

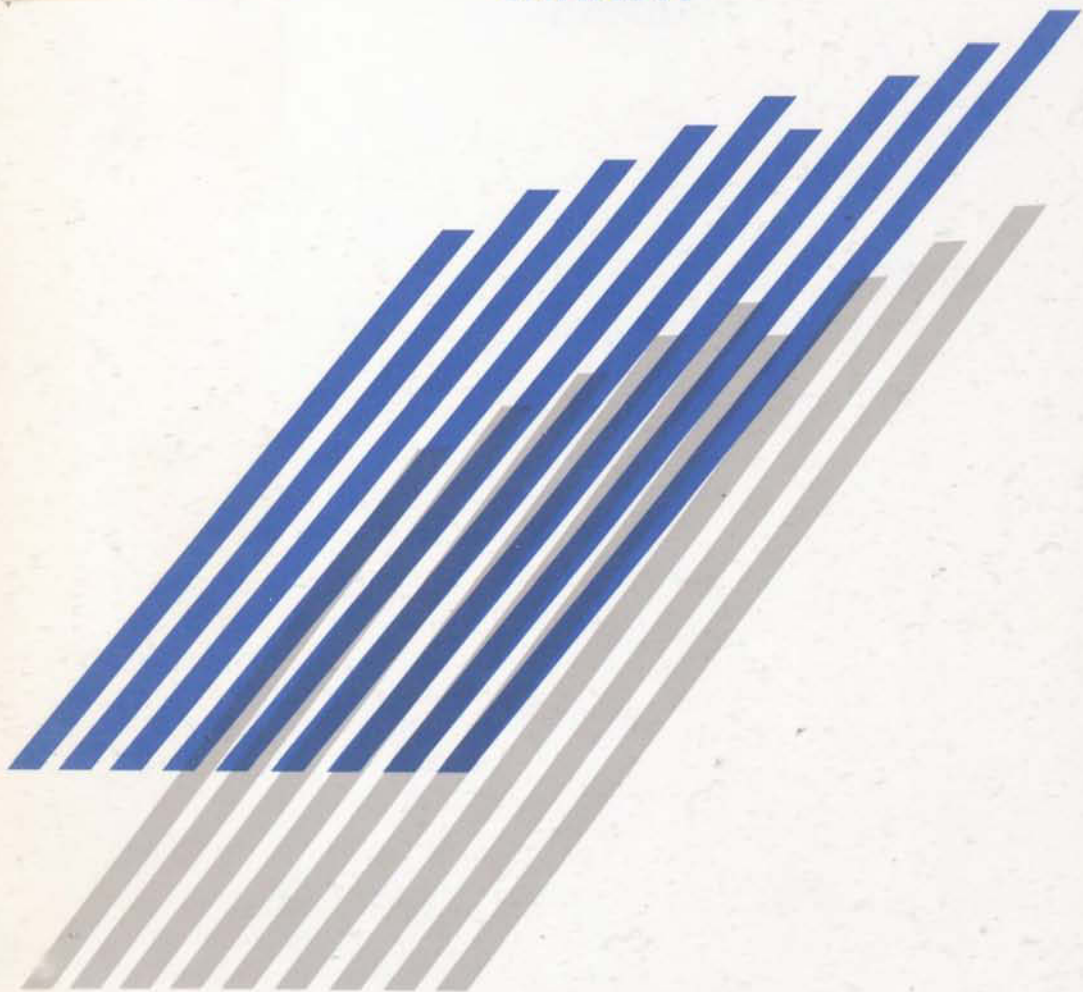
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Consumer and  
Corporate Affairs  
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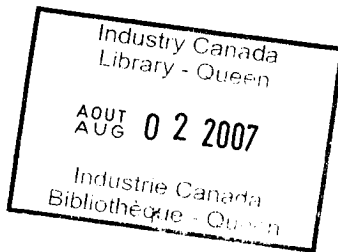
The Role of  
**CONSUMER AND  
CORPORATE AFFAIRS  
CANADA**



and  
**CANADA'S AGENDA  
FOR PROSPERITY**

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Ottawa, Canada, December 1991

**Canada**

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## **CANADA'S AGENDA FOR PROSPERITY**

### **■ The Role of Consumer and Corporate Affairs Canada**

*Statement by the Minister:*

Canada's prosperity and the well-being of its 27 million citizens are directly related to our ability to compete at home and abroad.

Our wealth of natural resources guaranteed Canada's prosperity for more than a century. But natural bounty alone is no longer enough to sustain our high standard of living. Only those nations capable of adapting innovative technology to the production of reasonably-priced, high-quality goods and services will continue to prosper in the competitive world marketplace of the 1990s.

Canada is indeed at an economic crossroads. The Government of Canada is now engaged in a major consultative process with Canadians on how to secure "Prosperity Through Competitiveness." No one group and no one sector, including government, has all the answers or all the resources required to guarantee Canada's future well-being. Sustained prosperity can be achieved only through a dynamic partnership of business and industry, labour, governments, consumers, institutions of higher learning, and individual Canadians.

This discussion paper is intended to contribute to the Canada-wide consultations on "Prosperity Through Competitiveness." It offers participants in the dialogue an overview of Consumer and Corporate Affairs Canada and its activities in, and approaches to, the marketplace. We want to know how you think we can do our job better.

As Canada's "Department of the Marketplace," Consumer and Corporate Affairs Canada plays a pivotal role in maintaining Canada's competitiveness. The Department seeks to balance the interests of consumers and producers in the domestic marketplace by setting and enforcing standards, encouraging competition and informing and protecting consumers. This balancing of interests contributes to a unified single market, fosters quality and competition at home and equips Canadian business to confront its competitors internationally.

We welcome your views on this document and on the role -- present and future -- of Consumer and Corporate Affairs Canada.



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## I. CANADA'S POLICY ON CONSUMERS AND THE MARKETPLACE

*"Companies that gain competitive advantage in sophisticated industries and industry segments often benefit from having domestic customers who are among the world's most demanding buyers of their products or services. Such buyers provide a window on advanced customer needs, pressure companies to meet high standards, and encourage them to improve, innovate and upgrade into more advanced segments."*

Professor Michael E. Porter, *Canada at the Crossroads*.

The marketplace is a crucible where consumers and producers come together to determine what products to produce, by what means, how much to pay for them, and where to invest savings and profits.

Both corporate and consumer interests are key to a competitive economy. Consumer expenditure accounts for 60 percent of Gross Domestic Product (GDP) (which meant approximately \$399 billion in 1990), compared with 20 percent each for business and government. In the marketplace, informed consumers are integral to ensuring competition among producers. In fact, consumer demand is one of the four points that make up the "diamond" of national competitive advantage described by Harvard Business School Professor Michael E. Porter in his recent study of Canadian competitiveness, co-sponsored by the federal government and the Business Council on National Issues.

In a free and fair market, companies vie for consumer attention and loyalty. Informed and confident consumers are the ultimate arbiters of whether a product meets the tests of quality, price, design and desirability. The ability to successfully meet the needs of demanding domestic consumers dictates how successfully a company will compete in the global marketplace.

Those producers - - and producing nations - - which successfully meet the stringent market demands and consumer expectations of the 1990s are those that will flourish in the century ahead.

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## ■ **The Role of the Consumer Affairs Bureau**

Markets are not free and fair unless the consumer is adequately protected and informed. Where consumer legislation, national standards and safety laws are absent, also missing are the ground rules and fairness required to ensure a dynamic marketplace.

The need for consumer protection has heightened in the 1990s, with market globalization and the breathtaking speed at which products are designed and introduced to the market. As consumers of the 1990s, we are the most assertive, well-informed and articulate in history. Yet the rapid changes in the marketplace can often leave us feeling vulnerable when we purchase goods and services.

Protecting consumer interests is the responsibility of the Consumer Affairs Bureau of Consumer and Corporate Affairs Canada (CCAC).

## ■ **Canada's Consumer Framework Laws**

Consumer and Corporate Affairs Canada administers many laws designed to protect, inform and educate Canadian consumers about the products they buy. These laws include the Packaging and Labelling Act, the Textiles Labelling Act, the Hazardous Products Act, the Weights and Measures Act and the Electricity and Gas Inspection Act.

Since consumer laws may impose costs on business - - costs that will be passed on to their customers - - such laws must be designed and administered so that the benefits they provide consistently outweigh the added costs of compliance. For example, legislation on hazardous products is designed to alleviate the high number of injuries in the home and workplace - - injuries that cost Canadians \$11.1 billion in 1986.

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## ■ Product Standards

Product standards set a basic level of performance for a consumer product. A standard is the level that, if met or exceeded, makes a product acceptable. For a consumer, clearly understanding what to expect from a product is fundamental to a purchasing decision. Consistent standards also help business since they create a level playing field on which products can be judged. Some standards can ensure that certain products will be interchangeable and, while eliminating some differences between products, at the same time encourage competition by allowing new market entrants and smaller players to find niches for the goods they produce.

Excessively rigorous standards, such as those requiring expensive equipment and costly production procedures, may make it more difficult for some businesses to enter the marketplace. In general, however, high domestic standards ultimately mean Canadian products will meet or exceed the standards of other advanced countries, thereby making our products competitive in the export market.

The Consumer Affairs Bureau has been working with the United States to find ways to harmonize product safety standards and weights and measures regulations. The Bureau is also seeking ways to harmonize the technical standards for packaging and labelling of foods and beverages under the agriculture provisions of the Canada-U.S. Free Trade Agreement.

The Bureau is active in the United Nations' Food and Agricultural Organization's Codex Alimentarius and its Food Labelling Committee, both of which aim for international standards for food. The Bureau also participates in the Standards Negotiating Group for the proposed North American Free Trade Agreement.

In May 1991, CCAC's Consumer Affairs Bureau issued guidelines for the use of environmental claims in labelling and advertising. In November 1991, the Bureau's Quebec region launched a consumer's guide to nutrition labelling.



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## ■ Standards for Hazardous Products

In addition to the standards required to ensure a fair market, Canada also sets product standards for reasons of safety. The *Hazardous Products Act* (HPA) sets uniform national standards to ensure that products not covered by other legislation do not present a danger to the public. In addition, the Workplace Hazardous Material Information System (WHMIS), which provides hazard information on materials to workers, falls under the HPA.

Internationally, discussions on harmonized rules for handling hazardous materials in the workplace are underway between Canada, the United States and the European Community. As well, there are preliminary discussions with the United States to harmonize consumer product regulations. Harmonization would mean lower costs and greater efficiencies for Canadian importers and exporters of such materials.

## ■ Consumer Education

Canada's "Department of the Marketplace" provides national leadership in a range of initiatives designed to improve consumer awareness and understanding at the point of purchase.

CCAC sits on the Federal-Provincial Task Force on Consumer Education and Plain Language. The mission of the Task Force is to ensure young people acquire the information and skills that consumers need in today's complex society.

The Task Force published a program package for high school students in grades 10, 11 and 12, called "Project Real World: Economic Living Skills for High School Students."

CCAC is currently reviewing regulations to assist illiterate or semi-literate consumers - - who make up as much as 38 percent of Canada's population - - in obtaining the product information they require. The Department has also developed special programs to address the needs of children and the elderly.

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## II. CANADA'S POLICY ON COMPETITION IN THE MARKETPLACE

*"Domestic rivalry is critical to innovation and to the development of competitive advantage... Weak domestic rivalry in many industries in Canada, then, will tend to diminish the odds of achieving sustained international success."*

Professor Michael E. Porter, *Canada at the Crossroads*.

Vigorous domestic business competition is essential to Canada's success in the international marketplace. Here at home, in the domestic marketplace, is where Canadian companies get their first taste of competition and where they test their ability to compete globally.

A competitive domestic marketplace makes companies more efficient, productive, and innovative - - the very qualities required for success in the global marketplace.

For the domestic consumer, competition at home means wider choices of quality goods and lower prices. And Canada's commitment to fair and open competition ensures newer and smaller companies can get their products into the market.

### ■ The Role of the Bureau of Competition Policy

Canada's *Competition Act* of 1986, administered by the Department's Bureau of Competition Policy, is designed to maintain competition in domestic markets and deter anti-competitive behaviour.

The Competition Act prohibits mergers that lessen competition as well as conspiracies and bid-rigging. It stops larger firms from preventing the entry of newer and smaller firms into the marketplace through restrictive trade practices or predatory pricing.

The maintenance of competitive rivalry through the enforcement of the *Competition Act* is complemented by the Bureau of Competition Policy's involvement in the development and implementation of other government policies that impact on competition in the marketplace. These policies include industrial policy, international trade policy, intellectual property rights and privatization, as well as industry specific policies in areas such as transportation, telecommunications, energy and agriculture.

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## ■ **Corporate Mergers and Competition Policy**

The *Competition Act* can also be used to block or amend corporate mergers that would reduce competition and thereby increase prices or limit customer choices. This is important to maintain the incentives that lead to innovation and productivity improvements.

Special provisions exist within the *Competition Act* that permit businesses to realize economies of scale through mergers. The Act also allows certain joint ventures for research and development, export consortia, and specialization agreements among competitors to enable them to realize efficiencies and thereby compete more successfully in the global market.

In April 1991, the Bureau published the *Merger Enforcement Guidelines*, which explain the grounds for determining if a proposed merger is likely to be challenged under the Act. The Bureau recently completed a guide for other government departments on the relationship between the *Competition Act*, Canadian merger policy, and the Government's emphasis on competition.

## ■ **Competition Policy as an Alternative to Direct Regulation**

Increasingly, the Government of Canada views competition policy as preferable to direct regulation as a means to attain the desired objective of a free, fair and open market with lower prices and greater consumer choice.

Recent regulatory reform in such sectors as transportation, banking and financial services has increased the federal government's reliance on competition policy. Competition is now viewed as the means to strike an appropriate balance between the interests of large and small companies and between the interests of producers and consumers.

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### III. CANADA'S BUSINESS FRAMEWORK LAWS AND PROGRAMS

#### ■ **The Role of the Bureau of Corporate Affairs and Legislative Policy**

The Bureau of Corporate Affairs and Legislative Policy administers several laws that establish the rights, standards and obligations of business - - in other words, the framework within which business operates in Canada.

Business framework laws create the underlying order, predictability and fairness by which a prosperous marketplace must operate, and thereby help engender the confidence of consumers in the products they buy and the companies that produce them.

As the Government's *Prosperity Through Competitiveness* consultation paper states:

*"(The) long-term productivity and the competitiveness of Canadian-based firms depends on complementary and coherent laws and regulations governing the domestic marketplace... That means that framework and regulatory policies must meet their objectives, while at the same time enabling firms to compete successfully at home and abroad."*

#### ■ **The Bankruptcy Act**

Canada's *Bankruptcy Act* governs the orderly liquidation of assets when a business can no longer meet its financial obligations. It ensures that remaining assets are distributed fairly among creditors so those same assets can be returned to productive use. The *Bankruptcy Act* allows some insolvent companies protection from official bankruptcy while they reorganize their affairs and keep operating.

The Minister of Consumer and Corporate Affairs has put before Parliament amendments to the *Bankruptcy Act* that focus on restructuring insolvent firms and protecting wage earners. The amendments also require the *Bankruptcy Act* to be reviewed after three years.

Possible future reforms might cover insolvent international companies and environmental liabilities left behind by bankrupt companies.

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## ■ **The Canada Business Corporations Act**

The *Canada Business Corporations Act* sets forth the rules for establishing corporations, and provides a code of obligations and rights for management and shareholders.

The Act protects investors by requiring disclosure of certain financial records and guaranteeing certain voting procedures to ensure shareholder rights. Amendments to the Act will be tabled soon to clarify its provisions and make administration of the law less costly. The proposed changes would make corporate business law more uniform throughout Canada.

In addition, CCAC recently released a public discussion paper on insider trading. Two other discussion papers are being prepared, one on the take-over provisions of the Act and the other on investigative powers under the Act. All three documents reflect CCAC's intention to make the *Canada Business Corporations Act* more effective in promoting marketplace fairness and prosperity.

## ■ **Intellectual Property**

A modern nation's strength is determined in large measure by how effectively it can capitalize on its creative and innovative spirit. Prosperity in manufacturing is generated by invention and technological innovation. Prosperity is created also in service and entertainment industries such as publishing, broadcasting, advertising and the visual arts.

In short, the protection and information provided by a nation's intellectual property system is designed to foster and support its creative and innovative skills.

In Canada today, patents protect new devices and new processes. Copyright protects original works of literature, broadcasting, journalism, film, television, music, art, sound recording, advertising and computer programs. The appearance and design of a manufactured product may be registered as an industrial design.

In addition, registered trade-marks allow consumers to recognize readily the products of a particular company while preventing the use of that trade-mark by others.

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The Bureau of Corporate Affairs and Legislative Policy at Consumer and Corporate Affairs Canada is modernizing Canada's statutes on intellectual property. Major revisions to the *Patent Act* were made in 1987, and a first series of amendments to the *Copyright Act* was made jointly with the Department of Communications and approved in 1988. In addition, new legislation, the *Integrated Circuits Topography Act*, was introduced in 1990 to protect investments in this high technology sector.

A second series of amendments to the *Copyright Act* is needed to modernize the Act and address issues such as rental rights, neighbouring rights, audiovisual works and exceptions for libraries and educational institutions. These changes will encourage innovation and competitiveness in our key information industries. They will also facilitate research and learning, and reinforce national unity through cultural creativity. Canada will also be in a position to participate internationally in these areas by joining the Rome Convention on neighbouring rights and upgrading our membership in the Berne Convention on copyright.

Amendments related to protection of intellectual property are also planned through the proposed *Intellectual Property Improvement Act*. This proposed law would group together several amendments to the *Patent Act*, the *Trade-marks Act*, the *Industrial Design Act* and the *Copyright Act*. It would adjust Canadian statutes on intellectual property to enhance the legal framework necessary for the Canadian business community to innovate and prosper.

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Consumer and Corporate Affairs Canada also supports the effective use of intellectual property by offering the following services:

**Automation of the Patent Office**

Patent documents offer the most complete and current technical descriptions of state-of-the-art technologies. The Patent Automation Project, scheduled for completion in 1996, will make this technological information electronically accessible to firms and researchers throughout Canada.

**Patent Information Exploitation Program**

The Patent Information Exploitation Program provides state-of-the-art searches of patent documents to the clients of provincial research organizations, innovation centres, and similar groups. The Program helps Canadian firms be more competitive by informing them of existing technologies and putting them in touch with their creators and licensees.

**Public Education Program (PEP)**

PEP promotes the use of the intellectual property systems (patents, trade-marks, industrial designs, copyright, integrated circuit topographies) by Canadian entrepreneurs, business people and researchers. Information regarding the operations, benefits and obligations of intellectual property is provided to place Canadian enterprise in a position to better exploit opportunities nationally and internationally.

**Intellectual Property Advisory Committee**

The Bureau of Corporate Affairs and Legislative Policy relies heavily on advice from government departments and the private sector in drafting policy and legislation. For example, the Intellectual Property Advisory Committee, chaired by CCAC's Deputy Minister, has members from nine government departments and 18 private organizations concerned with intellectual property. Committee sub-groups are examining such issues as protection of integrated circuit designs, protection for lifeforms, research partnerships between government and the private sector, and world-wide harmonization of patent and trade-mark law under the aegis of the World Intellectual Property Organization.

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#### **IV. CONCLUSION**

Canadians are learning that, while we are indeed blessed with great natural and human resources, we are not guaranteed prosperity in this new, more competitive world.

Yet, while we indeed face new challenges, we have the tools to meet those challenges successfully. As Professor Michael E. Porter stated in *Canada at the Crossroads*:

*"If the current trajectory continues, the standard of living of Canadians seems destined to fall behind. Yet there is nothing inevitable about this outcome; Canadians have in their own hands the power to change it."*

In building Canada's prosperity through competitiveness, Consumer and Corporate Affairs Canada plays a central role. The legislation that it administers and the services that it offers ensures a competitive environment in the domestic marketplace.

Vigorous domestic competition, one of the keys to national competitiveness in the global marketplace, helps businesses be more efficient, productive, innovative, and responsive. This, in turn, helps make them more effective internationally, thereby contributing to Canada's prosperity.

Can we as a Department find better ways to achieve these goals? What further changes are required to our framework policies to address the competitive challenge facing industry? What changes should be made to our consumer policies and programs to ensure consumers are demanding? We invite your suggestions and your comments during the "Prosperity Through Competitiveness" consultation process.

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