, 1986. On May 7, 1987, the company was convicted and fined \$500. The individuals were acquitted.

Dietary supplements –
Herbalife of Canada Ltd. (Edmonton, Alberta)

One charge was laid on December 15, 1986. On June 12, 1987, the accused pleaded guilty and was convicted and fined \$8 000.

Section 37: Nonavailability

Cassette car stereos and video cassettes –
Majestic Sound Warehouse Limited (Toronto, Ontario)

Two charges were laid on January 7, 1987. On May 13, 1987, the accused pleaded guilty and was convicted and fined \$10 000 on one charge and \$5 000 on the other charge, for a total fine of \$15 000.

Automobiles –
W.A. McDowell (Toronto) Limited c.o.b. as McDowell
Motors (Toronto, Ontario)

Three charges were laid on December 30, 1986. On September 9, 1987, the accused pleaded guilty and was convicted and fined \$6 000, \$3 000 and \$2 000 on the respective charges, for a total fine of \$11 000.

Audio and video equipment –
Video Source Direct Inc., Philips Electronics Ltd./Philips
Électronique Ltée and Stephen Taylor (Toronto, Ontario)

Six charges were laid on June 25, 1986. On November 3, 1987, the charges were dismissed.

Section 37.1: Sale Above Advertised Price

Video cameras –
Torlawn Developments Limited c.o.b. as Action
Video Audio, Andy Redmond and Christopher Ursini
(London, Ontario)

One charge was laid on November 20, 1986. On May 14, 1987, the charge was withdrawn.

Audio and video equipment –
Video Source Direct Inc., Philips Electronics Ltd./Philips
Électronique Ltée and Stephen Taylor (Toronto, Ontario)

One charge was laid on June 25, 1986. On November 3, 1987, the charge was withdrawn.

Photographs and film –
Sooter Studios Limited (St. John's, Newfoundland)

One charge was laid on April 24, 1987. On December 9, 1987, the accused pleaded guilty and was convicted and fined \$750.

Golf clubs –
Caddy Shed Sports Inc. (Winnipeg, Manitoba)

Two charges were laid on July 8, 1987. On January 12, 1988, the charges were withdrawn.

Grocery items –
659484 Ontario Ltd. c.o.b. as Mr. Grocer
(Toronto, Ontario)

Four charges were laid on June 3, 1987. On February 1, 1988, the accused was convicted on three charges and fined \$1 000 on each charge for a total fine of \$3 000. The remaining charge was withdrawn.

Product, Names of Accused and Location of Offence	Action Taken and Results
Automobiles – Steel City Chrysler Plymouth Ltd. (Hamilton, Ontario)	One charge was laid on February 26, 1987. On March 3, 1988, the charge was dismissed.

Section 37.2: Promotional Contests

Gym memberships – Roman Walter Bobalek c.o.b. as Diamond Gyms (St. Catharines, Ontario)	Two charges were laid on February 20, 1987. The accused pleaded guilty to one charge and on May 28, 1987, was convicted and fined \$1 000. The remaining charge was withdrawn.
Waterbeds – Windsor House of Waterbeds Inc. c.o.b. as House of Waterbeds and Timothy Critchlow (Leamington, Ontario)	One charge was laid on September 22, 1986. On July 14, 1987, the company pleaded guilty and was convicted and fined \$500. The charge against the individual was withdrawn.
Camera and video equipment – Incentive Promotions Inc. and Allan Diamond (Montréal, Quebec)	Three charges were laid on January 8, 1987. On July 23, 1987, the corporate accused pleaded guilty and was fined \$5 000 on each charge for a total fine of \$15 000. The charges against the individual accused were withdrawn.
Video game system and luggage set – Pro-Ad Marketing Inc./Marketing Pro-Ad Inc. (Montréal, Quebec)	Three charges were laid on April 2, 1987. On December 7, 1987, the accused pleaded guilty and was convicted and fined \$2 000 on each charge for a total fine of \$6 000.
Publicity items – MGO Industries Inc. and Manfred Ottinger (Montréal, Quebec)	Two charges were laid on May 20, 1987. On January 6, 1988, the charges were withdrawn.

Appendix VIII

Misleading Advertising and Deceptive Marketing Practices Provisions: Proceedings Pending

Product, Names of Accused and Location of Offence	Action Taken and Results
Paragraph 36(1)(a): False or Misleading Representation in a Material Respect:	
Gas saving seminar – Thomas James Scott and James Lowry (Calgary, Alberta)	One charge was laid on October 28, 1981. On November 6, 1981, the charge was withdrawn and replaced by another charge.
Photo supplies – Westfair Foods Ltd., c.o.b. as Super Valu (Saskatoon, Saskatchewan)	Two charges were laid on August 30, 1983. On February 16, 1984, the accused was acquitted. On January 31, 1985, an appeal by the Crown was dismissed. Under further appeal by the Crown.
Insurance – The Independent Order of Foresters, Frank Degenaar and Garth Carter (Toronto, Ontario)	Thirteen charges were laid on June 14, 1984. This information was withdrawn and on March 22, 1985, fifteen new charges were laid. All the accused were charged jointly with respect to three charges. The company and G. Carter were charged jointly with respect to three charges. The company and F. Degenaar were charged jointly with respect to four charges. The company was charged solely with respect to five charges. On June 7, 1985, the individuals were acquitted and on January 13, 1987, the company was acquitted. Under appeal by the Crown.
Recreation facilities – Club Mont Ste-Anne Inc. (Ste-Anne-de-Beaupré, Quebec)	Three charges were laid on May 16, 1985.
Motor vehicle repairs – Birchcliff Lincoln Mercury Sales Limited (Scarborough, Ontario)	Three charges were laid on June 20, 1985. On May 1, 1986, the accused was convicted and given a suspended sentence. The accused appealed against conviction, and the Crown appealed against sentence. On November 13, 1986, the accused's appeal was allowed and the accused was acquitted. Under further appeal by the Crown.
Vacation package – Carousel Travel 1982 Inc., Robert Niddery, Kenneth Gertner, Enrique Avila, Victor Palermo, Dolores Maher, and 506223 Ontario Inc., c.o.b. as Solar Sales & Management Consultants (Toronto, Ontario)	Two charges were laid on July 17, 1985. The accused were jointly charged with respect to one charge and Carousel Travel Inc., 506223 Ontario Inc., Kenneth Gertner, Victor Palermo and Robert Niddery were jointly charged with respect to the additional charge.
Furniture – Combined Furniture Warehouse Sales Limited, Robert Young and Joseph Vizzari (Hamilton, Ontario)	Eight charges were laid on July 29, 1985. All the accused were jointly charged with respect to four charges, and the company and R. Young were jointly charged with respect to four additional charges. On June 24, 1986, R. Young was convicted on five charges and fined \$1 000 on each charge, for a total fine of \$5 000. The remaining charges against R. Young and all charges against J. Vizzari were dismissed. The charges against the company were withdrawn. Under appeal by the accused.

Product, Names of Accused and Location of Offence	Action Taken and Results
Gas-saving devices – Vahan Kassabian c.o.b. as Shieldco (Mississauga, Ontario)	Two charges were laid on August 29, 1985. On March 31, 1987, the accused was convicted on one charge and fined \$850. The remaining charge was dismissed. Under appeal by the accused.
Fitness club memberships – Super Fitness of Rexdale Inc., Super Fitness Centres Inc. c.o.b. as Super Fitness, and Kenneth Reginald Wheeler (Toronto, Ontario)	Twenty-five charges were laid on September 20, 1985. Super Fitness Centres Inc. and Kenneth Reginald Wheeler were jointly charged with respect to twenty-two charges and all three accused were jointly charged with respect to three additional charges. On September 25, 1986, the accused were acquitted. Under appeal by the Crown.
Automobiles – Chrysler Canada Ltd./ Chrysler Canada Ltée, Paul Willison Limited, Ontario Chrysler (1977) Ltd., Raceway Plymouth Chrysler Ltd., Craig Hind Dodge Chrysler Ltd., Scarborough Dodge Chrysler Ltd., Agincourt Chrysler Plymouth Motors Inc., Jim Davidson Holdings Limited, Jack Wood's Eastway Plymouth Chrysler Limited, Don Robertson Chrysler-Dodge Limited, Peel Chrysler Plymouth Incorporated, Cooksville Dodge Chrysler Inc., Sorenson Chrysler Plymouth Inc., Sevenview Plymouth Chrysler Ltd., Downsview Chrysler Plymouth (1964) Ltd., Mills and Hadwin Limited, Willowdale Dodge Chrysler Limited, Woodbridge Motors Limited, Active Motors Limited, West End Chrysler Dodge (1971) Limited, 546802 Ontario Inc., Islington Chrysler Plymouth (1963) Limited, Erin Dodge Chrysler Ltd., Georgetown Chrysler Ltd. (Toronto, Ontario)	One charge was laid on October 3, 1985. On June 2, 1986, the charge was withdrawn against all the accused except Chrysler Canada and Paul Willison Limited. Paul Willison Limited was convicted on September 24, 1986, and sentenced on January 4, 1987, to a fine of \$6 000. On May 25, 1987, Chrysler Canada was convicted and fined \$60 000. Both convictions are under appeal.
Jewellery – Giftwares Wholesale Co. Ltd., c.o.b. as Jewellery Distributors Co. of Canada and as Wholesale Jewellers (Winnipeg, Manitoba)	One charge was laid on October 31, 1985. On November 4, 1987, the information was quashed. Under appeal by the Crown.
Central vacuum system – Beam of Canada Inc. (Oakville, Ontario)	Two charges were laid on November 13, 1985.
Glass cleaner – Hern Corp. (St. John's, Newfoundland)	One charge was laid on December 6, 1985. The accused pleaded guilty, and on May 29, 1986, was convicted and fined \$3 000. Under appeal by the accused.
Fur coats – Wendelyn Textiles & Properties Limited c.o.b. as Alan Cherry, Alan Cherry Enterprises Limited, Alan Cherry and Steven LeVine (Toronto, Ontario)	Seven charges were laid on January 3, 1986, against all of the accused except Steven LeVine, who was charged with respect to six of the charges only.
Stereo speakers – 471451 Ontario Limited c.o.b. as Dana Trading Company, David Kleiner and David Samuel (Toronto, Ontario)	Twelve charges were laid on March 26, 1986. On December 4, 1987, the charges were dismissed. Under appeal by the Crown.
Computers – Commodore Business Machines Limited (Toronto, Ontario)	One charge was laid on April 1, 1986. On February 25, 1988, the Ontario Court of Appeal ruled that the Director could retain documents seized under section 10 of the former legislation.

Product, Names of Accused and Location of Offence	Action Taken and Results
Electrical and household appliances, toys – Peter James Bartram c.o.b. as Anglo Canadian Warehouses (Hamilton, Mississauga, Oakville, Bowmanville, Toronto, Ontario)	Seven charges were laid on May 14, 1986.
Weight loss clinic – Big Mac Investments Ltd., Arla McDonnell and Gary Gordon McDonnell (Winnipeg, Manitoba)	Two charges were laid on May 30, 1986. On December 5, 1987, the charges were dismissed. Under appeal by the Crown.
Jewellery – Stephen William Joseph Holloway and Holloway Jewellers Limited c.o.b. as Holloway Diamond Merchants (London, Ontario)	Seven charges were laid on August 11, 1986. The com- pany pleaded guilty to three charges, and on March 6, 1987, was convicted and fined \$3 000 each on two charges and \$4 000 on the remaining charge for a total fine of \$10 000. The remaining charges against the com- pany were withdrawn. The charges against the individual remain outstanding.
Condominium units – The Harbour Club (Thornbury) Inc., and David Ouellet (Toronto, Ontario)	One charge was laid on August 13, 1986. On February 18, 1987, the accused were acquitted. Under appeal by the Crown.
Jewellery – Larry Gluckstein and Sydney Lanys, c.o.b. as Kenton Liquidators (Toronto, Ontario)	Thirty-seven charges were laid on September 30, 1986. On May 19, 1987, the accused pleaded guilty to three charges each and were convicted. Each accused was fined \$7 500 on each charge for a total fine of \$45 000. Under appeal by the accused.
Furniture – Greco-Latino Furniture & Appliances Ltd., c.o.b. as Cross Canada Liquidators and George Pozios (Hamilton, Ontario)	Six charges were laid on November 28, 1986. On February 29, 1988, the charges were dismissed. Under appeal by the Crown.
Mufflers – Zoro Discount Muffler Ltd., c.o.b. as Zoro Discount Muffler (Hamilton, Ontario)	Seven charges were laid on January 19, 1987.
Books – R.L. Polk & Co. Ltd./R.L. Polk & Cie Ltée c.o.b. as Halbert's, Douglas Haslinger and Ron Adamson (Nation-wide)	Seven charges were laid on January 28, 1987. On December 1, 1987, the company pleaded guilty to one charge and was convicted and fined \$20 000. A stay of proceedings was entered with respect to the remaining charges against the company and R. Adamson. The charges against D. Haslinger remain outstanding.
Fitness club memberships – David Fisher and Woodlawn Fitness Centre Limited (Dartmouth, Nova Scotia)	On February 2, 1987, four charges were laid against the company, and four charges were laid against the in- dividual. The company pleaded guilty to three charges and on March 9, 1987, was convicted and fined \$1 000 on each charge, for a total fine of \$3 000. The remaining charge against the company was withdrawn. Charges against the individual remain outstanding.
Jewellery – Ani Jewellery Limited and Gem Scan International Inc. (Ottawa, Ontario)	Two charges were laid on February 18, 1987. The ac- cused were charged jointly on one charge, and Ani Jewellery Limited was charged solely with an additional charge.
Gas saving device – Platinum Fuelsaver Corporation and Michael J. Bailey (Jarvis, Ontario)	One charge was laid on February 23, 1987. On January 11, 1988, the charge against the company was withdrawn. The charge against the individual remains outstanding.

Product, Names of Accused and Location of Offence	Action Taken and Results
Groceries – Atlantic Wholesalers Ltd. (Moncton, New Brunswick)	Three charges were laid on March 13, 1987. These charges were withdrawn and on April 28, 1987, three new charges were laid.
Ceiling fans – Fandango Ceiling Fans Ltd. (Calgary, Alberta)	One charge was laid on March 17, 1987. On November 13, 1987, the accused was acquitted. Under appeal by the Crown.
Land – Timber Ridge Estates Ltd., and Peter Misko (Calgary, Alberta)	Fifteen charges were laid on March 27, 1987.
Hair regrowth product – 132013 Canada Ltd., c.o.b. as Niagara Labs and as Niagara Labs Hair and Scalp Specialists and Dr. Stanley H. Weisberg (Hamilton and St. Catharines, Ontario)	Five charges were laid on April 3, 1987.
Central air conditioner – Sears Canada Inc. (Peterborough, Ontario)	One charge was laid on April 10, 1987.
Waterbeds – The Waterbed Gallery Ltd., c.o.b. as Waterbed Gallery and Larry Paulson (Vancouver and Victoria, British Columbia)	Twenty-one charges were laid on April 22, 1987.
Houses – Greater Gulf Developments Limited c.o.b. as Great Gulf Homes and Gulf Lake Realty Ltd. (Markham and Toronto, Ontario)	Eleven charges were laid on April 29, 1987. The accused were charged jointly on eight charges and Greater Gulf Developments was charged solely with respect to three charges.
Clothing – 275199 Alberta Ltd., 272215 Alberta Ltd., and 275186 Alberta Ltd., c.o.b. as St. Clair Shop and as Francines (Weyburn, Saskatchewan)	Seven charges were laid on May 6, 1987.
Hair and scalp treatment – Waclaw (Walter) Szczesny and Alicja Szczesny c.o.b. as People's Hair and Scalp Specialists and as Wasco Enterprises (Hamilton, Ontario)	Eight charges were laid on June 3, 1987.
Miscellaneous items – Simpsons Limited/Simpsons Limitée (Toronto, Ontario)	One charge was laid on June 9, 1987.
Battery charger packages – Home Hardware Stores Limited (London and elsewhere in Ontario)	One charge was laid on June 22, 1987.
Water filters – Canadian Apollo Water Filters Inc. and Robert MacElwain (Calgary, Alberta)	One charge was laid on July 9, 1987.
Water treatment systems – National Safety Association/N.S.A. Canada Ltée (St-Laurent, Quebec)	One charge was laid on August 14, 1987.
Diamond rings – Stanley M. Wise c.o.b. as Rings Etc. (Ottawa, Ontario)	One charge was laid on August 18, 1987.
Sewing machines – Zellers Inc. (Ottawa, Ontario)	One charge was laid on August 18, 1987.

Product, Names of Accused and Location of Offence	Action Taken and Results
Patio furniture -- Piscino Inc. (Montréal, Quebec)	Eleven charges were laid on August 24, 1987.
Televisions and appliances -- Roy's Television & Radio Company Limited (Sudbury, Ontario)	Two charges were laid on September 2, 1987.
Weight loss clinic -- 597721 Ontario Inc., c.o.b. as Anatomy 2000 Clinic and George Julius Lucio (London, Ontario)	Four charges were laid on September 10, 1987.
Bookcases -- Les Meubles Tousignant Inc. (Sherbrooke, Quebec)	Six charges were laid on September 15, 1987.
Vacation packages -- The Wholesale Travel Group Inc. and Colin Chedore (Toronto, Ontario)	Five charges were laid on September 21, 1987. On March 23, 1988, the charges were dismissed. Under appeal by the Crown.
Income tax services -- Gary P. Sorenson and Gerhard M. Schneider (Kitchener and Windsor, Ontario)	On October 9, 1987, three charges were laid against G. Schneider and one charge was laid against G. Sorenson. Three additional charges were laid against G. Sorenson on October 15, 1987.
Lamps -- Sunrise Lighting Distributors (Maritime) Limited (Halifax, Nova Scotia)	One charge was laid on October 16, 1987.
Rugs -- Korhani Import Export Inc. and Mohammed Ali Korhani Shirazi (Dorval, Quebec)	Twelve charges were laid on October 20, 1987.
Fur garments -- Caskie Furs (Edmonton) Ltd. (Edmonton, Alberta)	Seventeen charges were laid on November 6, 1987.
Orange juice -- Canada Safeway Limited (Vancouver, British Columbia)	One charge was laid on November 12, 1987.
Employment opportunities -- Capital Kirby Alberta Inc. (Sherwood Park, Alberta)	Two charges were laid on November 13, 1987.
Automobiles -- Jack Frame Motors Corp. and Jack Frame (Scarborough, Ontario)	One charge was laid on November 25, 1987.
Dishwares -- Zellers Inc., c.o.b. as Zellers (London, Ontario)	Four charges were laid on November 30, 1987.
Fur garments -- Caskie Furs (Regina) Ltd. and Earl Alexander Bremner (Regina, Saskatchewan)	Twenty-eight charges were laid on December 9, 1987.
Weight-loss program -- Patrice Runner and Fabrice Choquet c.o.b. as Centre E.D.P.M. (Montréal, Quebec)	Three charges were laid on December 10, 1987.
Television converters -- Krazy Kelly's Limited and John Sisco (London, Ontario)	Seven charges were laid on December 11, 1987.
Video equipment -- A & D Video Inc., c.o.b. as The Video File and Andrew Darrock McKinlay (London, Ontario)	Five charges were laid on December 11, 1987.

Product, Names of Accused and Location of Offence	Action Taken and Results
Furniture and appliances – M. Réjean Grégoire c.o.b. as Meubles Bruno Grégoire Enrg. and Bruno Grégoire et Fils (Sherbrooke, Quebec)	Six charges were laid on December 14, 1987.
Jewellery – RJP Jewellery Sales Inc., Joe Packman and Irvin Pancer (Oshawa, Ontario)	Twelve charges were laid on December 27, 1987.
Furniture – MarVel Furnishings & Upholsterers Ltd., c.o.b. as MarVel Furnishings Ltd., and MarVel Furnishings (Winnipeg, Manitoba)	Two charges were laid on January 15, 1988.
Furniture and appliances – The Brick Warehouse Ltd. (Toronto, Ontario)	Eight charges were laid on February 1, 1988.
Houses – Donald Manson c.o.b. as Caledon Heights Estates Ltd. (Toronto, Ontario)	Three charges were laid on February 9, 1988.
Clothing – The Governor and Company of Adventurers of England Trading into Hudson's Bay c.o.b. as the Bay (Vancouver, British Columbia)	Two charges were laid on February 12, 1988.
Houses – Les Établissements St-André Ltée and Annette Faucher (Montréal, Quebec)	Two charges were laid on February 17, 1988.
Water purifiers – Nazeer Rayman c.o.b. as Stream of Success (S.O.S.) (Willowdale, Ontario)	Five charges were laid on February 17, 1988.
Blinds – The Linen Chest (Phase II) Inc./La Boutique Linen Chest (Phase II) Inc. (Montréal, Quebec)	Two charges were laid on February 22, 1988.
Mosquito repellers – Jay Norris Canada Inc. (Montréal, Quebec)	One charge was laid on February 22, 1988.
Vacuums – Saad Mohammad Attiyat and Marwin Mohammed Attiyat c.o.b. as Corydon Vacuum and Winnipeg Vacuum (Winnipeg, Manitoba)	Five charges were laid on March 9, 1988.
Employment opportunities – 33021 Alberta Ltd. and Darrell John McGuire (Edmonton, Alberta)	Two charges were laid on March 11, 1988.

Paragraph 36(1)(b): Representation Without Adequate and Proper Test

Weight loss clinic – Big Mac Investments Ltd., Arla McDonnell and Gary Gordon McDonnell c.o.b. as Slim-Tone Clinique (Winnipeg, Manitoba)	Two charges were laid on March 26, 1985. On December 8, 1987, the charges were dismissed. Under appeal by the Crown.
Gas-saving devices – Vahan Kassabian c.o.b. as Shieldco (Mississauga, Ontario)	One charge was laid on August 29, 1985. On March 31, 1987, the accused was convicted and fined \$850. Under appeal by the accused.

Product, Names of Accused and Location of Offence	Action Taken and Results
Stereo speakers — 471451 Ontario Limited c.o.b. as Dana Trading Company, David Kleiner and David Samuel (Toronto, Ontario)	Twelve charges were laid on March 26, 1986. On December 4, 1987, the charges were dismissed. Under appeal by the Crown.
Gas saving device — Platinum Fuelsaver Corporation and Michael J. Bailey (Jarvis, Ontario)	Two charges were laid on February 23, 1987. On January 11, 1988, the company pleaded guilty to one charge and was convicted and fined \$5 000. The remaining charge against the company was withdrawn. The charges against the individual remain outstanding.
Hair regrowth product — 132013 Canada Ltd., c.o.b. as Niagara Labs and as Niagara Labs Hair and Scalp Specialists and Dr. Stanley H. Weisberg (Hamilton and St. Catharines, Ontario)	Five charges were laid on April 3, 1987.
Hair and scalp treatment — Waclaw (Walter) Szczesny and Alicja Szczesny c.o.b. as People's Hair and Scalp Specialists and as Wasco Enterprises (Hamilton, Ontario)	Eight charges were laid on June 3, 1987.
Water filters — Canadian Apollo Water Filters Inc. and Robert MacElwain (Calgary, Alberta)	One charge was laid on July 9, 1987.
Water treatment systems — National Safety Association/N.S.A. Canada Ltée (St-Laurent, Quebec)	One charge was laid on August 14, 1987.
Water softener — Aztec Industries Inc. (Regina, Saskatchewan)	Twenty-three charges were laid on September 9, 1987.
Mineral water — Lee-Roy Enterprises Ltd., c.o.b. as Yellowhead Mobile Homes and as Hard Water Solution (Yorkton, Saskatchewan)	One charge was laid on September 9, 1987.
Weight-loss clinic — 597721 Ontario Inc., c.o.b. as Anatomy 2000 Clinic and George Julius Lucio (London, Ontario)	Thirty-two charges were laid on September 10, 1987.
Weight-loss program — Patrice Runner and Fabrice Choquet c.o.b. as Centre E.D.P.M. (Montréal, Quebec)	Three charges were laid on December 10, 1987.
Mosquito repeller — Jay Norris Canada Inc. (Montréal, Quebec)	One charge was laid on February 22, 1988.

Paragraph 36(1)(c): Misleading Warranty Representation

Water filters — Canadian Apollo Water Filters Inc. and Robert MacElwain (Calgary, Alberta)	One charge was laid on July 9, 1987.
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Paragraph 36(1)(d): Misleading Price Representation

Jewellery — Giftwares Wholesale Co. Ltd., c.o.b. as Jewellery Distributors Co. of Canada and Wholesale Jewellers (Winnipeg, Manitoba)	Three charges were laid on October 31, 1985. On November 4, 1987, the information was quashed. Under appeal by the Crown.
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Product, Names of Accused and Location of Offence	Action Taken and Results
Fur coats — Wendelyn Textiles & Properties Limited c.o.b. as Alan Cherry, Alan Cherry Enterprises Limited, Alan Cherry and Steven LeVine (Toronto, Ontario)	One charge was laid on January 3, 1986.
Jewellery — Ani Jewellery Limited (Ottawa, Ontario)	One charge was laid on February 18, 1987.
Battery charger packages — Home Hardware Stores Limited (London and elsewhere in Ontario)	One charge was laid on June 22, 1987.
Diamond rings — Stanley M. Wise c.o.b. as Rings Etc. (Ottawa, Ontario)	One charge was laid on August 18, 1987.
Sewing machines — Zellers Inc. (Ottawa, Ontario)	One charge was laid on August 18, 1987.
Patio furniture — Piscino Inc. (Montréal, Quebec)	Eleven charges were laid on August 24, 1987.
Televisions — Roy's Television & Radio Company Limited (Sudbury, Ontario)	One charge was laid on September 2, 1987.
Bookcases — Les Meubles Tousignant Inc. (Sherbrooke, Quebec)	Six charges were laid on September 15, 1987.
Lamps — Sunrise Lighting Distributors (Maritime) Limited (Halifax, Nova Scotia)	One charge was laid on October 16, 1987.
Dishwashers — Zellers Inc., c.o.b. as Zellers (London, Ontario)	Four charges were laid on November 30, 1987.
Fur coats — Caskie Furs (Regina) Ltd. and Earl Alexander Bremner (Regina, Saskatchewan)	Twenty-four charges were laid on December 9, 1987.
Furniture — MarVel Furnishings & Upholsterers Ltd., c.o.b. as MarVel Furnishings Ltd. and MarVel Furnishings (Winnipeg, Manitoba)	Two charges were laid on January 15, 1988.
Skis — La Boutique Vent de Mer Inc., c.o.b. as Oberson (Québec, Quebec)	Three charges were laid on March 17, 1988.

Section 36.3: 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 16, 1981, the order was refused by the Federal Court. On May 9, 1985, an appeal by the Crown was allowed and an order of prohibition was granted. Under appeal by the accused.
Electronic home entertainment products — CLP Canmarket Lifestyle Products Corporation and R. Hugh Thorsten (Winnipeg, Manitoba)	Two charges were laid on July 4, 1986.

Product, Names of Accused and Location of Offence	Action Taken and Results
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Section 37: Nonavailability

Air transportation –
Air Canada (Toronto, Ontario)

Three charges were laid on March 29, 1985. These charges were withdrawn and on May 22, 1985, three new charges were laid. On March 24, 1986, the accused was acquitted. On August 5, 1987, an appeal by the Crown was allowed. The accused was convicted and fined \$5 000 on each charge for a total fine of \$15 000. Under appeal by the accused and the Crown.

Electrical and household appliances, toys –
Peter James Bartram c.o.b. as Anglo Canadian Warehouses (Hamilton, Mississauga, Oakville, Bowmanville, Toronto, Ontario)

Seven charges were laid on May 14, 1986.

Ceiling fans –
Fandango Ceiling Fans Ltd. (Calgary, Alberta)

One charge was laid on March 17, 1987. On November 13, 1987, the accused was acquitted. Under appeal by the Crown.

Automobiles –
Jack Frame Motors Corp. and Jack Frame (Scarborough, Ontario)

One charge was laid on November 25, 1987.

Television converters –
Krazy Kelly's Limited and John Sisco (London, Ontario)

Two charges were laid on December 11, 1987.

Video equipment –
A & D Video Inc., c.o.b. as The Video File and Andrew Darrock McKinlay (London, Ontario)

Five charges were laid on December 11, 1987.

Automobiles –
Ken Simard Sales Inc. and Kenyon Allen Simard (Oshawa, Ontario)

One charge was laid on January 15, 1988.

Clothing –
The Governor and Company of Adventurers of England Trading into Hudson's Bay c.o.b. as the Bay (Vancouver, British Columbia)

Two charges were laid on February 12, 1988.

Section 37.1: Sale Above Advertised Price

Automobiles –
Jack Frame Motors Corp. and Jack Frame (Scarborough, Ontario)

One charge was laid on November 25, 1987.

Houses –
Donald Manson c.o.b. as Caledon Heights Estates Ltd. (Toronto, Ontario)

One charge was laid on February 9, 1988.

Section 37.2: Promotional Contests

Fur coats –
Wendelyn Textiles & Properties Limited c.o.b. as Alan Cherry, Alan Cherry Enterprises Limited, Alan Cherry and Steven LeVine (Toronto, Ontario)

One charge was laid on January 3, 1986.

Product, Names of Accused and Location of Offence	Action Taken and Results
Audio and electronic equipment – Alexander Romanov and Alpine Electronics of Canada, Inc. (Markham, Ontario)	Three charges were laid on August 7, 1986.
Festival – Tom Kourtesis (Toronto, Ontario)	One charge was laid on October 29, 1986.
Miscellaneous items – Simpsons Limited/Simpsons Limitée (Toronto, Ontario)	Two charges were laid on June 9, 1987.

Appendix IX

Misleading Advertising and Deceptive Marketing Practices Provisions: Discontinued Inquiries

Industry	Section of Act	Nature of Inquiry and Conclusion Reached
Photodeveloping	36(1)(a)	Complaints received from the public alleged that the photodeveloping equipment purchased from a supplier would not perform according to the standard represented by salesmen. In the course of the inquiry an independent testing agency was retained to determine the performance capacity of the equipment. The test results proved the machine to be capable of operating to the rated capacity, and as a result the Director concluded that the representations in question could not be established to be materially misleading.
Marketing services	37.2	An inquiry was commenced following receipt of complaints concerning a contest to promote the sale of publicity items such as personalized pens. The inquiry disclosed that the regular price of the pens had been misrepresented and that the value of the prizes and the chances of winning had been exaggerated. However, this matter was not pursued further because the president of the company revised his promotional methods and subsequently ceased operation altogether.
Commemorative stamps	36(1)(a)	An application was received under section 7, alleging that representations made by a number of organizations concerning the availability of commemorative stamps were false or misleading. While advertisements indicated that the stamps would not be reissued after a certain date, the applicants alleged that some organizations promoted the stamp after that deadline. The inquiry disclosed that liability could not be established against two of the Crown agents involved, while a third party named by the applicants had clear recourse to the "good faith" defence found in section 37.3. No sales of the stamp were made by the remaining party after the deadline.

Appendix X

Recent Publications of the Bureau of Competition Policy

Misleading Advertising Bulletin (issued quarterly)

Annual Report [of the] Director of Investigation and Research (for previous fiscal years)

News releases (issued periodically)

Information kit on Prenotification

Speeches by the Director of Investigation and Research that Are Publicly Available

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| April 1987 | Canada/United States Law Institute of Case Western Reserve University School of Law (Cleveland, Ohio)
Topic: Competition, Antidumping and the Canada-U.S. Trade Negotiations (S-87-12) |
| August 1987 | Canadian Bar Association – Corporate Counsel Section (Ottawa, Ontario)
Topic: The Impact of the Competition Act on Corporate Concentration (S-87-23) |
| September 1987 | Meredith Memorial Lectures Series, McGill University (Montréal, Quebec)
Topic: The Merger Provisions of the New Competition Act – The Experience to Date (S-87-27) |
| October 1987 | Insight Conference on the High Profile Business Transaction (Toronto, Ontario)
Topic: The Application of the Merger and Prenotification Provisions of the Act (S-87-32) |
| October 1987 | Fordham Corporate Law Institute Annual Conference (New York, N.Y.)
Topic: The New Merger Provisions of the Competition Act of Canada (S-87-43) |
| January 1988 | Canadian Bar Association – Ontario Corporate Counsel Section (Toronto, Ontario)
Topic: Merger Review under the Competition Act – Past, Present and Future (S-88-1) |
| February 1988 | Canadian Bar Association – Alberta Business Law Section (Edmonton, Alberta)
Topic: Merger Review in Canada: Twenty Months of Experience under the Competition Act (S-88-4) |
| March 1988 | The Insight Educational Services Conference on the Canada-United States Free Trade Agreement (Toronto, Ontario)
Topic: Free Trade and Competition Law (S-88-6) |
| March 1988 | Women in Food Industry Management (Toronto, Ontario)
Topic: Mergers and Acquisitions in the Food Industry under the Competition Act (S-88-10070) |

Speeches by the Senior Deputy Director of Investigation and Research that Are Publicly Available

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| October 1987 | Association of Canadian Franchisors (Toronto, Ontario)
Topic: Franchising and the Competition Act (S-87-44) |
| October 1987 | Propane Gas Association of Canada Transportation Symposium (Calgary, Alberta)
Topic: Regulatory Reform and the Application of the Competition Act (S-10076) |
| March 1988 | Canadian Manufacturers Association Committee on Science and Technology (Ottawa, Ontario)
Topic: The Treatment of Cooperative R & D Activities under the Competition Act (S-10064) |

A number of earlier speeches by the present Director and former Directors are maintained on file and are available to the public.

Appendix XI

How to Contact the Bureau of Competition Policy

General Information

Any person wishing to contact the Director or a member of the Bureau to obtain general information, make a complaint, or request an advisory opinion should contact one of the regional or district offices listed below or the:

Compliance and Coordination Branch
Bureau of Competition Policy
Consumer and Corporate Affairs Canada
50 Victoria Street, 21st Floor
Hull, Quebec
K1A 0C9

Telephone:
(819) 994-0798

Fax:
(819) 953-5013

Mergers

Anyone wishing to obtain information concerning the application of the merger provisions of the Act, including those relating to notification of proposed transactions, may contact the Mergers Branch directly. Correspondence addressed to the Mergers Branch may be sent to the address noted above. The Branch telephone number is (819) 953-7092; the fax number is (819) 953-6169.

The Bureau recommends that notification filings be hand-delivered to the Prenotification Unit, Mergers Branch, 50 Victoria Street, 19th Floor, Hull, Quebec. However, the Prenotification Unit also maintains a special post office box to which filings may be sent. The address is P.O. Box 1070, Station B, Hull, Quebec, J8X 3X0.

Misleading Advertising and Deceptive Marketing Practices

The Director of Investigation and Research maintains several regional and district offices which are equipped to handle complaints and requests for general information concerning the misleading advertising and deceptive marketing practices provisions of the Act. It is recommended that members of the public telephone or write to the nearest office listed for prompt attention. Alternatively, correspondence or telephone calls may be directed to the Marketing Practices Branch headquarters.

Marketing Practices Branch Headquarters

50 Victoria Street
19th Floor
Hull, Quebec
K1A 0C9
Telephone: (819) 997-4282

Pacific Region

1400-800 Burrard Street
Vancouver, British Columbia
V6Z 2H8
Telephone: (604) 666-8659

Prairie Region

Oliver Building
10225 100th Avenue
Edmonton, Alberta
T5J 0A1
Telephone: (403) 495-2489

Sam Livingston Building
510 12th Avenue S.W.
Suite 309
Calgary, Alberta
T2R 0H3
Telephone: (403) 292-5608

260 St. Mary Avenue
Room 345
Winnipeg, Manitoba
R3C 0M6
Telephone: (204) 983-5567

Ontario Region

Federal Building
451 Talbot Street
Suite 300
London, Ontario
N6A 5C9
Telephone: (519) 645-4119

4900 Yonge Street
6th Floor
Willowdale, Ontario
M2N 6B8
Telephone: (416) 224-4065

10 John Street South
Room 600
Hamilton, Ontario
L8N 4A7
Telephone: (416) 572-2873

Quebec Region

Guy-Favreau Complex
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Appendix XII

Table of Cases

The following is a list of recent court decisions relating to the Competition Act.

Canada (Attorney General) v. Alex Couture Inc., [1987] R.J.Q. 1971, 18 C.P.R. (3d) 382 (C.A.).

Canada (Director of Investigation and Research) v. New Brunswick Telephone Co., [1987] 2 S.C.R. 485, 80 N.R. 340, 45 D.L.R. (4th) 608.

Canada (Director of Investigation and Research) v. Newfoundland Telephone Co., [1987] 2 S.C.R. 466, 45 D.L.R. (4th) 570, 80 N.R. 321, 68 Nfld & P.E.I.R. 1, 209 A.P.R. 1.

Canfarge Ltée v. David, Que. S.C., July 24, 1987 (unreported).

Commodore Business Machines Ltd. v. Canada (Director of Investigation and Research) (1988), 63 O.R. (2d) 737 (C.A.).

Cottrell Transport Inc. v. Canada (Director of Investigation and Research) (1987), 19 C.P.R. (3d) 117 (Ont. H.C.).

Canada (Director of Investigation and Research) v. Facon Ltd., Nfld. S.C., March 27, 1987 (unreported).

Canada (Director of Investigation and Research) v. Hoffmann-Laroche Ltd. (1987), 60 O.R. (2d) 161, 35 C.C.C. (3d) 488, 16 C.P.R. (3d) 289 (C.A.).

Industrial Milk Producers Assn. v. British Columbia (Milk Board), F.C.T.D., January 8, 1988 (unreported).

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Northern Pool Express Ltd. v. Canada (Director of Investigation and Research) (1988), 19 C.P.R. (3d) 308 (Ont. C.A.).

R. v. Air Canada (1987), 17 C.P.R. (3d) 392 (Ont. Dist. Ct.).

R. v. Big Mac Investments Ltd. (1987), 18 C.P.R. (3d) 486 (Man. Prov. Ct.).

R. v. Birchcliff Lincoln Mercury Sales Ltd. (1987), 60 O.R. (2d) 610, 36 C.C.C. (3d) 1, 17 C.P.R. (3d) 99 (C.A.).

R. v. CLP Canmarket Lifestyle Products Corp., [1988] 2 W.W.R. 170, (1987), 50 Man. R. (2d) 106, 19 C.P.R. (3d) 432 (C.A.); [1987] 5 W.W.R. 687 (Man. Q.B.).

R. v. Canada Packers Inc. (1988), 19 C.P.R. (3d) 133 (Alta. Q.B.).

R. v. Canada Packers Inc. (1988), 19 C.P.R. (3d) 369 (Alta. Q.B.).

R. v. Canadian Tire Corp. (1987), 16 C.P.R. (3d) 465 (Ont. Dist. Ct.).

R. v. Conroy Electronics Inc. (1987), 17 C.P.R. (3d) 175 (Ont. Prov. Ct.).

R. v. D.E.S. Security Systems, Ont. Prov. Ct., May 4, 1987 (unreported).

R. v. Epson (Canada) Ltd. (1987), 19 C.P.R. (3d) 195 (Ont. Dist. Ct.).

R. v. Giftwares Wholesale Co. (1987), 19 C.P.R. (3d) 75 (Man. Prov. Ct.).

R. v. Itec Gold Marketing Inc., Alta. Prov. Ct., May 7, 1987 (unreported).

R. v. Lawson Business Forms (Manitoba) Ltd. (1987), 16 C.P.R. (3d) 167 (Sask. Prov. Ct.).

R. v. Manigo Inc., Que. S.C., January 14, 1988 (unreported).

R. v. Muralex Distributions Inc. (1987), 15 B.C.L.R. (2d) 151 (Co. Ct.).

Re Norvinca Inc., [1987] 3 F.C. 365, 12 F.T.R. 1, 16 C.P.R. (3d) 187 (T.D.).

R. v. Pacific Energy Woodstoves Ltd., B.C. Prov. Ct., April 24, 1987 (unreported).

R. v. Postal Promotions Ltd. (1987), 16 C.P.R. (3d) 383 (Ont. C.A.).

R. v. Schurman Enterprises Ltd., P.E.I.C.A., April 10, 1987 (unreported).

R. v. Sony of Canada Ltd. (1987), 16 C.P.R. (3d) 50 (Ont. Dist. Ct.).

R. v. Teixeira, Que. C.S.P., October 16, 1987 (unreported).

R. v. York-Hannover Hotels Ltd., Ont. H.C., April 27, 1987 (unreported).

Re TNT Canada Inc. (1987), 16 C.P.R. (3d) 173 (Ont. H.C.).

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Stelco Inc. v. Canada (Attorney General) (1987), 83 N.R. 193 (F.C.A.); (1988) 1 F.C. 510, (1987), 19 C.P.R. (3d) 38 (T.D.).

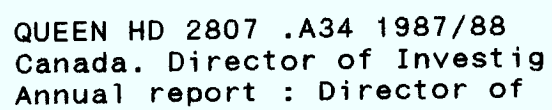
Titan Industries Ltd. v. Canada (Attorney General) (1987), 17 C.P.R. (3d) 117 (B.C.S.C.).

YRI-York Ltd. v. Canada (Attorney General) (1988), 83 N.R. 195 (F.C.A.); (1987), 19 C.P.R. (3d) 355 (F.C.T.D.).

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