

QUEEN
HD
2807
.A34
1990/91

mer and
ate Affairs Canada

Consommation
et Corporations Canada

IC

ANNUAL REPORT

Director of Investigation
and Research

Competition Act

For the year ended March 31, 1991

Canada

Queen
HD
2807
.A34
1990/91

ANNUAL REPORT

Director of Investigation
and Research

Competition Act

For the year ended March 31, 1991
to the Hon. Pierre Blais, Minister

Canada



Text pages printed
on recycled paper

© Minister of Supply and Services Canada 1991

ISBN 0-662-58666-2
Catalogue No. RG 51-1991
CCAC No. 10141 B 91-11

Hull, Quebec

Mailing Address:
Ottawa, Ontario
K1A 0C9

December 2, 1991

The Honourable Pierre Blais, 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, 1991.

Yours truly,

Howard I. Wetston, 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 15 days after he receives the report on which that House is sitting."

(*Competition Act*, R.S.C. 1985, c. C-34, as amended, section 127)

TABLE OF CONTENTS

PREFACE	i	APPENDIX I	
CHAPTER I		Bureau Organization	25
The Competition Act: Its Purpose and Application	1	APPENDIX II	
CHAPTER II		Merger Examinations Concluded	26
Mergers	5	APPENDIX III	
CHAPTER III		Mergers and Reviewable Matters:	
Other Reviewable Matters	11	Discontinued Inquiries	35
CHAPTER IV		APPENDIX IV	
Criminal Offences in Relation to Competition	14	Criminal Offences in Relation to Competition:	
CHAPTER V		Proceedings	36
Misleading Advertising and Deceptive Marketing		APPENDIX V	
Practices Offences	17	Criminal Offences in Relation to Competition:	
CHAPTER VI		Discontinued Inquiries	38
Representations Before Boards, Commissions or		APPENDIX VI	
Other Tribunals	20	Misleading Advertising and Deceptive Marketing	
CHAPTER VII		Practices Provisions: Proceedings	39
Competition Policy Development and		APPENDIX VII	
International Affairs	23	Misleading Advertising and Deceptive Marketing	
		Practices Provisions: Discontinued Inquiries	43
		APPENDIX VIII	
		Recent Publications of the Bureau of	
		Competition Policy	44
		APPENDIX IX	
		How to Contact the Bureau of Competition	
		Policy	45
		INDEX	47

PREFACE

This fiscal year presented considerable challenges for the Bureau of Competition Policy, particularly in light of the continuing globalization of world markets. This trend has heightened the public's awareness of competition policy and its objectives. Competition is not promoted in Canada solely for its own sake, but rather because it is the primary stimulus to the achievement of a number of objectives associated with enhancing the economic welfare of society. More specifically, free and competitive markets result in lower costs and prices, greater incentives for product innovation and development, and ultimately in higher quality goods and services for the Canadian consumer. Competition in the marketplace ensures that individual firms can only prosper by fulfilling consumer demands as effectively, or more effectively, than their rivals. As such, there is a continuing need to stop clearly anti-competitive activities such as cartels and bid-rigging which drive up costs for business and increase prices for consumers.

An effective and vigorously enforced competition policy is necessary to enhance the economic welfare of Canadian society. In industries where the Canadian market is not large enough to support several domestic companies it is especially important to prevent abuses of market power at the expense of consumers, while still allowing Canadian firms to achieve desired efficiencies and become internationally competitive.

With respect to mergers and acquisitions, as markets become more international in scope, there is a tendency to believe that mergers between domestic firms are necessary to achieve the size to compete world-wide. However, increased size alone will not assure success in a global marketplace. Economies of scale are not the only source of efficiency. Size alone will not guarantee that firms will innovate or improve their productivity. Efforts to achieve economies of scale must be complemented by vigorous domestic competition which also plays an important role in assisting Canadian companies to become stronger in foreign markets.

At a time when Canadian companies are being challenged to work better, faster and more efficiently, the Bureau is taking a number of steps to reflect an emphasis on efficiency in the fulfilment of its own mandate. In particular, we are becoming increasingly aware of the need to focus enforcement efforts and intervention and policy work on cases or issues of greater economic significance. In pursuit of this goal, efforts are underway to develop workable case screening and prioritizing

criteria that will enable staff to determine at an early stage whether a particular case should be pursued. These criteria include the economic impact of the practice, management considerations such as the cost of intervention and the likelihood of success and enforcement factors such as the nature of the offence, or the possibility of enhancing deterrence. While these criteria must be flexibly and carefully applied, the initial results are nonetheless encouraging.

The Bureau is making every effort to ensure that its enforcement policies are more transparent, in order to enhance enforcement consistency and certainty. The release this year of the first *Merger Enforcement Guidelines* under the *Competition Act* was an important step in this process. Extensive consultations with the public have also taken place in preparation for the publication of guidelines on predatory pricing and price discrimination. The development of guidelines should enhance certainty in the investigative process by enabling complainants to know at an earlier stage whether enforcement action will be forthcoming, or whether other options such as private civil actions should be pursued.

Progress is continuing on initiatives to upgrade Bureau automation and to develop staff training programs in areas such as investigative skills and economics. With respect to the criminal provisions of the law, we are exploring in consultation with the Department of Justice, the use of enforcement policies such as a "first-in" immunity program for offenders who cooperate in investigations as a means of facilitating the gathering of evidence. On the civil, or reviewable matters side, we are rapidly acquiring experience and valuable jurisprudence in matters before the Competition Tribunal.

Recent decisions of the Supreme Court of Canada have recognized the role of competition law as public welfare legislation, that is to say legislation which prohibits specific conduct as a means of achieving broader economic goals. The public welfare characterization appears to support our philosophy of flexible and pragmatic enforcement, our on-going emphasis on resolving competition concerns in areas such as mergers through early discussion of those concerns, and the continuing development of modern enforcement tools such as alternative case resolution in appropriate cases.

It is clear that the manner in which the law is enforced and applied must continue to evolve to accommodate new legal standards being developed under the Charter of

Rights and Freedoms, and to reflect the realities of law enforcement in the 1990's. The Bureau is now managing a number of Charter challenges which have been raised regarding certain provisions of the Act. These challenges have affected law enforcement in some areas this year, although we proceeded with a number of significant investigations and continued to defend the validity of the law before the Courts.

This Annual Report summarizes the highlights of the activities of the Bureau throughout the 1990-91 fiscal year and the challenges that we faced in discharging our responsibilities. The measures I have identified should improve both the quality and quantity of the work that we do. The marketplace will benefit directly from increases in the efficiency of our enforcement response which these measures are designed to bring about.

Canadian competition policy, at its core, continues to aim at removing unreasonable restraints on competition in the belief that free and open markets will protect the interests of consumers and business alike and ensure that resources are allocated efficiently. Effective competition law enforcement, together with increased public awareness and support, will help advance the economic welfare of all Canadians.

Howard I. Wetston, Q.C.

CHAPTER I

THE COMPETITION ACT: ITS PURPOSE AND APPLICATION

PURPOSE

The *Competition Act* (the 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 s. 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 all sectors of the economy. All business is subject to the Act, with the exception of selected activities specifically exempted such as collective bargaining, amateur sport or regulated industries subject to 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.

Part VI of the Act prohibits criminal offences such as bid-rigging, conspiracy to lessen competition unduly, price maintenance and misleading advertising.

Part VIII of the Act identifies a number of matters reviewable by the Competition Tribunal (the Tribunal) including mergers, abuse of dominant position, refusal to deal, tied selling, delivered pricing and specialization agreements.

The Tribunal is a specialized tribunal established under 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 (the Minister). Only the Director of Investigation and Research (the Director) may bring an application before the Tribunal except when private parties apply to the Tribunal to register a specialization agreement.

Under sections 125 and 126 of the Act, the Director is authorized to make representations regarding competition matters before federal or provincial regulatory boards, commissions and tribunals. The Director may intervene before federal boards on his own initiative, at the request of the board, or when directed to do so by the Minister. He may intervene before provincial regulatory bodies only when requested by such boards, or on his own initiative with their consent.

THE ENFORCEMENT PROCESS

Numerous complaints are received annually from the public concerning conduct that may be subject to the 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, Bureau staff carry out a preliminary examination and determine whether further action is warranted.

The Director is required to commence an inquiry whenever he believes, on reasonable grounds, that an offence under Part VI or VII 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 VIII of the Act, or that a person has contravened or failed to comply with an order made under the Act. The Director is also obliged to commence an inquiry when the Minister so directs, or when six Canadian residents make an application in accordance with s. 9 of the Act.

All inquiries are conducted in private. Any person whose conduct is being investigated or any person who applies for an inquiry under s. 9 may write the Director and request to be informed of the progress of an inquiry.

The Director may use a number of investigative tools once an inquiry has begun. 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 under oath or affirmation.

If the Director concludes that a matter does not justify further inquiry, he may discontinue the inquiry at any time. An inquiry may also be discontinued if the Director

SELECTED ACTIVITIES OF THE BUREAU OF COMPETITION POLICY
(Excluding Misleading Advertising and Deceptive Marketing Practices Provisions*)

	1986-87	1987-88	1988-89	1989-90	1990-91
Total complaints received	1 028	930	820	988	1 177
Preliminary examinations commenced requiring two or more days of review	237**	328	371**	403	345
Applications for inquiries under s. 9	13	9	6	4	5
Inquiries in progress at the end of the year	78	80**	55**	57	61
Inquiries formally discontinued	11	17	32	5	10
Matters referred to the Attorney General of Canada	9	15	19	7	5
Matters referred where the Attorney General decides no further action warranted	4	3	—	2	—
Matters in which prosecutions or other proceedings commenced	14	12**	14***	7	6
Applications to the Competition Tribunal	1	2	3	4	3
Interventions before federal regulatory bodies	8	7	6	5	8
Interventions before provincial regulatory bodies	10	9	3	5	5

* Comparable statistics for activities under these provisions can be found in Chapter V.

** Revised.

*** Includes 9 matters forming one proceeding.

decides that further inquiry is not warranted because of voluntary corrective conduct, or because undertakings have been given and complied with which remedy the competitive concerns arising from the matter under inquiry.

The Director is required to report in writing to the Minister when an inquiry is discontinued. If the inquiry was commenced as a result of a six-resident application under s. 9, the Director must inform the applicants of the decision and the grounds for discontinuance. The Minister may, on the written request of applicants under s. 9 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.

CRIMINAL MATTERS

Criminal matters are referred to the Attorney General of

Canada. The Attorney General determines whether charges should be laid and conducts prosecutions under the Act. Section 34(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 s. 34(2).

REVIEWABLE MATTERS

The Director initiates legal proceedings in reviewable matters by filing an application with the Tribunal. The Tribunal may issue orders designed to remedy the effects of the conduct in question. The Tribunal may also issue

orders with the consent of the Director and the persons in respect of whom the order is sought.

The *Competition Tribunal Act* provides that any affected person may apply for leave to intervene in proceedings before the Tribunal to make representations relevant to those proceedings. This Act also provides rights of intervention before the Tribunal to provincial attorneys general.

MERGER REVIEW

The Director also initiates legal proceedings in merger matters by filing an application with the Tribunal. However, parties to a proposed merger are encouraged to approach the Director early in the process to determine if there are potential competition concerns, and if there are concerns, to determine whether they can be resolved without resorting to litigation.

It is open to the parties at any stage in the process, up to and including contested proceedings before the Tribunal, to propose changes in the original transaction that would address the Director's competition concerns. The Director has a strong preference for proposals which remove the concerns before the transaction closes, sometimes called the "fix-it-first" approach, although the Director will consider and has accepted post-closing restructuring. Where post-closing solutions are proposed, the Director may insist that such proposals be subject to a consent order application, particularly in cases of broad public interest or where there is a need for certain and long-term enforceability.

INFORMATION AND COMPLIANCE PROGRAMS

Canada has historically relied on investigation and prosecution in the enforcement of its competition law. This approach will continue to be a primary method of

enforcement. But it is clear that in other 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 which stresses voluntary compliance with the Act. More emphasis is now being placed on communication and public education as a means of promoting a better understanding of the Act.

THE SPEECH PROGRAM

The Director and senior members of the Bureau undertook a number of speaking engagements throughout the year before trade associations and other business and professional groups interested in competition policy. Central themes in these addresses included a discussion of developing jurisprudence, enforcement priorities, initiatives to make the Act's provisions more transparent and the importance of domestic efficiency. Information on how to obtain copies of speeches is provided in Appendix VIII.

The Director participated in a number of smaller scale consultation meetings with representatives of various business sectors, the legal profession, the academic community, Members of Parliament and associations representing business and consumer interests.

THE PROGRAM OF ADVISORY OPINIONS

The Program of Advisory Opinions is designed to assist the business community in avoiding conflict with the Act. Under this program, the Director invites company officials, lawyers and others to request an opinion on whether a proposed business plan or practice would give grounds to initiate an inquiry under the Act.

Opinions take into account jurisprudence, previous opinions and the stated policies of the Director. The Director has no authority to regulate business conduct or

INFORMATION AND COMPLIANCE DATA

	Misleading Advertising Provisions		Remaining Sections of the Act		Total	
	1989-90	1990-91	1989-90	1990-91	1989-90	1990-91
Requests for Information	27 192	26 950	1 595	1 961	28 787	28 911
Oral Advisory Opinions	1 124	819	139	97	1 263	916
Written Advisory Opinions	323	377	31	14	354	391
Media Contacts	274	276	111	180	385	456
Speeches/Educational Seminars/Consultative Meetings	121	89	60	35	181	124

to determine its legality. Those who seek an opinion are not bound by the advice provided and remain free to adopt the plan or practice on the understanding that the matter may be tested before the Tribunal or the courts. Nor can the Director bind himself or his successors.

Advisory opinions are given in relation to a specific set of facts. Should details of the proposed plan differ when implemented, or conditions change that would alter the impact of the proposal on the market, the matter may be subject to further examination.

To further facilitate compliance with the merger provisions, the Act authorizes the Director to issue advance ruling certificates for those mergers which do not raise competition concerns.

INFORMATION BULLETINS

A high priority has been placed on expanding the information provided to the public about the Act and its administration. During the past fiscal year, *Information Bulletin No. 4, An Overview of Canada's Competition Act*, and *Information Bulletin No. 5, Merger Enforcement Guidelines* were issued in November 1990 and March 1991, respectively.

Preparatory work for bulletins on predatory pricing and price discrimination was also undertaken. A draft bulletin dealing with predatory pricing was circulated for discussion in April 1990 and a draft bulletin on price discrimination was released in July 1990. It is expected that these bulletins will be released in final form later in 1991-92.

MEDIA CONTACTS

Bureau officials regularly inform the public about competition matters through the media. The Bureau recognizes the important role played by frequent and effective media contacts in its program of public information and education. News releases and background papers were issued throughout the year that detailed important cases or explained the rationale for the Bureau's position. News conferences were also held to assist the media in understanding the application of the Act in given situations.

CHAPTER II MERGERS

The Director may consider all mergers, proposed or otherwise, in all sectors of the economy, which come to the Director's attention. Where he concludes that a transaction prevents or lessens, or is likely to prevent or lessen, competition substantially, the Director may ask the Tribunal to issue a remedial order in accordance with the statute. The law provides a list of factors which the Tribunal may consider in making its determination, and further states that:

- the Tribunal's finding cannot be based solely on evidence of concentration or market share;
- an exception exists for situations where the merger brings about, or is likely to bring about, gains in efficiency, where such gains 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 and;
- no application can be made by the Director in respect of a merger more than three years after that merger has been substantially completed.

With respect to proposed mergers, the Tribunal may order the parties not to proceed with all or part of the merger. In the case of completed mergers, the Tribunal may issue an order of dissolution or require divestiture of assets or shares. Regardless of whether the merger is proposed or completed, the Tribunal may also, on consent of the Director and those against whom the order is directed, require that any other action be taken. Where an application is made to the Tribunal for a consent order, the Tribunal may make the order on those terms.

Of the total number of merger transactions occurring in Canada, slightly in excess of 10% require significant examination (more than two days of review by an officer). Most cases examined in a significant fashion are ultimately determined to raise no competition issue and the file is closed. In such cases, when requested by the parties, the Director will provide either an advance ruling certificate or an advisory opinion. In those few cases where the Director has concluded that sufficient grounds existed to bring an application before the Tribunal, parties have chosen to either abandon the transaction, proceed to the Tribunal on the basis of a consent order or on a contested basis or, alternatively, to restructure the transaction to alleviate the Director's concerns.

More information pertaining to the merger provisions of the Act is contained in *Information Bulletin No. 5 (Merger Enforcement Guidelines)*, or the MEG's) and in *Information Bulletin No. 2 (Advance Ruling Certificates)*.

NOTIFIABLE TRANSACTIONS

Part IX (sections 108 to 123) of the 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 such assets, must exceed \$35 million. In the case of an amalgamation, this second threshold is \$70 million for the two companies together. Further information pertaining to notifiable transactions is also contained in the MEG's.

MERGER EXAMINATIONS 1990-91

Overall merger activity in Canada was down slightly in fiscal year 1990-91 according to the Bureau Merger Register (Table 1). Nonetheless, the work of the Merger Branch continued at high levels. While the number of examinations commenced decreased somewhat from 1989-90, the number of matters ongoing at year end increased, reflecting a higher number of transactions requiring a more lengthy and detailed review (Table 2).

TABLE 1: BUREAU MERGER REGISTER

Year	Foreign*	Domestic**	Total
1986	641	297	938
1987	622	460	1 082
1988	593	460	1 053
1989	691	400	1 091
1990	676	268	944

* 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)

Efforts are currently underway within the Bureau to refine the means of identifying competition issues in merger transactions at an early stage to enable resources to be more promptly deployed to matters likely to require attention.

Many of the merger trends identified in last year's Report continued throughout 1990-91. Defensive acquisitions in response to trade liberalization and instances of re-structuring in response to regulatory reform remained features of the year's merger activities. This year there was also an increase in the number of horizontal mergers taking place, due in part to a trend toward greater concentration on core businesses and the sale by companies of assets perceived as peripheral to their long-term plans. These transactions are potentially more problematic from the Bureau's standpoint and, as a result, their

examination may be more time-consuming.

EXAMINATIONS CONCLUDED

Four significant merger examinations concluded during the year involved horizontal transactions—the acquisition by Northern Alberta Dairy Pool (NADP) of Palm Dairies Limited (Palm Dairies), the proposed acquisition by Laidlaw Inc. (Laidlaw) of all of the share capital of Tricil Limited (Tricil), the proposal by Tree Island Industries, Limited (Tree Island) to purchase Davis Wire Industries Ltd. (Davis) from its American parent company, Davis Walker Corporation (Davis Walker), and finally the purchase by The Michelin Group (Michelin), through a subsidiary corporation, of the entire ownership interest of the Uniroyal Goodrich Tire Company of New York (Uniroyal).

TABLE 2: MERGER EXAMINATIONS

	1986-87 ¹	1987-88	1988-89	1989-90	1990-91
Examinations commenced (2 or more days of review)	40	146	191	219	193
Arising from notifiable transactions	n/a	65	92	109	75
Arising from advance ruling certificate requests	n/a	40	70	87	87
Examinations Concluded					
As posing no issue under the Act	17	120	166	204	170
With monitoring only	5	7	10	13	10
With pre-closing restructuring	—	2	1	—	—
With post-closing restructuring/ undertakings	1	2	3	1	2
With consent orders	—	—	—	3	—
Parties abandoned proposed merger in whole or in part as a result of Director's position	3	2	2	2	1
Total examinations concluded ²	26	133	182	223	183
Advance ruling certificates issued ³	3	26	59	72	70
Advisory opinions issued ³	8	21	20	17	17
Examinations ongoing at year end	14	25	32	31	39
Total examinations during the year ⁴	40	160	216	251	224
Applications and Notices of Application before Tribunal					
Concluded or withdrawn ⁵	1	—	2	3	—
Ongoing	—	2	2	1	3

1 Statistics commence as of June 19, 1986. Remaining years reflect the period April 1 to March 31.

2 Includes Advance Ruling Certificates and Advisory Opinions issued and matters which have been concluded or withdrawn before the Competition Tribunal but excludes ongoing matters before the Competition Tribunal.

3 Included in Total examinations concluded.

4 Includes the examinations commenced during the year and those ongoing at the end of the previous year.

5 Matters are counted under Examinations Concluded.

Two of these matters, Palm Dairies and Laidlaw, were restructured. In addition, in the three cases where competition concerns were raised (Palm, Laidlaw, and Davis), the Director obtained hold-separate undertakings from the parties concerned to ensure that the proposed companies would remain as separate, competitive entities in certain markets pending the outcome of the examination process. Such undertakings have proven to be an effective mechanism to protect the consumer interest until a merger examination is completed, while allowing sufficient time to thoroughly analyze the likely effects of the merger, and if necessary to develop and consider alternative merger proposals. The importance of hold-separate undertakings in preserving divestiture as a remedial option was recently recognized by Mr. Justice Teitelbaum of the Competition Tribunal in *The Director of Investigation and Research v. Southam Inc. et al.* (described below).

The Palm Dairies case involved Palm Dairies' processing facilities in Alberta, Saskatchewan and Ontario. After the Director advised that the transaction would likely lead to a substantial lessening of competition in the distribution and sale of dairy products in Alberta, NADP proposed to acquire only Palm Dairies' Edmonton facilities and business in Northern Alberta, while a third party would acquire the remaining Palm Dairies assets in Southern Alberta, Saskatchewan and Ontario. In July 1990 Beatrice Foods Ltd. (Beatrice) announced that they had reached an agreement in principle to acquire the remaining Palm Dairies operations.

The revised transaction was reviewed, and the Director informed the parties that it would not be challenged but that the effects on competition would be monitored over the three-year statutory period. In the Thunder Bay market, where the Director determined that viable post-merger entry was possible, the Dairy Inspection Branch of the Ontario Ministry of Agriculture and Food subsequently granted a license to distribute fluid milk to Manco Foods Inc. of Kenora, Ontario.

With regard to the proposed Laidlaw acquisition of Tricil, the Director advised the parties in February 1990 that the proposed acquisition of the commercial waste removal operations of Tricil was likely to prevent or lessen competition substantially in the Edmonton and Ottawa-Carleton markets. Both firms are major Canadian commercial and industrial containerized waste removal companies, as well as being involved in liquid and hazardous waste transportation and transfer station operations in Ontario.

Laidlaw gave undertakings to divest the Tricil assets and operations in these two markets to viable third parties, and on June 5, 1990 the operations in the Ottawa-

Carleton region were sold to Browning Ferris Industries Ltd. The divestiture required in the Edmonton market was still pending at year-end. In the markets of Vancouver and Hamilton, the Director concluded that effective competition from four significant suppliers would remain in each market, while prospects for new entry were judged to be greater relative to Edmonton and Ottawa-Carleton. The Ontario liquid and hazardous waste transportation and transfer station market raised no competition concerns due to Laidlaw's low market share prior to the transaction and the significant number of competitors remaining. However, Laidlaw agreed to provide advance notice of any acquisition of commercial waste removal competitors in Vancouver and Hamilton or competitors in the liquid and hazardous waste transportation and transfer station market in Ontario until 1993 for monitoring purposes.

One significant merger which occurred during the year resulted in complete divestiture of the acquired shares. In November 1989, the Director learned that Tree Island was proposing to purchase Davis Wire, which was being sold by auction as part of a bankruptcy reorganization. Tree Island was ultimately the successful purchaser of the shares. The available information indicated that these two firms were the largest suppliers of industrial wire and wire products in Western Canada. An examination was commenced and the parties were asked to supply documentary information to the Director. After providing a hold-separate undertaking to the Director, Tree Island proceeded with its acquisition of the shares.

On February 16, 1990, an inquiry was commenced and the Director subsequently concluded that grounds existed for an application to the Tribunal. The available evidence indicated that the merger of Tree Island and Davis Wire would likely lead to a substantial lessening of competition in the western Canadian market for the wire and wire products manufactured by the two companies. After considerable discussions between the parties and the Director, Tree Island and its American parent, Georgetown Industries, Inc., agreed to sell all the shares of Davis Wire to a person who would carry on its business as an independent manufacturer. The original date for the sale of the shares of Davis Wire was extended and efforts to sell the shares were continuing at year-end.

After an extensive examination, the Director decided he would not challenge the purchase by Michelin of Uniroyal Goodrich Tire Company of New York. As part of this transaction Michelin would acquire Uniroyal's Canadian operations. Both companies are major manufacturers of car and truck tires for the original equipment and replacement markets.

Michelin is a global tire manufacturer with plants in 12 countries. It operates three plants in Canada, all of which are located in Nova Scotia. Uniroyal manufactures tires in North America only, and both its Canadian plants are located in Ontario. Information indicated that, while the two companies would have a substantial percentage of Canadian sales of car and light truck tires, the relevant geographic market was North America. North American market shares for the two companies were not large, and the existence of considerable competitive options suggested that no substantial lessening of competition was likely. In addition, available market information indicated that there were no significant barriers to the importation of tires from off-shore manufacturers. Generally, market participants described competition in the industry as intense and not likely to be significantly reduced by the merger.

Further information regarding these transactions and a number of other mergers may be obtained from news releases available from the Bureau. A complete list of all the publicly reported mergers which were examined by the Director during the fiscal year is found in Appendix II. Inquiries under the merger provisions which were discontinued during the year are described in Appendix III.

ONGOING MATTERS

The review of three significant transactions was still in progress at year-end. Staff were continuing to assess the agreement between Maple Leaf Mills Limited (Maple Leaf) and Ogilvie Mills Ltd. (Ogilvie), Canada's two largest flour milling companies, to enter into a partnership to carry out their respective flour, bakery, wheat starch, gluten and other related businesses. Both Maple Leaf and Ogilvie have substantially integrated into downstream bakery operations.

Another ongoing matter was the agreement between the Great Atlantic & Pacific Company of Canada, Limited (A&P) and Steinberg, Inc. (Steinberg) under which A&P would acquire most of Steinberg's grocery retailing assets in Ontario. The transaction, valued at approximately \$235 million, involved 58 Miracle Food Mart stores and 11 Ultra Mart Food and Drug stores. The Director's assessment has been completed, and it was determined that the proposal did not cause significant concerns in the overall Ontario market. However, several local markets were identified in which the Director concluded that there was likely to be a substantial lessening of competition. In three other local markets, the Director felt that there were considerable concerns, but that these would likely be mitigated by significant entry within the foreseeable future.

A&P then proposed to divest 11 stores in markets where the Director had expressed concern. The company would also assist the Director in monitoring those three other markets where it was felt significant future entry would likely mitigate competition concerns. The Director decided not to oppose the transaction based on these undertakings. The divestitures were to take place within 12 months and A&P has agreed that the undertakings may, on application by the Director, be made part of a consent order should A&P fail to comply with the undertakings. At the end of the fiscal year, negotiations with parties interested in the assets to be divested were ongoing.

A novel issue of interpretation was raised in the examination of the acquisition of Pay Less Gas Co. (1972) Ltd. (Pay Less) and its various affiliates by Whitehorn Industries Inc. Pay Less concurrently entered into a series of transactions with Shell Canada Products Limited (Shell) which provided for the sale of the Pay Less petroleum products terminal on Vancouver Island to Shell, as well as lease/sub-lease agreements with 51 Pay Less retail outlets, and a 15-year unbranded gasoline sales agreement. The Director was informed by the parties that similar lease/sub-lease agreements were planned for certain additional retail outlets which Pay Less was acquiring from Imperial Oil Limited, which were former Texaco stations being divested pursuant to the consent order issued regarding that transaction.

While the acquisition of the Vancouver Island terminal raised no competition issues on its own, aspects of the contractual agreements collectively resulted in obligations of Pay Less to Shell which would give Shell a considerable measure of control over the business operations of Pay Less. This control was determined to amount to the acquisition or establishment of a significant interest in a part of the business, which, in certain markets, raised a likelihood of a substantial lessening of competition in the retail marketing of petroleum products. While the parties maintained that the contractual agreements had no effect on their status as separately owned and controlled companies, meetings were held at the request of Shell and Pay Less to allow the parties an opportunity to address the Director's concerns. A lengthy period followed during which several proposals were put before the Director. At year-end, a resolution acceptable to the Director was expected.

MATTERS FROM PRIOR YEARS

Restructuring in response to the lowering of trade barriers occasioned by the Canada-United States Trade Agreement (CUSTA) was an important consideration in two matters arising in prior years which were still active in 1990-91. As was reported last year, the Tribunal issued a consent

order on June 15, 1989 in respect of the acquisition of the electric power transmission and distribution business of Westinghouse Canada Inc. (Westinghouse) by Asea Brown Boveri Inc. (ABB). The order required that ABB divest certain assets acquired from Westinghouse if it was unable to obtain specific tariff relief measures. On May 24, 1990 the Privy Council issued an order giving effect to the implementation of accelerated tariff reductions under the CUSTA as required by the consent order.

On April 25, 1989, the Director announced that the merger of the glass container manufacturing operations of Consumers Packaging Inc. (Consumers) and Domglas Inc. (Domglas) would not be challenged. One factor in the Director's decision was Consumers' commitment to apply for accelerated reduction of tariffs on imports of glass containers under the CUSTA. However, the application by Consumers was not included in a list of items for which accelerated reduction is to be implemented in July 1991. It may be included in the next round of negotiations between the two countries.

The Bureau also continued to follow developments flowing from the merger of the brewing operations of The Molson Companies Limited and Elders IXL Limited. This transaction was allowed to proceed last year following the establishment of a detailed monitoring program. During 1990-91, the new entity, Molson Breweries, provided quarterly reports which assisted the Bureau to assess the impact of the transaction on competition in the Canadian brewing industry. No competition issues have come to the Director's attention as a result of these reports. In addition, the Director is satisfied with the progress the company is making towards achieving the substantial efficiency gains that it had projected would result from the merger, and on which the Director had relied in allowing the transaction to proceed.

APPLICATIONS BEFORE THE COMPETITION TRIBUNAL

The first three fully contested merger cases are now working their way through the Tribunal. Progress has been steady although additional time has been required to resolve certain procedural issues raised, such as the treatment of confidential documents and the threshold required to obtain a stay of proceedings before the Tribunal. This is the case with respect to the application by the Director to challenge the acquisition by Southam Inc. of *The Vancouver Courier*, the *North Shore News* and the *Real Estate Weekly*. The Director has alleged that the acquisitions prevent or lessen, or are likely to prevent or lessen, competition substantially in the supply of newspaper retail advertising services in the City of Vancouver;

the supply of newspaper retail advertising services in the North Shore; and the supply of print real estate advertising services in the Lower Mainland and the North Shore. The Director has requested an order for the divestiture of the three publications.

On December 3, 1990 Southam filed an application in the Federal Court of Canada, Trial Division challenging the constitutionality of the merger provisions of the *Competition Act*, and the *Competition Tribunal Act*. Southam also sought a stay of the Tribunal proceedings, but this motion was dismissed on February 13, 1991. A notice of appeal has been filed by Southam. On March 15, 1991 the Director obtained an interim order requiring Southam to maintain the acquired entities as independent, viable and competitive businesses. The interim order contains a number of detailed terms designed to achieve this goal, including provision for the appointment of monitors who will be responsible for overseeing compliance with the order, and prohibitions against interlocking directorships between Southam Inc. or its subsidiaries and the acquired companies. Hearings on the merits of the Director's application were scheduled to commence in September 1991.

Outstanding constitutional issues continue to delay the Tribunal hearing of an application concerning the acquisition by Alex Couture Inc., which is owned by Sanimal Industries Inc., of the Montreal-based waste-rendering firms Lomex Inc. and Paul & Eddy Inc. The hearing of the application in this matter was stayed pending the outcome of a challenge to the constitutionality of the *Competition Act* and the *Competition Tribunal Act*. On April 6, 1990 the Quebec Superior Court ruled that certain sections of the merger provisions, and the Tribunal itself, were unconstitutional. An appeal by the Attorney General of Canada was heard in December 1990, and the decision was pending at year-end.

A further application underway involves the merger between Canada Packers Inc. (Canada Packers) and Maple Leaf Mills Ltd. (Maple Leaf) owned by Hillsdown Holdings PLC (Hillsdown). While the transaction proceeded on July 4, 1990, Hillsdown provided undertakings to the Director to hold separate certain operations in the meat rendering business in Ontario over which it gained control as a result of the acquisition. In the Ontario meat rendering market, Ontario Rendering Company Limited (Orenco), a subsidiary of Canada Packers, operated a rendering plant in Dundas, Ontario. As well, Maple Leaf operates a rendering facility in Moorefield, Ontario and had operated a plant in Toronto, Ontario until November, 1990, both under the name of Rothsay Rendering (Rothsay).

The Director concluded that the acquisition by Hillsdown of the Orenco rendering operations would likely substantially lessen competition for the supply of renderable material in Southern Ontario, and the parties were so informed. On January 11, 1991, the Director applied to the Tribunal for an order requiring Hillsdown to divest the Orenco rendering business. The Director also requested an interim order to hold separate the businesses of Orenco and Rothsay, which was issued by the Tribunal on consent of both parties. Hearings on the application for a divestiture order will commence in November 1991.

THE IMPERIAL OIL LIMITED/TEXACO CANADA CONSENT ORDER

Last year's Annual Report provided details of the resolution by means of a consent order of competition concerns arising from the acquisition by Imperial Oil Limited (Imperial) of the shares of Texaco Canada Inc. (Texaco). After lengthy public hearings, the Tribunal issued an order on February 6, 1990 that requires Imperial to divest all of Texaco's assets in Atlantic Canada, as well as 9 storage terminals and 410 service stations in other regions. Imperial must also supply a specified volume of gasoline to independent petroleum marketers in Ontario and Quebec for a period of up to ten years and comply with certain other terms and conditions. Since the publication of last year's Annual Report, a number of developments have occurred with respect to this matter. Imperial has:

- sold Texaco's assets in the Maritime provinces, including the Eastern Passage refinery and marine terminal to Ultramar Canada Inc. (Ultramar) and Texaco's assets in Newfoundland to Island Petroleum Company Inc. (Island). The purchasers provided written undertakings to the Director to alleviate his competition concerns. Ultramar agreed to divest five service stations in Nova Scotia and Prince Edward Island and product storage terminals at Dartmouth, Nova Scotia and Chatham, New Brunswick. In addition, it undertook to continue the operation of the Eastern Passage refinery for a minimum period of seven years. Island Petroleum agreed to continue the operation of the Long Ponds, Newfoundland terminal for petroleum use for a minimum of ten years. In January, 1991, the Director approved the sale of Texaco's Charlottetown, Prince Edward Island terminal to the Charlottetown Area Development Corporation;
- exceeded its supply obligations to Ontario and Quebec independents;
- divested or received permission to divest 339 of the required 410 retail gasoline stations outside of Atlantic Canada, and was granted additional time to complete negotiations for the sale of 11 outlets. Dealer-owned outlets are being divested as their contractual arrangements with Imperial expire;

- secured the Director's approval to sell one of the nine storage terminals to be divested outside of Atlantic Canada and was granted permission to close and dismantle four terminals when no offers were received in a public bidding process in the spring of 1990. The Director granted a time extension for the divestiture of the remaining four terminals in order that Imperial could complete ongoing negotiations with prospective purchasers.

Both the relative unfamiliarity of the consent order procedure, and the particular scope and complexity of this transaction, gave rise to a number of disputed issues, particularly regarding the role of intervenors on a consent order application. During the year, two other proceedings were initiated which are related to this issue.

One of the intervenors at the hearings, Barron Hunter Hargrave Strategic Resources Inc. (Barron) filed an appeal against the Tribunal order in the Federal Court of Appeal on March 6, 1990. The appeal contends that the Tribunal erred when it ruled that its jurisdiction was limited to matters in the Draft Consent Order (DCO) brought before it by the Director which prevented the introduction of evidence on matters not covered by the DCO, such as the upstream sector of the Canadian petroleum industry. The appellant also argued that the notice given in respect of the DCO violated the principles of natural justice. The appeal was expected to be heard in the fall of 1991. Barron has asked the Court to set aside the consent order and re-open proceedings before the Tribunal, or in the alternative to require Imperial to divest all Texaco Canada assets or shares with the underlying assets intact.

In addition, the Association for Fair Treatment of Divested Retailers, whose members are lessee dealers of Texaco and Imperial stations on the divestiture list, applied to the Tribunal on May 14, 1990 for leave to intervene in the consent order proceedings. The group asked the Tribunal to re-open the proceedings in order that its representations might be heard. However, on June 21, 1990, the Tribunal ruled that it did not have jurisdiction to entertain the Association's application. On July 4, 1990, the Association asked the Federal Court of Appeal to issue a Certificate of Pending Litigation with respect to five service station properties and sought an extension of time to appeal the consent order and to bring an application under s. 28 of the *Federal Court Act*. However, on July 18, 1990, the application was dismissed.

The Bureau is continuing to study ways of ensuring that interested parties can provide relevant information concerning the proposed terms of a consent order, without compromising the certainty and effectiveness of the actual processes before the Tribunal.

CHAPTER III OTHER REVIEWABLE MATTERS

Part VIII of the 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 following are reviewable matters under the legislation:

- **Refusal to deal:** a situation where a person is substantially affected in his or her business or is precluded from carrying on 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 adequate supply is due to insufficient competition among suppliers in the market (s. 75);
- **Exclusive dealing:** a situation where a purchaser is required to deal only or primarily in particular products or refrain from dealing in specific products as a condition of obtaining supply, the practice is engaged in by a major supplier or is widespread and competition is or is likely to be lessened substantially (s. 77);
- **Tied selling:** a situation where a supplier as a condition of supplying product A requires a purchaser to purchase product B or to 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 (s. 77);
- **Market restriction:** a situation 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 (s. 77);
- **Abuse of dominant position:** a situation 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 (s. 78 and s. 79);
- **Delivered pricing:** a situation 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 an advantage that

would otherwise be available in the market (s. 80 and s. 81);

- **Specialization agreements:** the Tribunal may register an agreement on the application of any party where it finds that the implementation of an agreement is likely to bring about gains in efficiency and the Director has been given a reasonable opportunity to be heard; registration exempts an agreement from the conspiracy and exclusive dealing provisions of the Act (sections 86 through 90).

The Act sets out the types of orders that may be issued in relation to each of the matters it describes. In most cases, the remedy takes the form of an order to cease the conduct in question. However with respect to the abuse of dominance provision only, the Tribunal may direct a firm to take remedial action to overcome the effects of the practice in the market. In the case of refusal to deal, the Tribunal may order one or more suppliers to accept a person as a customer on usual trade terms.

Other provisions in Part VIII relate to consignment selling, 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.

APPLICATIONS TO THE COMPETITION TRIBUNAL

One of the Bureau's objectives is the development of jurisprudence on key issues pertaining to the reviewable matters provisions. In October and November 1990 the Tribunal released decisions which contributed to this goal relating to the abuse of dominant position, tied selling and refusal to deal provisions.

The decision in *DIR v. The NutraSweet Company et al* involved provisions in agreements for the supply of aspartame by the NutraSweet Company (NutraSweet) which require exclusivity, making it difficult for competitors to obtain a toe-hold in the Canadian market for intense sweeteners. On October 4, 1990, the Tribunal ruled that these provisions contravene the abuse of dominance and the exclusive dealing provisions, and prohibited NutraSweet from enforcing or entering into contracts containing such provisions. The Tribunal's reasons provide valuable guidance concerning its interpretation of several terms which appear in the Act, and concerning how it will generally approach issues such as

market definition. They also provided important direction as to the type of issues not specifically identified in the Act that it was prepared to consider before exercising its discretion to make a remedial order.

The Tribunal's decision also underscores the complexities inherent in applying the abuse of dominance provision to a given set of facts. It clarifies that the nature of a particular practice is not determinative, and the purpose of the practice must be considered as well as structural conditions in the market. In the case of NutraSweet, the finding was linked to the Tribunal's view that the practices were engaged in for the purposes of impeding new entry and inhibiting the expansion of existing firms, and were not undertaken to enable efficient distribution of the product. The decision thus clearly does not mean that exclusivity clauses in every contract may be subject to challenge.

Further clarification of some of these issues is expected to emerge from the application filed this year against Laidlaw Waste Systems Ltd. (Laidlaw). The application alleges that Laidlaw has engaged in practices which constitute an abuse of dominant position in the supply of containerized solid waste collection services to commercial customers in three districts on Vancouver Island, British Columbia. The practices in question include the acquisition of competitors, extensive use of restrictive long-term container service agreements, various objectionable contracting techniques and selective anti-competitive pricing practices. It is alleged that such acts have lessened competition substantially by creating barriers to entry and restricting the ability of the remaining few competitors in the markets to compete effectively. Hearings before the Tribunal were scheduled to commence on October 28, 1991.

In relation to the refusal to deal provisions, Xerox Canada Inc. (Xerox) was ordered during the year to accept the Exdos Corporation as a customer for the supply of certain Xerox copier parts, manuals and related resources on usual trade terms. The Xerox decision confirmed that proprietary replacement parts can be considered a relevant product for the purposes of this provision.

The decision does not mean that all situations where a supplier discontinues selling its products to a customer will fall within the section. The Director will focus on fact situations that demonstrate the existence of insufficient competition among suppliers and that show the refusal to supply occurs because of insufficient competition among suppliers of the product. The existence of sound business reasons for a refusal, or other relevant factors, will be considered before a decision is made to bring an application for a remedial order. For example, the Tribunal in

both the Xerox case and in a case involving Chrysler Canada Ltd. (described below) made it clear that it is willing to consider evidence of either an administrative burden or other costs placed upon a supplier, or of economic efficiencies that would justify a refusal.

In both the NutraSweet and Xerox cases, the parties have filed appeals against the decision. In NutraSweet, the appeal relates to both the decision to issue an order and the issue of whether the manner in which the Tribunal is constituted affords sufficient safeguards of judicial independence and impartiality, while in Xerox the grounds of appeal have not yet been identified. To date constitutional challenges in the reviewable area have not impeded the hearing of applications brought forward by the Director.

One of the unanticipated outcomes of the Tribunal orders in these matters is the time and effort required by the Bureau to ensure compliance. In February 1990 contempt proceedings were initiated before the Tribunal for alleged violations of the terms of a supply order issued against Chrysler in 1989, which concerned the supply of automotive parts for export purposes to R. Brunet of Montreal. On July 10, 1990, the Federal Court of Appeal ruled that the Tribunal has no power to punish for contempt committed *ex facie curiae* or outside the presence of the Tribunal. The Attorney General can however, bring criminal contempt proceedings if a Tribunal ruling is breached. Chrysler has filed an appeal against the supply order in the Federal Court of Appeal. The Attorney General has sought leave to appeal the decision on the contempt issue in the Supreme Court of Canada.

OTHER MATTERS

In addition to Tribunal proceedings four formal inquiries and a number of examinations took place during the year, which also absorbed considerable human and financial resources. Inquiries discontinued under the reviewable matters provisions are described briefly in Appendix III.

Wherever feasible, matters were resolved through alternative case resolution procedures. For example, a number of complaints alleging refusal to supply were resolved either when the supplier decided to change its practice, or when the parties affected made other arrangements. In other cases the Director was able to apply the reasoning of recent Tribunal decisions to determine whether proceedings were warranted. In one such matter a team of officers and Bureau legal counsel spent several weeks examining a refusal to deal situation involving the supply of a manufactured product in a large metropolitan market. After careful examination the Director concluded

that there was no basis for proceedings because it could not be alleged that there was insufficient competition among suppliers, principally because the lowering of trade barriers under the Canada-United States Trade Agreement substantially altered the competitive nature of the market in question.

CHAPTER IV CRIMINAL OFFENCES IN RELATION TO COMPETITION

Part VI of the Act prohibits, under criminal sanction, 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 45 to 51 and s. 61, 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 52 through 60. 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 (s. 45);
- 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 (s. 47);
- 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 (s. 50(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 (s. 50(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 (s. 50(1)(c));
- Granting to a purchaser an allowance for advertising or display purposes that is not offered on proportionate terms to competing purchasers (s. 51);
- Attempting to influence upward or to 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 (s. 61(1)); and
- Attempting to induce a supplier to refuse to supply a product to a particular person because of that person's low pricing policy (s. 61(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.

The offences described above are indictable. The maximum penalty for violating the conspiracy provision is a fine of \$10 million, or five years imprisonment, or both. The penalty applicable to s. 46, which relates to the implementation of foreign directives, is a fine at the discretion of the court, as only companies may be charged. In all other cases, the maximum penalty is either two years or five years imprisonment, or an unlimited fine at the discretion of the court.

COURT PROCEEDINGS: HIGHLIGHTS

During the year ended March 31, 1991 the Bureau focussed its efforts in the criminal area on increasing deterrence in relation to price-fixing, bid-rigging and other forms of cartel behavior, and on developing effective means of dealing with other violations of the law. Of the numerous court proceedings in progress during the year, the most significant achievement was thus the guilty pleas of several flour mills in a nationwide bid-rigging prosecution, and the imposition of substantial fines against the firms involved.

On December 7, 1990 Maple Leaf Mills Limited, Ogilvie Mills Ltd., Robin Hood Multifoods Inc. and Parrish and Heimbecker Limited pleaded guilty in the Ontario Court (General Division) to one charge of bid-rigging on government wheat flour tenders for food aid programs operated by the Canadian International Development Agency between 1975 and 1987. In addition to a prohibition order regarding conduct for future government flour tenders, the three largest mills agreed to pay fines of \$1 million each, while Parrish & Heimbecker was fined \$225 000. Soo Line Mills Limited and B.P. Kent Flour Mills Limited pleaded guilty to the same charge in January 1991 and were fined \$50 000 and \$30 000, respectively. The fines for all parties total \$3 305 000. This case set a new bench mark for the highest fine per count under s. 47 and the highest total fines for any charge under Canadian competition law.

The other significant development during the year was the issuance of two court decisions which held that the conspiracy provision is unconstitutional. In *R v. Nova Scotia Pharmaceutical Society (No. 2)* (PANS) and in *l'association Québécois des Pharmaciens Propriétaires v. R (AQPP)* courts in Nova Scotia and Quebec, respectively, found that the main conspiracy provision violates the *Charter of Rights and Freedoms*. It was held by both courts

that the word "unduly" was too vague and uncertain and that the conspiracy provision allows for the conviction and imprisonment of an accused without a sufficient finding of criminal intent.

Both matters are under appeal. *PANS* was heard by the Nova Scotia Court of Appeal in February 1990 and the *AQPP* appeal will be heard by the Quebec Court of Appeal on January 20, 1992. A challenge to the constitutionality of the price maintenance provision has also been raised in the matter of *R.v E.E. Lemieux Inc. and Simon Carmichael* in which a decision was pending as of March 31, 1991.

The adverse decisions in *PANS* and *AQPP* have had a significant impact on Bureau operations. For example, in one recent case, in which conspiracy charges were laid against five firms engaged in pool car freight forwarding and related services, the preliminary inquiry was remanded by the Ontario Court (Provincial Division) pending determination of the constitutional issue. In other cases, investigations have generally been protracted as a result of various legal challenges, settlement negotiations have been abandoned, and the referral of matters to the Attorney General has been delayed while evidence is evaluated in relation to possible violations of other provisions of the Act, such as bid-rigging or price maintenance.

These challenges have consumed considerable additional time and resources. However, the Bureau will continue to diligently investigate allegations of cartel behaviour throughout Canada, and refer matters where appropriate, to the Attorney General.

COURT PROCEEDINGS: ACTIVITY LEVELS

The constitutional challenges mentioned above have had an impact on operational statistics for this fiscal year, as the following table suggests. Nineteen proceedings were considered by the courts under the offences against competition provisions. These consisted of five proceedings commenced during the year and 14 proceedings before the courts from previous years. Six proceedings were concluded during the year, of which one resulted in conviction, two resulted in acquittals or other completions and three resulted in the issuance of an order of prohibition without conviction. Fines totalling \$15 000 were imposed during the year. In addition, in the 13 proceedings before the courts at the end of the year, \$3 355 000 in fines were outstanding in two matters; one case that was under appeal and one further matter (the flour case previously described) where proceedings against some accused were still pending. A complete list of court proceedings pending is provided in Appendix IV.

OTHER MATTERS

Considerable resources were devoted this year to responding to widespread public concern over retail gasoline prices, a phenomenon sparked in particular by developments in the Persian Gulf. The Bureau examined almost 4700 complaints¹ alleging anticompetitive behaviour in the setting of retail gasoline prices, and carried out spot checks in selected markets to determine if cases could be made under any of the provisions of the Act.

¹ The Bureau received 150 media calls, 150 individual complaints, and three petitions signed by 4 483 persons, many of whom were contacted individually.

COURT PROCEEDINGS: 1990 TO 1991

Section	Proceedings Commenced		Conviction		Completed Proceedings Order of prohibition		Non-conviction	
	1989-90	1990-91	1989-90	1990-91	1989-90	1990-91	1989-90	1990-91
45	4	2	—	—	—	—	2	1
47	2	—	—	—	1	—	—	—
50(1)(a)	—	—	—	—	1	—	—	—
50(1)(c)	1	—	—	—	—	—	—	—
51	1	—	—	—	1	—	—	—
61(1)(a)	1	2	4	—	—	1	2	—
61(1)(b)	1	1	2	1	—	1	2	1
61(6)	1	—	—	—	—	—	1	—
Other*	—	—	—	—	—	1	—	—
Totals	11	5**	6	1	3	3	7	2

* Relates to one proceeding under s. 33 of the former Combines Investigation Act.

** Five proceedings arising from four court cases involving violations of the identified provisions of the Act.

While no major prosecutions were launched, careful attention is being given to any possible contraventions in this sector. This undertaking reflects the Bureau's commitment to a proactive enforcement approach and a rapid response to concerns arising in industries of particular importance to consumers or the economy as a whole.

In enforcing the criminal provisions of the law, as in its other competition policy work, the Director believes that the promotion of vigorous domestic competition is an essential condition for improving Canada's international competitiveness. However, the law provides a defence to the prohibition against conspiracy if the agreement relates only to the export of products from Canada and will not impact on competition in Canada. The Bureau is prepared to provide advisory opinions to businesses who wish to make use of this provision, as it did during the year to an export consortium.

ACTIVITY LEVELS IN RELATION TO INQUIRIES

During the fiscal year, the Director initiated six formal inquiries in relation to sections 45 to 51 and s. 61. Search orders issued under s. 15 of the Act were employed to obtain additional information relating to three inquiries. At the close of fiscal year 1990-91 two 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 five cases were referred to the Attorney General during 1990-91. Inquiries under sections 45 to 51 and s. 61 discontinued during the year are described briefly in Appendix V.

CHAPTER V MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES OFFENCES

The misleading advertising and deceptive marketing practices provisions are contained in sections 52 to 60 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:

- Representations which are false or misleading in a material respect (s. 52(1)(a));
- Performance claims not based on adequate and proper tests (s. 52(1)(b));
- Misleading representations as to the price at which a product is ordinarily sold (s. 52(1)(d));
- Advertising a product at a bargain price, where the advertiser does not have the product available in reasonable quantities (s. 57);
- Supplying a product at a price higher than the price which is currently being advertised by the vendor (s. 58); 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 (s. 59).

Other provisions relate to warranties, tests and testimonials, double ticketing, and pyramid and referral selling. A number of exclusions, limitations and defences are provided in the provisions. Generally, penalties for violations are maximum fines of \$25 000 and/or imprisonment for up to one year in the case of summary conviction proceedings and maximum fines at the discretion of the Court and/or imprisonment for up to five years where proceedings are by way of indictment. For greater certainty, readers are advised to consult the legislation.

COURT PROCEEDINGS

The Bureau continued a high level of activity under the misleading advertising and deceptive marketing practices provisions of the Act during the fiscal year. Charges were laid in 86 new cases, and 88 proceedings were concluded. Several cases among these resulted in significant fines or other noteworthy resolutions. For example, on November 2, 1990 Tormont Global Time Corporation and John Bell were fined a total of \$170 000 following convictions

for misleading representations made as to the ordinary selling price of watches. This represents the highest fine ever awarded in a case under s. 52(1)(d) of the Act. In another matter, Hoyt Smith Publishing Inc. and Donald Hoyt Smith received fines totalling \$153 000 in relation to untrue statements made to promote the *Canadian Police News*. Individuals were charged in both cases, consistent with the Bureau's policy of pursuing proceedings against individuals in appropriate cases as a means of increasing deterrence.

Although total fines under these provisions this year were the second highest ever, there has nonetheless been some reduction in the number of prosecutions compared to earlier years. This is, in part, a result of the *Charter's* impact on the length and complexity of cases. A significant decision was that of the Ontario Court of Appeal in *R.v. Wholesale Travel Limited*, which is currently under appeal to the Supreme Court of Canada. The Appeal Court's decision enables accused parties to avail themselves of the common law defence of due diligence, while placing a more onerous burden of proof on the Crown. As a result of this case, and other forms of Charter litigation, investigations are likely to be more comprehensive and resource intensive, with an increasing need to resort to formal evidence-gathering procedures such as search warrants and a diversion of scarce enforcement resources from other activities. Previously, search warrants were less frequently sought in misleading advertising cases.

UNDERTAKINGS RECEIVED

The Bureau enjoyed increased success in resolving cases involving misleading advertising offences through the use of negotiated undertakings. Recent cases have incorporated agreements to make restitution to affected purchasers, and to broadcast corrective television advertisements to alert consumers to the inaccuracy of earlier claims. This form of resolution has resulted in resource savings associated with diminished reliance on costly litigation, and additional savings should be realized at the investigative stage as staff become familiar with new procedures.

Readers interested in learning the details of cases in which prosecutions resulted in convictions, or those involving negotiated undertakings received during the year, may refer to issues of the *Misleading Advertising Bulletin*, a quarterly Bureau publication.

OTHER MATTERS

Changes in the Canadian marketplace have generated increased public interest in certain new advertising issues. For example, growing environmental awareness has become an important competitive factor in many industries, reflected in the emergence of "green" product lines. While these products are increasingly valued by consumers, use of green marketing strategies have generated concerns as to whether claims are accurate and can be supported by scientific evidence of actual environmental benefit. In response to this phenomenon, the Bureau participated during the year in an initiative involving both private and public sector participants which produced a document entitled "Guiding Principles for Environmental Labelling and Advertising." The Bureau also focussed attention on complaints pertaining to more aggressive price-oriented advertising, a development attributed to increased competitive pressures placed on the retail sector as a result of the economic down-turn. Finally, attention was directed towards advertising associated with the new goods and services tax, although few complaints in this area were actually received.

REFORM OF THE MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS

Last year's Annual Report contained a summary of efforts directed towards reform in this area. A working group was subsequently created to refine proposals and meetings were held during the fall of 1990. These led to the production of a draft report, "Effective and Equitable Enforcement," which was circulated for comment. While there was only limited criticism of the thrust of the group's proposals, some changes were incorporated into the final report submitted to the Director on January 31, 1991. At fiscal year end, the Director was studying it with a view to making recommendations to the Minister. Briefly, the working group recommended:

- that non-criminal adjudication by the Competition Tribunal should be available as an alternative to prosecution in the criminal courts;
- that the Tribunal should be empowered to issue cease and desist orders, and remedial orders requiring restitution, payments towards consumer education and the publication of information notices;
- that a reference process to the Competition Tribunal should be established; and
- that the Director should be empowered to accept, and enforce through the Competition Tribunal, assurances of voluntary compliance.

OPERATIONS UNDER THE MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS*

	1986-87	1987-88	1988-89	1989-90	1990-91
Total complaints received	12 382	13 496	13 237	14 610	14 517
Number of files opened	11 514	12 374	12 043	13 448	13 745
Applications for inquiries under section 9	—	1	—	2	—
Inquiries commenced	***	98	90	76	90
Completed examinations/inquiries	882	670	612	493	496
Information contacts	1 306	1 517	1 325	1 310	1 324
Inquiries formally discontinued					
Undertakings	—	—	—	3	11
Other reasons	—	3	3	4	4
Matters referred to the Attorney General of Canada	151	83	75	56	90
Matters referred where the Attorney General of Canada decides no further action warranted	10	—	5	6	—
Proceedings commenced	149	131	110	84	86
Prohibition orders without conviction	—	2	3	5	1
Completed cases: non-convictions**	41	43	45	22	33
Completed cases: convictions	111	84	78****	49	54
Total fines	***	\$661 500	\$812 980	\$907 850	\$1 020 850
Fines in outstanding matters	***	\$172 850	\$206 500****	\$115 350	\$340 500

* See also activities noted at the end of Chapter I related to Information and Compliance Data.

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

*** Not reported in previous Annual Reports.

**** Revised.

CHAPTER VI REPRESENTATIONS BEFORE BOARDS, COMMISSIONS OR OTHER TRIBUNALS

Under sections 125 and 126 of the Act, the Director is authorized to make representations to, and call evidence before, federal and provincial boards, commissions or other tribunals. In addition, the Minister 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 or with the consent of the agency concerned. As an advocate of competition, the Director also makes selected non-statutory representations to bodies such as government committees or task forces in cases where his particular expertise can bring a unique perspective to bear upon the issues.

TRANSPORT

Activities in the transport sector represented a significant proportion of the Bureau's work in the regulatory field during 1990-91. The Director's representations focussed on areas not included in the reform initiatives of the 1980's, including passenger rail and bus services, and international air services.

In October 1990, the Director appeared before the Royal Commission on National Passenger Transportation, established in the previous year to inquire into and report upon a national integrated inter-city passenger transportation system to meet the needs of Canadians in the twenty-first century. A detailed written submission was provided which emphasized the need for an integrated approach which would encompass all modes of travel and emphasize efficiency in service delivery. Specific recommendations included provision for inter and intra-modal competition, targeted financial assistance rather than general assistance or cross-subsidization for unprofitable but socially desirable services, and finally, market-based pricing and commercially principled management of the transportation infrastructure.

An emphasis on operating efficiency and inter-modal competition was also the focus of a May 1990 submission to the Ontario-Quebec Rapid Train Task Force, whose mandate is to study the feasibility of a high speed passenger rail service in the Québec City-Windsor corridor. The Director argued that the feasibility of the project should be evaluated on the basis of investment and operating decisions made in an environment free from subsidies and regulatory restrictions. A number of initiatives were suggested aimed at promoting competition between

various modes, with a possible rapid train service as one component.

The international airline industry remains extensively regulated despite the liberalization of rules affecting domestic air services. However, the industry is in a process of restructuring as part of a globalization phenomenon. On June 8, 1990, an International Air Policy Committee was established under the joint auspices of External Affairs and Transport Canada, to recommend changes allowing Canada to take advantage of the evolving global competitive environment. The Director made a submission to the Committee in January 1991 and argued for a more liberal international air policy. In particular, he recommended eased entry restrictions on foreign carriers and greater reliance on competition to determine international service levels, routes and prices.

TELECOMMUNICATIONS

Representations in the telecommunications field continued to focus upon introducing more competition into this industry and limiting the ability of the incumbents to extend their market power to potentially competitive services.

During the year the CRTC commenced a series of public hearings to examine applications filed by Unitel Communications Inc. (Unitel) and The B.C. Rail Telecommunications/Lightel consortium, seeking the right to interconnect with the networks of several Canadian telephone companies. Such interconnection would create competition in the provision of long-distance switched telephone service in the domestic market, where members of Telecom Canada currently enjoy a monopoly. While not an advocate of either applicant, the Director is committed to full participation in the hearings to emphasize that competition would stimulate increased productivity and efficiency gains, without necessarily jeopardizing the affordability of local telephone service.

There was one ongoing matter during the year relating to the question of access by third parties to the Bell Canada yellow pages data-base in machine-readable form. The Director had intervened before the CRTC in 1989 to argue in favour of access to enable competition in the provision of comparable directory services. On June 14, 1990 the CRTC ruled that access to certain elements of the non-residential portion of the directory data-base would be

allowed on a tariffed basis. However, it declined to allow access to residential listings on privacy grounds. Further proceedings are underway to determine the amount and structure of the proposed tariff, which will be an important determinant of whether competition emerges.

The Director concluded his involvement in two telecommunications regulatory proceedings initiated in previous years. On May 15, 1990, the CRTC issued its decision on proposed changes to the *Cable Television Regulations 1986*. Although some of the Director's recommendations were adopted, the CRTC chose not to rely upon the principal suggestion that competition among alternative program delivery providers would be the best means of promoting greater efficiency and lower subscriber fees.

In the matter of the application to the Newfoundland Board of Commissioners to liberalize the rules for terminal attachment applicable in that province (described in the 1990 Annual Report), the Director withdrew his participation after it was determined that the CRTC would have jurisdiction over this matter. It was concluded that resources could be better employed elsewhere, as the CRTC has exhibited its agreement with the benefits of competition in terminal attachment services in previous hearings of a similar nature.

AGRICULTURE

The Director participated in public hearings held by the National Farm Products Marketing Council (NFPMC) to consider proposals to create an apple marketing agency with supply management powers. The Director's submission acknowledged that supply management systems in Canada have contributed to price stability and market security for some commodities. However, the Director concluded that evidence presented in the course of the NFPMC's inquiry had shown that the fundamental problems relating to the profitability and competitiveness of Canadian apple growers can only be solved by non-supply management means. He specifically focussed upon the need to encourage proper and efficient varietal choice and attention to quality. The submissions argued against a supply management agency on the grounds that such a system would be costly and virtually impossible to enforce given the nature of apple production and marketing.

Similar arguments were presented last year to a commission of inquiry examining the British Columbia tree fruit industry and were reflected in the commission's final recommendations published in May 1990.

ENERGY

During the fiscal year, the Director participated in a National Energy Board study of inter-utility trade in electricity. The study's objective is to review and report on measures that could be taken to encourage greater inter-provincial cooperation between Canada's electrical utilities, and to enable buyers and sellers of electricity to obtain commercial access to available transmission capacity in other provinces.

The Director's input suggested that the electricity sector can be divided into several structural components, of which only transmission exhibits characteristics typical of a natural monopoly. Accordingly, the Director recommended that inter-utility arrangements in interprovincial transmission should not be allowed to stifle and inhibit competitive forces in the inherently competitive electricity generation sector. While fully supportive of "wheeling" arrangements it is believed that such arrangements should evolve through market-oriented initiatives rather than through excessive cooperation or regulatory oversight.

In another matter involving the NEB, a decision was issued during the year in relation to the Board's consideration of rules for queuing for prospective shippers on the TransCanada Pipeline (the Director's intervention is described in last year's Annual Report). On July 23, 1990, the NEB announced that long-term gas supply contracts would not be required for shippers requesting transportation capacity due to normal growth in existing markets, a position which the Director had advocated.

In 1989, the Director intervened before the Nova Scotia Board of Public Utilities to support an application by Wilson Fuel Oil for a retail gasoline licence, arguing in favour of the benefits of increased competition in the retail gasoline sector. Although Wilson Fuel Oil's application was dismissed by the Board in November 1990, at year-end draft legislation was being prepared by the Nova Scotia government to remove price and entry restrictions in that province.

PROFESSIONS

The Director has maintained a long-standing interest in developments pertaining to the regulation of the professions. In general, he has maintained that the mandate of professional self-governing bodies should be confined to matters which bear directly on quality of service and public safety, without unduly restricting competition in pricing, advertising and other important dimensions of

competition. Further to this position, on August 14, 1990, a representation was made to a Quebec Legislative Committee examining that province's *Real Estate Brokerage Act*. It was recommended that new regulation in this industry should be precisely defined to limit the ability of a proposed self-regulatory body to draft regulations which would provide a broad shield from the application of the Act.

During the year the Director also provided a written submission to a Royal Commission on Health Care and Costs established by the government of British Columbia. While specific competition concerns relating to health care were noted, the submission focussed generally on the benefits that could be derived from a more competitive environment and the removal of unnecessary restrictions.

The final report of a task force examining the role of paralegals in Ontario was received this year. The task force largely adopted the pro-competitive position which had been advocated in the Bureau's submission, described in the 1989 Annual Report. It concluded that independent paralegals should be able to provide a limited scope of expanded legal services in the province, while operating within a regulated environment designed to protect consumers.

CHAPTER VII 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, the Director participates actively in departmental and interdepartmental policy development work affecting the market system. 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 effect of proposed legislation on competition. In addition, members of the Director's staff are often requested to prepare studies or other submissions on various competition policy-related issues for interdepartmental use.

COMPETITION AND THE CANADIAN MARKETPLACE

During the fiscal year, the Bureau's policy development activities were focussed principally on the state of competition in the Canadian marketplace, and the role that framework laws and policies play in fostering a competitive environment.

The Bureau worked closely with Industry, Science and Technology Canada, the Department of Finance and other federal departments on several such projects in 1990-91. Bureau staff guided and contributed to a major study of the competitive advantages of Canadian industry, being carried out under the direction of Professor Michael Porter of Harvard University. The study focusses on the importance of rivalry in the domestic market in promoting the international competitiveness of Canadian firms. Assistance was also provided in the preparation of papers on the competitiveness of the Canadian economy, and on policy and institutional improvements needed to allow Canadian businesses to successfully compete in the global marketplace.

In addition to these matters, responsibility for a departmental policy project entitled "Canadian Marketplace/International Directions" was given to the Director during the year. This project will assess the implications of the changing nature of international business for the departments' marketplace framework policies in the 1990's. Project work to date has focussed on the completion of surveys on CCAC's current international activities and on

the department's longer term data-base needs, examining the role of the federal government in formulating standards policy, and an extensive literature review of global business and economic trends in order to identify their implications for CCAC marketplace policies and laws.

Staff members of the Bureau of Competition Policy also undertook an analysis of models for federal and supra-national economic arrangements, with particular regard to competition law jurisdiction and institutions. This work emphasized the role that competition policy and other market-based framework policies can play as a unifying instrument within an economic union.

THE CANADA-UNITED STATES TRADE AGREEMENT AND EUROPE 1992

The Bureau continued its involvement during the year in interdepartmental work aimed at developing the Canadian position in the negotiations pursuant to Article 1907 of the Canada-United States Trade Agreement, which addresses the problems of subsidies and anti-dumping. Efforts to date have focussed on the potential to substitute competition law for the existing anti-dumping regime. As set out in a speech delivered by the Director of Economics and International Affairs at Case Western Reserve University in January, the Bureau believes that the technical work carried out by itself and other federal agencies and business groups clearly demonstrates that the replacement regime would be economically desirable, technically feasible and to the mutual advantage of the parties under the Agreement.

With respect to Europe 1992, Bureau staff played a lead role in the preparation of an interdepartmental Working Group report on competition policy and its importance to the 1992 market integration exercise. The report examines the EC Merger Regulation which comes into force in the fall of 1991, related developments in regulated sectors of the European economy, and state aids to industry (subsidies), and assesses the implications for Canadian firms. The Working Group Report has been published by External Affairs and International Trade Canada.

INDUSTRY SPECIFIC PROJECTS

During the year the Bureau was involved in industry-specific policy projects in the fields of transport and agriculture.

With regard to transport matters, staff continued their participation in a working group reporting to the Canadian Council of Motor Transport Administrators (CCMTA). The genesis of the working group is described in the 1990 Annual Report. In June 1990 the working group submitted its second annual report which reviews major elements considered by provincial regulators in their administration of new entry criteria contained in the *Motor Vehicle Transport Act, 1987*.

Ongoing work was also carried out as part of an interdepartmental committee responsible for review of the *Shipping Conferences Exemption Act, 1987*. This legislation exempts certain practices of international ocean shipping conferences (cartels) from the application of the *Competition Act*. Bureau staff contributed to the design and implementation of consultants' studies to assess whether there is continuing need for exemption of shipping conferences from competition legislation.

Finally, in the airline industry, the Director's staff became involved in interdepartmental consultations on the approach to negotiating a new air services agreement with the United States. These negotiations are expected to conclude in 1992.

Interdepartmental consultations were carried out during the year on the subject of the competitiveness of the agri-food industry, as part of an agriculture policy review being conducted by Agriculture Canada. The Bureau participated in discussions touching upon supply-management issues, industry performance studies, agricultural import quotas, and the impact of the Canada-United States Trade Agreement.

INTERNATIONAL RELATIONS

BILATERAL

The Bureau maintains bilateral relations with antitrust agencies in several foreign countries. These are generally carried out within the framework of the 1986 OECD Council Recommendation 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 interest of another. Canadian and American antitrust cooperation is governed by a separate Memorandum of Understanding (M.O.U.) signed in 1984.

During the fiscal year, Canada gave five notifications to, and received 28 notifications from, other countries. Of these, four and 24 notifications respectively involved the United States. Officials of the Bureau held meetings with

competition representatives from the European Economic Community, Sweden, Japan, Korea and New Zealand, in addition to regular semi-annual meetings with American authorities. A special meeting was also called during the year to discuss refinements to the operation of the Canada-United States M.O.U.

MULTILATERAL

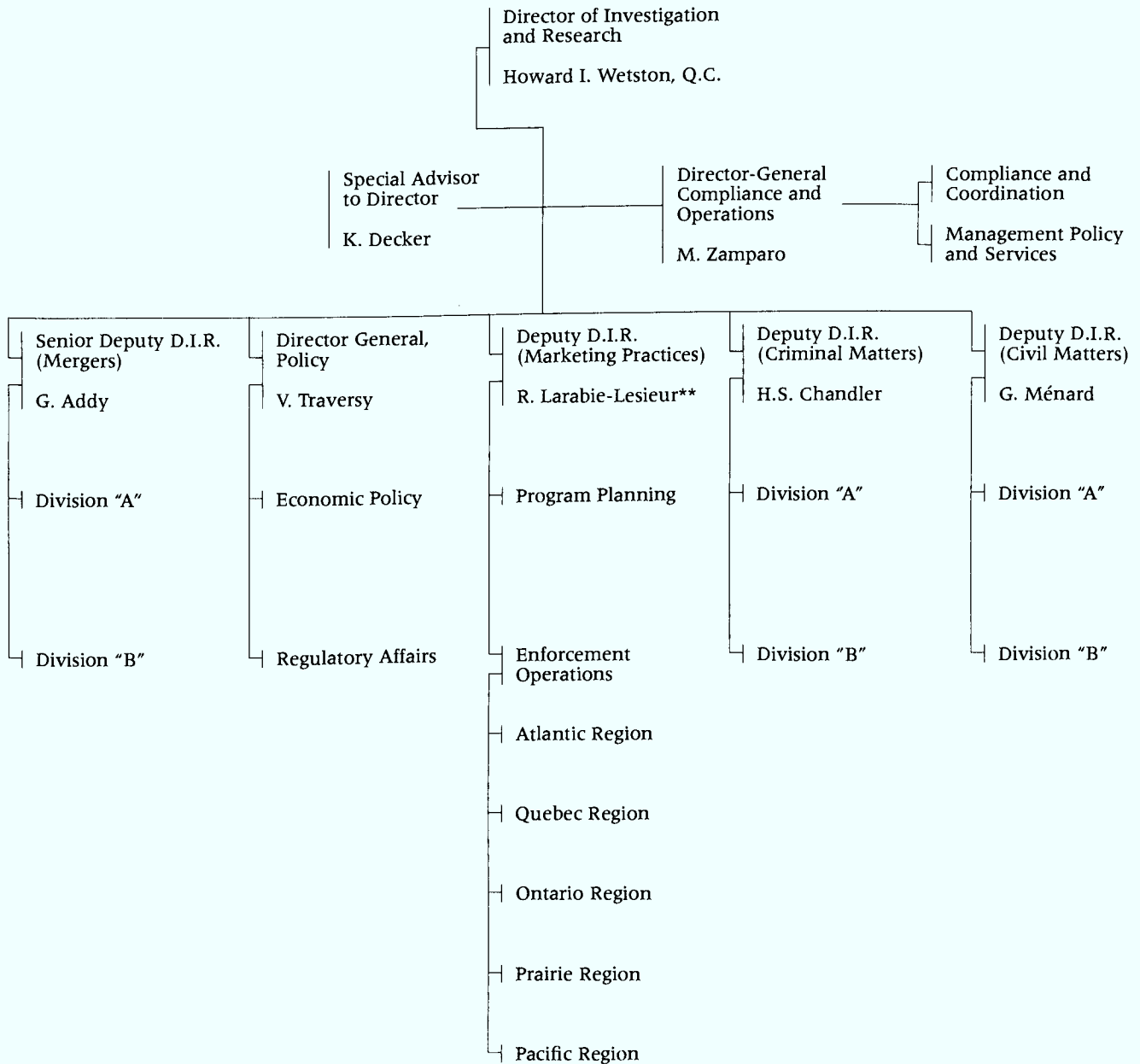
The Bureau is a long-standing participant in the work of multilateral groups such as the Organization for Economic Cooperation and Development (OECD) Committee on Competition Law and Policy. This Committee provides a forum for the exchange of information on topics of mutual concern and, where appropriate, helps to ensure greater uniformity of international antitrust policy among participant countries.

During the past year, the Director was elected Chairman of the OECD's Working Party 4, which deals with competition policy and intellectual property. The Bureau also contributed to a report dealing with franchising and prepared a report dealing with regulatory instruments employed in various aspects of regulatory reform. Finally, a strategy paper was submitted which suggests a reorganization of the Committee's priorities to place greater emphasis on the implications of globalization and policy convergence trends.

The Bureau also regularly participates in the work of the United Nations Conference on Trade and Development (UNCTAD) Intergovernmental Group of Experts on Restrictive Business Practices.

APPENDIX I

BUREAU ORGANIZATION*



* Effective September 3, 1991

** Effective September 30, 1991

APPENDIX II MERGER EXAMINATIONS CONCLUDED

The following table records mergers that have been examined by the Director under the Act, where the Director concluded his examination during fiscal year 1990-1991. 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.

Company Making Acquisition	Name of Company Being Acquired	Industry	Result¹	Process²
2425-4526 Québec Inc.	Noverco Inc.	Natural gas distribution	FC	
2845-1755 Québec Inc.	Constructions Desourdy Inc., Les Pavages L.D. Inc. and Pavages Beau Bassin Inc.	Quarries/road construction	FC	
165992 Canada Limited	Moli Energy Limited	Rechargeable lithium batteries	FC	ARC
857907 Ontario Limited	Bargain Harolds Discount Limited	General merchandise	FC	ARC
894067 Ontario Inc. (Bayer AG)	NOVA Petrochemicals Inc. (Polysar Rubber Division)	synthetic rubber marketing, manufacturing	FC	ARC
896552 Ontario Inc.	Simmons Limited	Bedding and related products	FC	ARC
909295 Ontario Limited	Spruce Falls Power and Paper Company, Limited	Newsprint	FC	ARC
910949 Ontario Limited	Lakelands Beverages Inc. and Birchcliffe Holdings Inc.	Soft drink bottling	FC	
1114412 Canada Inc. (Pricedale Investment N.V.)	Belcourt Inc.	Shopping and office centres (real estate)	FC	ARC
ACE-Atlantic Container Express Inc.	Atlantic Searoute Limited Partnership	Ship transportation	FC	
Ackermans & Van Haaren N.V. (Consumers Distributing Acquisition Inc.)	Consumers Distributing Company Limited	Semi durable goods retailing	FC	ARC
AGF International S.A.	The Canadian Surety Company	Property and casualty insurance	FC	

- 1 CT Application to the Competition Tribunal (consent order issued)
 FC File closed; concluded as posing no issue under the Act.
 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 to be restructured before closing.
- 2 AO Transaction processed under Program of Advisory Opinions.
 ARC Transaction processed under advance ruling certificate.

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Agrinove, coopérative agro-alimentaire; Agrodor, coopérative agro-alimentaire; Coopérative agricole de la Côte Sud; Nutrinor, coopérative agro-alimentaire; Purdel coopérative agro-alimentaire and Coopérative fédérée de Québec	Groupe Lactel Inc.	Dairy products	FC	
Air Canada	Air Nova Inc.	Air passenger service	FC	
Allianz of America Inc.	Fireman's Fund Insurance Co. and The American Insurance Co.	Property and casualty insurance	FC	ARC
Aluma Systems Corp.	Anthes Industries Inc. (Construction Equipment Division)	Construction scaffolding equipment	MO	AO
Amax Oil & Gas Inc.	Ladd Exploration Company	Oil and gas	FC	ARC
Armada Co. Ltd.	Thomson Newspapers Corporation	Brandon, Manitoba and Yorkton Saskatchewan Newspapers	FC	
Ash Temple Ltd.	Denco Canada Dental (1990) Inc.	Dental supplies wholesaling	FC	
Assurance-vie Desjardins	La Sauvegarde, Compagnie d'assurance sur la vie ltée	Life insurance	FC	
Ault Foods Limited	William Neilson Ltd. (Ice Cream Division)	Ice cream and frozen confections	MO	AO
B.C. Sugar Refinery, Limited	Lantic Sugar Inc.	Sugar refining	FC	
Bank of Montreal	Alberta Mortgage and Housing Corp.	Mortgage portfolio	FC	ARC
Beatrice Foods Inc.	Palm Dairies Limited	Dairy products	MO	AO
Bliss & Laughlin Industries Inc.	Stelco Inc. (Canadian Drawn Steel Division)	Cold finished steel bars and related products	FC	ARC
British Gas PLC	The Consumers' Gas Company Ltd.	Natural gas distribution	FC	
BTR Inc.	Niagara Lockport Quebec Industries Inc.	Paper machine clothing (Forming fabrics, press felts, dryer fabrics)	MO	AO
Burns Fry Ltd.	Prudential Bache Security Canada Ltd.	Retail securities brokerage	FC	ARC

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
C.S. Holdings (Netherlands) N.V.	C.S. First Boston, Inc.	Financial intermediation	FC	ARC
Cabano Expéditex Inc.	Clarke, Transport Routier Limitée (Filiales)	General freight trucking	FC	AO
Caisse de dépôt et de placement du Québec	Laboratoire de Bio-Recherches Ltée	Laboratoire de recherche pré-clinique	FC	ARC
Cambridge Leaseholds Limited	Hippodrome Blue Bonnets Inc.	Horse race facility	FC	ARC
Cambridge Leaseholds Limited and Hamblin, Watsa Investment Counsel Ltd.	Woodward's Limited	Retail stores	FC	ARC
Canada Packers Inc.	F.W. Fearman Company, Limited	Meat packing (pork processing)	FC	
Canadian Imperial Bank of Commerce	Norex Holdings Inc.	Equipment leasing	FC	ARC
Canadian National Pension Trust Fund	Cambridge Shopping Centres Ltd.	Shopping centres	FC	ARC
Canadian Reynolds Metals Company	Lemmerz Canada Inc. (wheel manufacturing plant)	Cast aluminum wheels (Automotive)	FC	ARC
CanWest Gas Supply (1989) Ltd.	CanWest Gas Supply Inc.	Natural gas (purchase and resale)	FC	
Cara Operations Limited	Arvak Limited	Institutional catering business	FC	
Cara Operations Limited	Grand & Toy Limited	Gifts and novelties	FC	ARC
Chauvco Resources Ltd.	Imperial Oil Limited (oil properties in Alberta)	Oil properties	FC	
Clayton & Dubilier Private Equity Fund IV Limited Partnership	IBM Canada Ltd. (certain assets)	Typewriter and printer supplies	FC	ARC
Color Tile Inc.	Carpita Inc.	Carpets and floor coverings retailing	FC	ARC
Compagnie Financière du Groupe Victoire	Gestion Laurentienne Générale Inc.	General Insurance	FC	ARC
ConAgra Inc.	Beatrice Company	Food processing	FC	ARC
Consolidated Environmental Technologies Ltd.	Sanivan Group Inc.	Industrial liquid and hazardous waste removal	FC	ARC

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Corona Corporation	Breakwater Resources Ltd.	Gold and silver production and supply	FC	ARC
Corporation d'acquisition Gadoua	Boulangerie St-Augustin Inc.	Bakery	FC	
Crown Cork & Seal Canada Inc.	Ball Packaging Products Canada, Inc. (certain assets)	General line containers	FC	
CS Resources Limited	Esso Resources Canada Limited (certain assets)	Heavy oil	FC	ARC
Devmore Holdings Inc.	Campeau Corporation (Terrasses De La Chaudière)	Office complex	FC	ARC
Diffraeto Ltd.	Perceptron Inc.	Measurement systems	FC	
Empire Theatres Limited	Cineplex Odeon Corporation (Crystal Palace)	Motion picture exhibition and theatre development	FC	
Fasco Motors Limited	Electrohome Ltd. (Motor Division)	Electric motor manufacturing.	FC	
Faxon Canada Ltd.	Serial Management Systems Canada Ltd.	Serials management business	MO	AO
Ford Electronics Manufacturing Corporation	Conix Canada Inc.	Auto bumper parts	FC	ARC
Fortis Inc.	Maritime Electric Company Limited	Electricity generating and distribution	FC	ARC
GEC Alsthom International Canada Inc.	GEC Canada Ltd.	Horsepower motors and diesel engines distribution	FC	
General Motors Canada Limited	SAAB-Scania Canada Inc.	Passenger vehicles	FC	ARC
Globe Building Materials Inc.	Domtar Inc. (Residential Roofing Division)	Residential roofing materials	FC	
Groupe Harricana Inc.	Equipments Denis Inc.	Forestry equipment	FC	AO
Gulf Canada Resources Limited	Home Oil Company Limited	Upstream oil and gas	FC	ARC
GW Utilities Limited	Home Oil Company Limited	Upstream oil and gas	FC	ARC
GW Utilities Limited	Interprovincial Pipe Line Inc.	Pipe line business	FC	ARC
Gulf Canada Resources Limited	Interhome Energy Inc.	Crude oil and gas development, production, and transportation	FC	ARC

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Hajah Inc.	Byers Transport Limited	Trucking	FC	
Holland Chemical International Ltd.	ICI Canada Inc.	Chemical distribution	FC	ARC
Hongkong Bank of Canada	Lloyds Bank Canada	Schedule "B" Banks	FC	
Hudson's Bay Company (Zellers)	The Oshawa Group Limited (Towers)	Retail department store chains	FC	
Imperial Oil Limited	Bridgewater Fuels Ltd.	Residential/commercial heating oil	MO	AO
ITO-Yokado Co. Ltd. and Seven Eleven Japan Co. Ltd.	The Southland Corporation	Convenience stores	FC	ARC
Kubota Corporation	Falconbridge Limited (Fahramet Steel Castings Division)	Cast and heat resistant alloys production and fabrication	FC	
Laidlaw Transportation Limited	Tricil Limited	Waste removal	RE-A	AO
Lakeside Farm Industries Limited	Lakeside Centennial Corporation	Feeds, slaughter, processing and beef distribution	FC	
Le Groupe Canam Manac Inc.	MRM Steel Ltd.	Specialty steel	FC	
Le Groupe Jean Coutu (PJC) Inc.	Entreprises Gilles Cloutier Inc.	Retail pharmacies	FC	
Lemmerz Canada Inc.	Lemmerz-Magna Industries	Cast aluminum wheels production	FC	
Mackenzie Financial Corporation	Walwyn Inc.	Investment dealer services	FC	ARC
Manco Foods Inc.	Ault Foods Limited (certain assets in Manitoba)	Dairy products	MO	AO
Manson Insulation Inc. and Fiberglas Canada Inc.	Manoc Fiber Glass Inc.	Commercial and industrial insulation	FC	AO
Manulife Financial Holdings Limited	HT Financial Services Inc.	Trust company services	FC	
Manulife Financial Holdings Ltd.	The Regional Trust Company	Trust business (loans, mortgages etc.)	FC	
Manulife Financial Holdings Ltd.	Family Financial Services Ltd.	Financial services	FC	ARC
Maschinenfabrik Andritz AG	SB Canada, Inc.	Pulp and paper making equipment	FC	

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Matshuhita Acquisition Corporation	MCA Incorporated	Audio, video, movie, software and hardware products	FC	ARC
MI Acquisition, Inc.	The Moen Group, Inc.	Plumbing products (faucets)	FC	
Midland Doherty Financial Corporation	Walwyn Inc.	Investment dealers	FC	
Mitsubishi Corporation	Ucar Carbon Canada Inc.	Carbon and graphite products	FC	
Montreal Trustco Inc.	Commercial Financial Corporation Limited	Financial services (trust and loans)	FC	
Mr. Klaus J. Jacobs	Jacobs Suchard Canada Inc. and Comet Confectionery Limited	Coffee, chocolate and candy	FC	ARC
Nalco Chemical Company	Alchem Inc.	Specialty chemicals	FC	ARC
Nationale Nederlander N.V.	Postbank NMB	Financial services	FC	ARC
Newfoundland Telephone Company Limited	Terra Nova Telecommunications Inc.	Telephone services	MO	AO
Nobel Industrier Sverige AB	Alby Chlorates Canda Inc.	Sodium chlorate production for use in pulp and paper industries	FC	
Nordion International Inc.	Institut National des Radio Éléments	Diagnostic nuclear medicine	FC	
North Canadian Oils Ltd.	Coseka Resources Limited	Oil and gas industry (upstream)	FC	
Northern Alberta Dairy Pool Limited	Palm Dairies Limited	Dairy products	MO	AO
Northwood Pulp and Timber Ltd.	Rustad Bros. & Co. Ltd.	Lumber and wood chips	FC	ARC
Nunachiaq Ltd.	Pine Point Mines Limited	Zinc-lead mining	FC	ARC
Olympia & York Developments Limited	Campeau Corporation	Office rental and mixed use properties	FC	AO
On Line Computer Library Centre	Utlas International Canada	Computerized library services	FC	
Opus Acquisition Corp.	Placer CEGO Petroleum Holdings Ltd.	Oil and gas properties	FC	ARC
Peat Marwick Thorne (Receiver)	Leigh Instruments Ltd.	Technical instrumentation	FC	

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Pepsi-Cola Canada Ltd.	Eastcan Beverages Limited	Soft drinks distribution	FC	
Placer Dome Inc.	BP Resources Canada Limited (Mt. Milligan Project)	Gold and copper mining	FC	
Placer Dome Inc.	Stikine Resources Ltd.	Minerals exploration and development	FC	ARC
Placer Dome Inc. and/or its Subsidiary 385279 B.C. Ltd.	Continental Gold Corp.	Gold	FC	ARC
Poco Petroleum Ltd.	Voyager Energy Inc.	Oil, natural gas liquids and natural gas exploration, development and production	FC	ARC
Potash Company of Canada Inc.	Denison Mining Co. (certain assets)	Potash mining	FC	ARC
Potash Corporation of Saskatchewan Inc.	Saskterra Fertilizers Ltd.	Potash mining	FC	ARC
Prenor Financial Limited	Guardcor Investments Inc.	Financial intermediation	FC	
Priceus Holdings Inc.	Price Club Canada Inc.	Grocery retailing	FC	ARC
PWA Corporation	Time Air Corporation	Scheduled and charter air service	FC	
Ranchmen's Resources Ltd.	Bralorne Resources Limited	Oil and gas exploration and production	FC	ARC
Ransomes PLC	Brouwer Turf Equipment Limited	Grass cutting equipment	FC	
Rauma-Repola Oy & United Paper Mills Ltd.	Sunds Defibrator Ltée/Ltd.; Timberjack, Inc.; Peerless Page Industries, Ltd.; FMP/Rauma, Inc.; Nordberg Machinery Limited; and Neles Jamesburg, Ltd.	Pulp and paper refining systems	FC	
Rauma-Repola Svenska AB	Sunds Defibrator Ltée/Ltd.	Pulp refining systems	FC	
Reckitt & Colman Canada Inc.	Boyle-Midway Canada Ltd., Boyle-Midway Aero Packing Limited and Whitehall Laboratories Limited (Depilatory Business)	Household cleaning products	FC	
Régie Nationale des Usines Renault	Mack Trucks Inc.	Class 7 and 8 trucks	FC	
Rhône-Poulenc S.A.	Rorer Canada Inc.	Pharmaceuticals	FC	

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
RJR Acquisition Corp.	RJR Nabisco Inc.	Food products	FC	
Robert Bosch GmbH	NovAtel Communications Ltd.	Cellular phones and systems	FC	
Saskatchewan Oil & Gas Corporation	Gulf Canada Resources Limited	Oil and gas properties	FC	
Saskatchewan Wheat Pool	Elders Grain Company Ltd.	Grain processing facilities	FC	
Schneider Canada Inc.	Federal Pioneer Ltd.	Electrical distribution products	FC	ARC
Shell Canada Limited	Gulf Canada Resources Limited (certain assets)	Natural gas, natural gas liquids, sulphur and condensate	FC	ARC
Shell Canada Products Ltd.	Penny Fuels Inc.	Retail gasoline service stations	MO	AO
Siemens Automotive Limited	Magna International Inc. (certain assets)	Small electrical motors for automobiles	FC	
Simcoe Erie Investors Limited	Elite Insurance Management Ltd.	Property and casualty insurance	FC	
SKF Tools Canada Limited	Tivoly Cutting Tools Inc.	Steel cutting tools for metal removal	FC	
Société Générale (Canada)	Crédit Commercial de France (Canada)	Banking	FC	
Société Immobilière Transquébec Inc.	Louis Donolo Inc.	Real estate (office building)	FC	ARC
Southam Inc.	Wiarion Echo Publishing Limited	Newspapers	FC	
Southam Printing Ltd.	Groupe UniMédia Inc. (Litho Prestige Division)	Commercial web printing	FC	
Sovereign Life Insurance Company	Pioneer Life Assurance Company	Life insurance	FC	
Stage Coach (Holdings) Ltd.	Gray Coach Lines Ltd.	Bus passenger services	FC	ARC
Star Oil & Gas Ltd.	BP Resources Canada Limited	Oil and gas exploration and production	FC	
Subsidiary of Maclean Hunter Limited and Subsidiary of The Blackburn Group Inc.	Kenwal Communications (partnership)	Television stations	FC	ARC
Sun Chemical Corporation	BASF Coatings and Ink Canada Ltd.	Packaging, commercial, container and news inks	FC	
Sun Life Assurance Company	Pacific Savings & Mortgage Company	Financial assets	FC	ARC

Company Making Acquisition	Name of Company Being Acquired	Industry	Result	Process
Sun Life Financial Holdings Inc.	Counsel Trust Company	Financial institutions	FC	ARC
Télé-Métropole Inc.	Réseau Pathonic Inc.	Radio and television stations	FC	
The Borden Company, Limited	General Mills Canada, Inc. (Lancia Bravo Division)	Dry pasta, spaghetti sauce, and tomato paste	FC	
The Michelin Group	Uniroyal Goodrich Tire Co.	Automobile and light truck tires	FC	
Thomson Newspapers Corp.	The Financial Times of Canada	Newspapers publishing and distribution	FC	
Tintagel Energy Corporation	Voyager Energy Inc.	Oil and gas exploration and production	FC	ARC
Tree Island Industries, Limited	Davis Wire Industries Ltd.	Industrial wire and wire products	RE-A	AO
Trimac Limited	Canadian Pacific Express & Transport Ltd. (CP Bulk Systems Division)	Bulk commodity hauling	FC	
Trinity International Holdings PLC	Vancouver East Ender, West Ender, and Bowen Island Undercurrent	Newspapers	FC	
Tyco Laboratories Inc.	Wormald International Ltd.	Fire protection equipment and detection systems	FC	
UAP Inc.	Auto Marine Electric Ltd.	Automobile parts	FC	
Unimin Corporation	Falconbridge Limited (Indusmin Division)	Mining and processing of non-metallic minerals	FC	
Valmet-Gafner Inc.	VME Equipment of Canada Ltd. (certain assets)	Forestry equipment	FC	ARC
Westburne Industrial Enterprises Limited	Canada Valve Inc. (Ontario distribution assets)	Waterworks, valve and equipment distribution	FC	ARC
WIC Western International Communications Ltd.	Allarcom Limited and Allarcom Pay Television Limited	Television broadcasting	FC	

APPENDIX III MERGERS AND REVIEWABLE MATTERS: DISCONTINUED INQUIRIES

MERGERS

An inquiry was commenced in June 1990 after two public offers were made for the purchase of Boulangerie St-Augustin Inc., located in St-Augustin, Quebec. One of the two prospective acquirors raised competition concerns due to business links with another bakery firm with a strong presence in the region. Boulangerie St-Augustin was eventually acquired by Corporation d'acquisition Gadoua, a firm controlled by persons with no other business interests in the bakery industry in that region of Quebec. In light of this fact, the Director concluded that the acquisition would not have a negative impact upon competition.

An inquiry was commenced in 1987 following receipt of a six-resident application from the International Woodworkers of America regarding the proposed acquisition by Fletcher Challenge Limited of British Columbia Forest Products Limited. The Director subsequently determined that grounds to file an application with the Tribunal did not exist and decided to discontinue the inquiry. However, the Director undertook to monitor certain aspects of the transaction and the attainment of the claimed efficiencies up to three years after the merger had been substantially completed.¹

ABUSE OF DOMINANCE

A six-resident complaint was received alleging that a major pharmaceutical company had introduced a generic low-priced product to eliminate competition from manufacturers of generic products. The information obtained revealed that the product in question had been introduced in response to aggressive pricing by competitors, and not for anti-competitive purposes. It was also determined that there was no lessening of competition, as the market shares of the complaining firms were increasing.

TIED SELLING

A six-resident application was received that alleged that one of the largest automobile manufacturers was tying the sale of its car radios to the purchase of a car. However, the inquiry revealed that consumers have a strong preference for factory-installed car radios, and further that the segment of the market affected by this practice was insufficiently large to conclude that competition had been lessened substantially.

¹ This inquiry was inadvertently not reported in the Annual Report for the year ending March 31, 1988 as having been discontinued.

APPENDIX IV CRIMINAL OFFENCES IN RELATION TO COMPETITION: PROCEEDINGS

PROCEEDINGS CONCLUDED:

SECTION 33*: MONOPOLY

In March 1984, representatives of the Director searched the premises of Dobney Holdings Ltd., a Surrey, B.C. municipal castings supplier, and its affiliates pursuant to s. 33 of the former *Combines Investigation Act*. Due to long and protracted legal challenges by the parties, documents from the searches were not obtained until October 1989. The case was referred to the Attorney General and in March 1989, it was decided to seek a prohibition order under s. 30(2) (now 34(2)) of the Act. On April 23, 1990 a prohibition order was granted against Dobney Holdings Ltd. and its affiliates.

SECTION 45: CONSPIRACY

On March 1, 1990, one charge was laid under s. 45(1)(c) against Maple Leaf Mills Limited, Ogilvie Mills Ltd., Robin Hood Multifoods Inc., Parrish & Heimbecker Limited, B.P. Kent Flour Mills Limited, Dover Mills Limited, Rogers Foods Limited and Soo Line Mills Limited in relation to the supply of flour nation-wide. On September 26, 1990 the charge was stayed. See also entries under s. 47 below.

SECTION 61: PRICE MAINTENANCE

On March 2, 1990, two charges under paragraph 61(1)(a) and two charges under paragraph 61(1)(b) were laid at Toronto, Ontario against Louis Levine Agencies Inc. in relation to the sale of blue jeans. On November 15, 1990, the accused pleaded guilty to one count under s. 61(1)(b) and was fined \$15 000.

On July 3, 1990, consent orders of prohibition were issued against A.G.F. Management Limited, Mackenzie Financial Corporation, Noram Capital Management, Inc. and Templeton Management Limited pursuant to s. 34(2) of the Act. The orders relate to the sale of mutual fund securities, and among other terms, prohibit the companies from refusing to deal with brokers and dealers who provide a discount from their commission on the sale of mutual funds.

PROCEEDINGS PENDING:

SUBSECTION 34(6): FAILURE TO COMPLY WITH A PROHIBITION ORDER

On December 21, 1989, one charge was laid under s. 127(1) of the *Criminal Code* against École de conduite Tecnic Aubé Inc., École de conduite Lauzon (Sherbrooke) Ltée, 2172-3572 Québec Inc., École de conduite Tecnic

Estrée Inc., École de conduite de l'Estrie Inc., École de conduite Vel Inc., André Houle, Michel Faucher, Yves Aubé and Michel Labbé at Sherbrooke, Québec in relation to a failure to comply with a prohibition order. The preliminary inquiry scheduled to commence October 30, 1990 was remanded to December 16, 1991 pending the determination of issues raised in the Québec Pharmacists case, discussed below. See also entries under s. 45 and s. 50(1)(c).

SECTION 45: CONSPIRACY

On February 24, 1987 two charges were laid at Halifax, Nova Scotia, under s. 45(1)(c) against 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, and Frank Forbes in relation to the sale of prescription drugs and pharmacists dispensing services. On September 5, 1990 the Trial Division of the Nova Scotia Provincial Court quashed the indictment against the accused on the ground that s. 45 of the Act violated the Charter. The Crown appeal of this decision was heard on February 11 and 12, 1991.

On March 22, 1988, one charge was laid at Halifax, Nova Scotia under s. 45(1)(c) against the Nova Scotia Licensed Embalmers and Funeral Director's Association in relation to the supply of funeral services for burials of indigents. On December 14, 1990 the Nova Scotia Supreme Court dismissed the information as a result of the Nova Scotia Pharmaceutical Society decision noted above. Notice of appeal was filed by the Attorney General on January 7, 1991.

On December 21, 1989, one charge was laid under s. 45(1)(c) at Sherbrooke, Québec against École de conduite Tecnic Aubé Inc., École de conduite Lauzon (Sherbrooke) Ltée, Le Groupe Lauzon Inc., 2172-3572 Québec Inc., École de conduite Tecnic Estrie Inc., École de conduite Asbestrie Inc., École de conduite de l'Estrie Inc., École de conduite Vel Inc., André Houle, André Comeau, Michel Faucher, Yves Aubé, Jacques Perreault and Michel Labbé in relation to the supply of driving school services. The preliminary inquiry scheduled to commence October 30, 1990 was remanded to December 16, 1991 pending the determination of issues raised in the Québec Pharmacists case, discussed below. See also entries under s. 34(6) and 50(1)(c).

* Refers to section 33 of the *Combines Investigation Act*.

On January 5, 1990, two charges were laid in Bathurst, New Brunswick against Kenny Ready Mix Ltd. and Blanchard Ready Mix Ltée in relation to the supply of ready-mix concrete. The charges were re-laid on December 10, 1990.

On April 19, 1990, one charge was laid at Montréal, Québec under s. 45(1)(c) against L'Association québécoise des pharmaciens propriétaires, Cumberland Drugs (Merivale) Ltd, Kane's Super Drugmart Corp. Ltd., Les Entreprises Norpharm Inc., Escompte Chez Lafortune Inc., Famili-Prix, Le Groupe Jean Coutu (P.J.C.) Inc., Groupe Marke-Pharm Inc., Groupe Pharmaceutiques Focus Inc., Les Magasins Koffler de l'Est Inc., McMahon Essaim Inc., Super Escompte Brouillet Inc., Superpharm (Montréal) Ltée, Uniprix Inc., Pierre Bossé, François-Jean Coutu, Claude Gagnon, Guy Lanoue, Michel Lesieur, Guy-Marie Papillon, Jean-Guy Prud'homme et B. Mayrand Inc. The accused challenged the constitutionality of s. 45 and on December 6, 1990 the Quebec Superior Court declared the section to be contrary to the Charter. An appeal by the Crown is scheduled for January 20, 1992.

On September 24, 1990, one charge was laid at Toronto, Ontario under s. 45(1)(c) against Clarke Transport Canada Inc., Consolidated Fastfrate Transport Inc., Cottrell Transport Inc., Northern Pool Express Ltd. doing business as Trans Western Express and TNT Canada Inc. doing business as TNT Railfast in relation to pool car freight forwarding and related services. An appearance date has been scheduled for January 29, 1992 before the Ontario Court (Provincial Division).

SECTION 47: BID-RIGGING

On March 1, 1990, one charge was laid under s. 47 against Maple Leaf Mills Limited, Ogilvie Mills Ltd., Robin Hood Multifoods Inc., Parrish & Heimbecker Limited, B.P. Kent Flour Mills Limited, Dover Mills Limited, Rogers Foods Limited and Soo Line Mills Limited in relation to the supply of flour nation-wide. On December 7, 1990 Maple Leaf, Ogilvie and Robin Hood pleaded guilty and were fined \$1 000 000 each. Also pleading guilty was Parrish and Heimbecker, which was fined \$225 000. On January 11, 1991, Soo Line and B.P. Kent pleaded guilty and were fined \$50 000 and \$30 000 respectively. Orders of prohibition were granted against all the convicted accused. Trial dates of April 9, 1991 and May 28, 1991 have been set for Dover and Rogers respectively.

SECTION 50(1)(C): PREDATORY PRICING

On December 21, 1989, one charge was laid under s. 50(1)(c) at Sherbrooke, Quebec against École de conduite Tecnic Aubé Inc., École de conduite Lauzon (Sherbrooke) Ltée, 2172-3572 Québec Inc., École de conduite Tecnic Estrie Inc., École de conduite Asbestrie

Inc., École de conduite de l'Estrie Inc., Yves Aubé and Jacques Perreault in relation to the supply of driving school services. The preliminary inquiry scheduled to commence October 30, 1990 was remanded to December 16, 1991 pending the determination of issues raised in the Quebec Pharmacists case, discussed above. See also entries under s. 34(6) and s. 45.

SECTION 61 : PRICE MAINTENANCE

On February 27, 1985, one charge was laid at Chicoutimi, Quebec under s. 61(1)(b) against Wenger Ltd. in relation to the supply of watches. The accused was convicted on February 20, 1990 and on September 17, 1990 was fined \$50 000. The accused has filed an appeal against the conviction.

On October 18, 1988 one charge was laid at Granby, Quebec under each of s. 61(1)(a) and s. 61(1)(b) against Barcana Inc. in relation to the sale of artificial Christmas trees. On July 3, 1989 a motion of non-suit by the accused was dismissed by the Quebec Superior Court. A subsequent appeal was dismissed on June 12, 1990. The accused was ordered to stand trial following a preliminary inquiry in October 1990. No trial date has been set.

On August 25, 1988, 14 charges under s. 61(6) were laid at Québec, Quebec against E.E. Lemieux Inc. and Simon Carmichael in relation to the sale of women's clothing. At the trial held in January and February, 1991, the defendants challenged the constitutionality of s. 61(6) and s. 61(9). Closing argument on the merits and the constitutional issue is scheduled for April 8 and 9, 1991.

On January 31, 1991 four charges were laid at Ancaster Ontario under s. 61(1)(a) against Pioneer Petroleum Inc. in relation to the sale of gasoline. The trial is scheduled for September 24, 1991.

OTHER MATTERS

On January 28, 1991, the Federal Court of Canada dismissed a Statement of Claim by the Attorney General which sought to clarify whether a Winnipeg Real Estate Board by-law, requiring that agents have no occupation other than the real estate business, is contrary to specific provisions of a prohibition order issued on December 20, 1988 against the Canadian Real Estate Association and several real estate boards (see page 22 of the 1989 Annual Report). Although the Winnipeg Board is not a respondent to the order, its activities are indirectly covered by virtue of its membership in CREA. The court found that the order compelled CREA to obtain an agreement from all real estate boards indicating that they would comply, but that it did not require CREA to police activities of the member boards. The Attorney General has filed a Notice of Appeal regarding this decision.

APPENDIX V

CRIMINAL OFFENCES IN RELATION TO COMPETITION: DISCONTINUED INQUIRIES

CONSPIRACY

A six resident application was received alleging a conspiracy between two retailers of office equipment and supplies. Evidence supporting the allegation included catalogues distributed by the retailers showing identical prices. However, information obtained during the inquiry revealed that the catalogue prices had been prepared independently by a wholesaler and were heavily discounted in the relevant market. The evidence also failed to prove that competition was lessened unduly since many alternate sources of supply were available at both the wholesale and retail levels.

An inquiry was commenced following the announcement at a press conference by three travel tour wholesalers that they were reducing their commission levels paid to travel agents on packaged tours from Western Canada to Western Continental United States. The information obtained during the course of the preliminary inquiry revealed evidentiary problems relating to the issues of market definition and undue effect. It also disclosed that large travel agencies successfully resisted the attempt by the tour wholesalers to reduce their commission rates. A review of the evidence led the Director to conclude that the matter should be discontinued.

A complaint was received alleging that fish processors in the Gaspé had agreed on the price that fishermen would be paid for halibut. However, the evidence gathered in the course of the subsequent inquiry failed to establish the existence of an agreement to this effect.

A complaint was received alleging an agreement among three major exhibitors of films in the Maritimes to jointly book films from various suppliers. However, the subsequent inquiry established that changes in the structure of the industry had re-established competition in the markets involved. As a result, the agreement did not have the effect of lessening competition unduly.

A complaint was received alleging a price fixing conspiracy between two grocery retail operations. The complainant had been informed by a party to the agreement that a competitor's prices would be increasing shortly. A price increase did occur and preliminary information suggested that grocery prices in the local market were generally higher than regional prices. However, information obtained during the subsequent inquiry revealed significant price competition between

the two grocery stores. In light of this fact, and the complainant's refusal to co-operate in the matter, the inquiry was discontinued.

PREDATORY PRICING

An inquiry was commenced in 1977 following receipt of a complaint from the publisher of a failing weekly newspaper in British Columbia, alleging that a local daily newspaper was engaged in various predatory and anti-competitive practices. Searches were conducted at a number of premises in 1978 and 1980. In 1983, additional searches initiated pursuant to s. 10 of the *Combines Investigation Act* were quashed by the Supreme Court of Ontario on the grounds that the provision was inconsistent with the *Charter of Rights and Freedoms*. In 1985, the Director applied for subpoenas under s. 17 of the Act requiring the production of documents and the oral examination of certain senior officials. These subpoenas were also challenged under the Charter but were ultimately upheld by the Supreme Court of Canada on April 30, 1990. However, following review of the evidence seized in the initial two searches and the circumstances surrounding the inquiry, the Director concluded that it should be discontinued.

PRICE MAINTENANCE

An automotive parts and accessory supplier had allegedly threatened to drive a new competitor out of business unless he raised his prices. It was concluded that an alternate case resolution would be appropriate as the conduct in question was of brief duration, involved a small local market, and had no effect on the competitor nor competition. The company provided assurances that they would comply with the law in future business activities and the inquiry was subsequently discontinued.

It was alleged that a mail order house was refused supplies of aquariums and aquarium accessories because of its low pricing policy. However, the subsequent inquiry revealed that the refusal was due to the mail order house's inability to comply with the supplier's usual trade terms.

APPENDIX VI

MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS: PROCEEDINGS

CONVICTIONS

3 Suisses Canada Inc.

2168-5391 Quebec Inc., c.o.b. as Rolland Lecompte Meuble C.D.L.

155812 Canada Inc., c.o.b. as Société Internationale D.M.D. and Centre E.D.P.M., and Patrice Runner

155812 Canada Inc., c.o.b. as Société Internationale D.M.D. and Centre E.D.P.M., and Patrice Runner

351582 Ontario Limited, c.o.b. as Wellington Car Radio, and Gary Earl Mascarin

632018 Ontario Limited, c.o.b. as Tri-Star, and Carter Brisebois

690489 Ontario Limited and 733784 Ontario Inc., both c.o.b. as The Muscle Factory

A. Giguère Québec Ltée and Les Fourrures Prémont Inc.

Abu Garcia Ltd.

Barry Laughren and Designer Blinds of Saskatoon Inc., c.o.b. as Designer Blinds by Stephen (conviction affirmed on appeal)

Beam of Canada Inc. (conviction affirmed on appeal)

Claude Hénaire, c.o.b. as Monsieur Tapis, and Claude Hénaire Inc.

Cogi Holdings Limited

Consoltex Inc., c.o.b. as Comptoir manufacturier de textile

D.W.S. Automotive Group Inc., c.o.b. as Hyundai South

Direct Motor Company Ltd., c.o.b. as Bank Street Mazda

Donald Hoyt Smith, c.o.b. as Canadian Police News Independent, and Hoyt Smith Publishing Inc.

Enrique Avila

Estrol Marketing Corporation, Prudential Marketing

Limited, Foremost Advertising Limited, Mutual Marketing of Ottawa Limited and JAJU (Ashton) Advertising Corp.

Fabricville Distributors Limited, c.o.b. as Fabricville Co.

Gordon Venson Hughes, c.o.b. as Hughes Enterprises and H & H Enterprises

Groupmark Canada Limited, c.o.b. as Encore, and Elwin D. Cathcart

Hudson's Bay Company, Compagnie de la Baie d'Hudson, c.o.b. as The Bay

J.B. Laliberté Limitée

James D. Hatcher and Howard Jay

K Mart Canada Limited /K Mart Canada Limitée, c.o.b. as S. S. Kresge Company

K Mart Canada Limited /K Mart Canada Limitée

L'Univers des Stores Verticaux de Montreal Inc.

Leon's Furniture Limited

Les Ateliers de L'Electromenager R. Vallée Inc. and Rejean Vallée

Les Fourrures Oslo Inc.

M. Caplan Furs (1987) Ltd., c.o.b. as G.O.B. Liquidation-Liquidation G.O.B.

Michael Guluk and Super Shade Ltd.

National Auto League Inc., c.o.b. as Ontario Automobile Association (O.A.A.), Michael J. McGrath and David C. Allison

Oakwell-Morgan Inc., c.o.b. as OMI Electrolysis

Patrice Runner and Fabrice Choquet, both c.o.b. as Centre E.D.P.M.

Peter Gaye Furs Limited, c.o.b. as Peter Gaye Furs

Recouvrement de Fenêtres Despins Inc. and Verti Store

Inc., c.o.b. as Verti Store (conviction affirmed on appeal)	Guy Pothier
Remington Products (Canada) Inc.–Les Produits Remington (Canada) Inc.	Keenan Frederick Ginn and 67767 (Manitoba) Limited, c.o.b. as Elegant Blinds & Draperies
Sheikh Oriental Rugs Inc.	Mark Leon
Simpson's Limited/Simpson's Limitee, c.o.b. as Simpson's	Michel Leduc
St. Clair Wallpaper (1980) Ltd., c.o.b. as St. Clair Paint and Wallpaper	Murray Morgan Ltée, and Frantelle Investments Limited, both c.o.b. as Fabricville Co.
Stereo People of Canada Ltd.	Nalcorp Publishing Corporation and Peter G. Watson
Stewart Sherwood and 603022 Ontario Inc., c.o.b. as House of Sherwood	Nazar Sheikh
Tapis Orientaux Amir Ltée, c.o.b. as Maison D'Encan Internationale	Ralph W. Darling, Zoran Lizender, Mike Darling and Gavin Garbutt
Textiles Poliquin Inc./Poliquin Textile Inc.	Robert Bruce Oakwell-Morgan
Tormont Global Time Corporation and John Bell	St. Clair Paint Ltd., c.o.b. as St. Clair the Paint and Paper People, Louis Litwin and Yvon Lamoureux
NON-CONVICTIONS*	Stephano Cervone
114978 Canada Inc., c.o.b. as The Shuchat Group International, Charles Shuchat and Elliott Shuchat	Super Fitness of Rexdale Inc., Super Fitness Centres Inc., c.o.b. as Super Fitness, and Kenneth Reginald Wheeler (Crown appeal dismissed)
313471 Ontario Limited, c.o.b. as The Muscle Factory and The Fitness Connection, 678367 Ontario Inc., c.o.b. as The Muscle Factory, Michael John DeGenova, Lloyd Johnston, Clark Kent and Roger Issa, a.k.a. Roger Jacobs	The Waterbed Gallery Ltd., c.o.b. as Waterbed Gallery, and Larry Paulson
600548 Ontario Limited, c.o.b. as Honda Cycle Sports Toronto, and 570039 Ontario Ltd., c.o.b. as Yamaha Toronto and Toronto Yamaha	Vahan Kassabian, c.o.b. as Shieldco (Crown appeal dismissed)
718650 Ontario Limited, c.o.b. as World Class Gym	Wayne R. Pitt
B & K Carpet Warehouse Company Limited, c.o.b. as B & K Carpet	PROHIBITION ORDERS PURSUANT TO SUBSECTION 34(2)
Blind Love Distributors Inc. and Stephen Steinman (Crown appeal dismissed)	The Brick Warehouse Corporation
Commercial Ad Services of Ottawa Limited	CHARGES LAID
Danny Leung	114978 Canada Inc. and Nelson Morley Sunshine
David Angas	114978 Canada Inc., c.o.b. as The Shuchat Group International, M. Caplan Furs (1987) Ltd., c.o.b. as G.O.B. Liquidation–Liquidation G.O.B., Charles Shuchat and Elliott Shuchat
Grey Advertising Ltd. and Victor K. Kiam II	

* including conditional and absolute discharges, stays of proceedings, etc.)

129034 Canada Inc., c.o.b. as Consumer Advertising Specialty

141086 Canada Ltée, c.o.b. as Institut Beauté Service Inc. and Claudette Daunais

161926 Canada Inc., c.o.b. as Scientex Corp. Inc., 167786 Canada Inc., c.o.b. as Vita Plante, Alexandre Kowalczyk and Claudette Daunais

480359 Ontario Limited, c.o.b. as Ceiling Fan Distributors, 448881 Ontario Limited, Rhonda Emmerson, formerly Rhonda Louisa Parker, and Alan Parker

692144 Ontario Inc., c.o.b. as Intercontinental Jewellers, Gireesh Vasant Athavale and Gwendolyn Hope Athavale

718650 Ontario Limited, c.o.b. as World Class Gym, James D. Hatcher and Howard Jay

Abu Garcia Ltd. and David Angas

Alda Instruments Limited, c.o.b. as Doering & Brown, Peter Mount, Nec Canada Inc. and Salter de Gruchy Inc.

Andre J. Lavoie and Gemini Investments Ltd.

Angelo's Gold Factory Inc., c.o.b. as The Gold Factory, and Angelo Dimeo

Barbara Cox, c.o.b. as High-Tech Muscle Toning and Weight Loss Clinic

BDR Audiotex Inc., now c.o.b. as 648017 Ontario Inc., and 155066 Canada Inc., c.o.b. as Bell Canada

Canada Custom Antique Importers Corp. and Youseff Emambakhsh

Canada Safeway Limited, c.o.b. as Woodward's Foods (1987) Ltd.

Chaussures Alté Ltée and Thomas Alberga

Davca Building Supplies Limited

Dennis Wayne Stout, c.o.b. as B.C. Images

Direct Motor Company Ltd., c.o.b. as Bank Street Mazda

E.M.S. Weight Loss Centers Canada Inc., now c.o.b. as E.M.S. Vitrim Weight Loss Centers, Peter Stavropoulos, Omega Image Inc., formerly c.o.b. as E.M.S. Weight Loss Centers, now c.o.b. as E.M.S. Vitrim Weight Loss Centers, Shape Investments Inc., formerly c.o.b. as E.M.S. Weight

Loss Centers, now c.o.b. as E.M.S. Vitrim Weight Loss Centers, Body Works Investments Inc., formerly c.o.b. as E.M.S. Weight Loss Centers, now c.o.b. as E.M.S. Vitrim Weight Loss Centers, 836050 Ontario Limited, formerly c.o.b. as E.M.S. Weight Loss Centers, now c.o.b. as E.M.S. Vitrim Weight Loss Centers

Eric's Optical Centre Ltd.

European Toning Clinic Limited, Peter Rieser, Patty Rieser, 830953 Ontario Limited, c.o.b. as European Toning Clinic, and Thompson-Chung Enterprises, c.o.b. as European Toning Clinic

F.W. Woolworth Co. Limited/F.W. Woolworth Cie Limitee

Figure & Face Salons Ltd., James Philip Barczak and Carola Sherry Barczak

Fitzroy Jackson, c.o.b. as The Mortgage Saver Systems

Fuel Base Industries Inc., Randy Widmer and Endre Lillejord

IFA International Fine Arts Ltd. and Kenneth Shore

J.B. Laliberte Limitee

James Mastropolo, c.o.b. as Westmont Corporation, Can Am Enterprises, Network Sound Inc., Great White North Inc. and Comtrans Inc.

James Wong, c.o.b. as JHW Marketing Enterprises

K Mart Canada Limited

K Mart Canada Limitee, c.o.b. as S. S. Kresge Company

K Mart Canada Limited

K Mart Canada Limitee

La Maison de Tissus Bouclair Ltée

Le Bifthèque Restaurants Inc.

Le Bifthèque Restaurants Inc. and Stephen Sklar, c.o.b. as Liquidation Pals

Les Fourrures Oslo Inc.

Lundrigans-Comstock Limited, c.o.b. as ABM Atlantic Building Materials

MacLellan Lincoln Mercury Sales Limited and Ian James MacKenzie

Magnetizer Canada Inc. and Nicholas Ward

Malcolm G. Brendesh, c.o.b. as Netya Energy Solutions Inc.

Marché A et C Ltée, Stephen Sklar, c.o.b. as Liquidation Pals, and Sheldon Abramovitch

Markalin Sales Limited, c.o.b. as M. Fleishman & Son Auctioneers, Marvin Fleishman and Allen Fleishman

Multitech Warehouse Direct Inc., c.o.b. as Multitech Warehouse Direct

National Safety Associates Ltd., c.o.b. as National Safety Associates and as NSA

Pegasus Wholesale Ltd. and Santo Sessa

Remington Products (Canada) Inc.–Les Produits Remington (Canada) Inc., Victor K. Kiam II and Grey Advertising Ltd.

Stereo People of Canada Ltd.

Sunil Handa, c.o.b. as Tai Pan Enterprises

The Marbowe Corporation and William S. Phillips

The Water Factory Inc. and Gordon Burgardt

Trim-A-Weigh Spa Inc., Sherry Walsh and Karina Liber

APPENDIX VII

MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES PROVISIONS: DISCONTINUED INQUIRIES

Industry	Section of the Act	Nature of Inquiry and Conclusion Reached
UNDERTAKINGS¹		
Weekly Newspaper	52(1)(a)	St. Paul Producer Ltd. and Gordon Anderson, Issue 3/1990.
Various Golf Equipment	52(1)(a)	Tommy and Lefebvre Inc., Issue 2/1990.
Agricultural Machines	52(1)(a) & 52(1)(b)	Norcan Farm Equipment Limited, Issue 2/1990.
Cognac	52(1)(a) & 52(1)(b)	Creative Impulse Ltd., Issue 4/1990.
Roof System	52(1)(a) & 52(1)(b)	Everlast Building Products Ltd., Issue 4/1990.
Corrugated High Density Polyethylene Pipe	52(1)(a) & 52(1)(b)	Big 'O' Inc., Issue 2/1990.
Hair Remover	52(1)(a) & 52(1)(b)	Somerset House, Issue 4/1990.
Automobiles	52(1)(a) & 52(1)(d)	The Wheel Ranch Limited, carrying on business as Steve MacKenzie Honda, Issue 4/1990.
Automobiles	52(1)(a) & 52(1)(d)	Rowland Lincoln Mercury Sales Limited, Misleading Advertising Bulletin, issue 2/1990.
Wedding Invitations	52(1)(a) & 52(1)(d)	Wedding Gallery Inc., Issue 3/1990.
Ski Equipment	52(1)(a) & 52(1)(d)	Bicycle Revival Limited (Not summarized in Bulletin).
OTHER REASONS		
Fragrance Products	52(1)(a)	An inquiry was initiated following the receipt of an application pursuant to section 9. The Director subsequently determined that there was insufficient evidence to warrant charges under the Act.
Weight Loss	52(1)(b)	A complaint was received regarding a business's performance claims. The business was subsequently dissolved.
Education Magazine	59(1)(b)	A complaint was received that prizes in a contest were not distributed. The prizes were subsequently distributed and the publication of the magazine has ceased.
Synthetic Oil	52(1)(a) & 52(1)(b)	A complaint was received regarding a business's performance claims. The business was a one-person operation which had repeated the product's manufacturer's claims; the claims had ceased and would not be repeated.

¹ Where the receipt of an undertaking is the impetus for the discontinuance of an inquiry, reference can be made to the summary of the case which appears in the issue of the *Misleading Advertising Bulletin* noted.

APPENDIX VIII RECENT PUBLICATIONS OF THE BUREAU OF COMPETITION POLICY

*Information Bulletin No. 4: An Overview of Canada's
Competition Act*

Information Bulletin No. 5: Merger Enforcement Guidelines

Misleading Advertising Bulletin (issued quarterly)

News releases (issued periodically)

Copies of selected speeches made by the Director and
former Directors are available to the public. Those
wishing to obtain copies should contact:

Resource Centre
Compliance and Coordination Branch
Bureau of Competition Policy
Consumer and Corporate Affairs Canada
Hull, Quebec
K1A 0C9

Telephone: (819) 994-0798
Fax: (819) 953-5013

APPENDIX IX

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 is recommended to contact the following office. Complaints may also be forwarded to any of the regional or district offices of the Bureau listed below.

Resource Centre
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 at the address noted below:

Mergers Branch
Consumer and Corporate Affairs Canada
19th Floor, 50 Victoria Street
Hull, Quebec K1A 0C9
Telephone: (819) 953-7092
Fax: (819) 953-6169

The Bureau recommends that notification filings be hand-delivered.

MISLEADING ADVERTISING AND DECEPTIVE MARKETING PRACTICES

Anyone wishing to obtain general information or to make a complaint concerning the misleading advertising and deceptive marketing practices provisions of the Act should contact one of the regional or district offices listed below. Correspondence or telephone calls may also be directed to the Marketing Practices Branch headquarters in the National Capital region.

National Capital Region Headquarters
Marketing Practices Branch
50 Victoria Street
Hull, Quebec, K1A 0C9

Telephone: (819) 997-4282
Fax: (819) 953-2557

REGIONAL AND DISTRICT OFFICES

1400-800 Burrard Street
Vancouver, British Columbia
V6Z 2H8

Telephone: (604) 666-8659
Fax: (604) 666-5031

Sam Livingston Building
510 12th Avenue S.W.
Suite 309
Calgary, Alberta
T2R 0H3

Telephone: (403) 292-5608
Fax: (403) 292-5188

Oliver Building
10225 100th Avenue
Edmonton, Alberta
T5J 0A1

Telephone: (403) 495-2489
Fax: (403) 495-2466

260 St. Mary Avenue
Room 345
Winnipeg, Manitoba
R3C 0M6

Telephone: (204) 983-5567
Fax: (204) 983-3159

4900 Yonge Street, 6th Floor
Willowdale, Ontario
M2N 6B8

Telephone: (416) 224-4065
Fax: (416) 224-4032

Federal Building
451 Talbot Street, Suite 300
London, Ontario
N6A 5C9

Telephone: (519) 645-4119
Fax: (519) 645-5114

69 John Street South
Second Floor
Hamilton, Ontario
L8N 2B9

Telephone: (416) 572-2873
Fax: (416) 572-4216

112 Dalhousie Street, 3rd Floor
Québec, Quebec.
G1K 4C1

Telephone: (418) 648-3939
Fax: (418) 648-4120

Guy Favreau Complex
200 René Lévesque Blvd. W.
Suite 502, East Tower
Montreal, Quebec
H2Z 1X4

Telephone: (514) 283-7712
Fax: (514) 283-3096

50 Brown Avenue
P.O. Box 38001
Burnside Industrial Park
Dartmouth, Nova Scotia
B3B 1X2

Telephone: (902) 426-6002
Fax: (902) 426-4536

INDEX

Editor's note: The listings in this index are arranged alphabetically by industry, product or subject.

Advertising issues	18	Meat rendering	9
Advertising space	17	Media contacts	4
Aspartame	11	Merger examinations	6
Automotive parts	12	Merger Register	5
Beer	9	National Energy Board	21
British Columbia Royal Commission on Health Care ..	22	National Farm Products Marketing Council	21
British Columbia tree fruit industry	21	Newspaper retail advertising	9
Canada-United States Trade Agreement	23	Notifiable transactions	5
Canadian Council of Motor Transport Administrators ..	24	Nova Scotia Board of Public Utilities	21
Car and truck tires	7	Ontario paralegals	22
Commercial waste removal	7	Ontario-Quebec Rapid Train Task Force	20
Competition and the Canadian marketplace	23	Petroleum products	8
CRTC	20	Program of Advisory Opinions	3
<i>Cable Television Regulations</i>	21	<i>Quebec Real Estate Brokerage Act</i>	22
Newfoundland Board of Commissioners of Public Utilities	21	<i>R v. Nova Scotia Pharmaceutical Society</i>	14
Unitel Communications Inc.	20	<i>R v. Wholesale Travel Limited</i>	17
Yellow pages	20	Reform of the misleading advertising and deceptive marketing practices provisions	18
Dairy products	7	Retail gasoline prices	15
Electric power transmission	9	Royal Commission on National Passenger Transportation	20
Europe 1992	23	<i>Shipping Conferences Exemption Act, 1987</i>	24
Flour	8	Speech program	3
Flour mills	14	TransCanada Pipeline	21
Freight forwarding	15	Waste collection services	12
Glass container manufacturing	9	Waste-rendering	9
Grocery retailing	8	Watches	17
Imperial Oil Limited/Texaco Canada Consent Order ...	10	Xerox copier parts	12
Industrial wire and wire products	7		
Information and Compliance Programs	3		
Information bulletins	4		
Inter-utility trade in electricity	21		
International Air Policy Committee	20		
International relations	24		
<i>L'Association Québécois des Pharmaciens</i> <i>Propriétaires v. R</i>	14		

INDUSTRIAL CANADA/INDUSTRIE CANADIENNE

109243

DATE DUE - DATE DE RETOUR

July 15/97