CANADIAN ANTI-MONOPOLY PROJECT

CAMP submission to the Department of Finance consultation on RBC's proposed acquisition of HSBC Canada

July 6, 2023

The Canadian Anti-Monopoly Project (CAMP) welcomes the Department of Finance's consultation on this important proposed transaction.

A competitive banking sector is the bedrock of a free, fair and democratic economy, responsible for safekeeping the savings of Canadians, providing pathways to home ownership, and opportunities for entrepreneurs to start and grow their businesses. The Minister of Finance's jurisdiction over bank mergers reflects the importance of the sector to the Canadian economy and the public interest considerations at play beyond the traditional bounds of competition policy.

CAMP is opposed to the acquisition of HSBC Canada by RBC on the grounds that it will reduce competition and choice in banking when Canadians need it most. The acquisition of HSBC Canada by RBC would remove an aggressive competitor leading to higher prices, fewer options and lower service quality for Canadian savers, homeowners and small businesses. Amid a growing housing affordability crisis and persistent economic uncertainty Canadians need a more competitive banking sector more than ever.

In response to this consultation, CAMP wishes to stress three points in its opposition to the proposed transaction:

- Canadians are seeing record mortgage payment increases as more borrowers refinance in a higher interest rate environment. In this economic climate, the loss of HSBC Canada, an aggressive and consistent competitor in the residential mortgage space, would worsen the ongoing housing affordability crisis.
- Small businesses, still recovering from the consequences of the COVID-19 pandemic, depend on a competitive banking market to operate and expand their businesses. Feedback from the small business community in Canada shows a lack of competition in Canada's concentrated banking market, a situation that will only intensify with the removal of HSBC Canada.
- Canada's permissive merger enforcement framework alone cannot be relied upon to adequately protect competition absent intervention on the part of the Minister

Preserving HSBC Canada's Aggressive Competition in the Residential Mortgage Market

Canadians have endured one of the greatest increases in the cost of living in decades, and in no area has this stress been more pronounced than in the housing market. With Canadians already buckling under record mortgage payments, the Bank of Canada's most recent Financial System Review suggests that the median mortgage payment is set to rise a further 20% as more Canadians refinance in a higher interest rate environment. At time of writing, as inflation cools in other areas of the economy, mortgage interest is now the greatest contributor to inflation.

In the context of extreme cost of living pressures and rising interest rates, competition is all the more important to deliver lower prices and higher quality service for all Canadians.

Although HSBC Canada holds a small national market share it is a consistently aggressive competitor in the residential mortgage market. Canadian mortgage expert Rob McLister notes that "never in my 15 years of watching interest rates have I seen a lender spur mortgage competition like HSBC's Canadian unit." McLister highlights the role that a smaller but consistently aggressive competitor can play in disrupting oligopoly markets. By differentiating itself with aggressive rates that other major banks are unwilling to match publicly, HSBC Canada benefits not only its own customers, but the customers of the other major banks as well. Without the threat of walking away for a more attractive offer from competitors like HSBC Canada, customers of Canada's major banks will have less leverage when their existing mortgages come up for refinancing.

HSBC Canada's physical branch presence is concentrated in British Columbia's Lower Mainland and the Greater Toronto Area, two hotspots of Canada's housing affordability crisis, with benchmark home prices currently hovering at $1.1 million as of May 2023. The current difference in posted rates between RBC and HSBC for a five year fixed mortgage is 80 basis points which could translate to over $30,000 in additional interest paid over the life of the mortgage. These aggressive public rates give prospective and current borrowers a foothold that allows them to bargain for better rates from other financial institutions.

As more Canadians are exposed to the higher interest rate environment, the Minister has an opportunity to make a steadfast defence of competition when homeowners need it most.

Protecting HSBC Canada's Contribution to Small Business Banking

Small businesses in Canada, still recovering from the consequences of the COVID-19 pandemic, have had to weather rising costs of goods and services along with increased interest rates for the financing that allows them to sustain and grow their businesses.

A competitive banking market allows small businesses to operate efficiently and provides a range of options for access to credit. Unfortunately, there are indicators that much needed competition is lacking in Canada's small business market. In a recent survey of over 1,000 small business owners conducted by the Save Small Business Coalition, less than 30% of small businesses surveyed reported that it was easy to switch banking services, and more than 70% felt that banks were abusing their power through higher prices and unfair contract terms. A follow-up survey focused on the proposed RBC-HSBC Canada purchase found that out of 110 respondents, more than 60% felt the transaction would have a negative or strongly negative impact on Canadian small businesses, with current and former HSBC Canada customers pointing to product price and customer service as top reasons for banking with the institution.

Of the major Canadian banks, RBC is already the most prominent in the small business banking space. Across effectively every product category, RBC has the highest primary financial institution market share across small businesses surveyed by the Canadian Federation of Independent Small Businesses (CFIB). Assuming RBC has earned this market share through aggressive competition, it should maintain that position that very same aggressive competition instead of the acquisition of competitors.

The proposed acquisition of HSBC Canada by RBC is an opportunity for the Minister to defend the interests of small businesses across Canada by preserving a source of competitive intensity.

The Opportunity for the Minister of Finance to Protect Competition in Banking

Unfortunately, in its current form, Canada's competition law devalues the role that small but aggressive competitors can play in disrupting oligopolies where no individual player is uniquely dominant. Canada's merger law focuses only on transactions that result in a "substantial lessening or prevention of competition", which means our law cannot be relied on to identify the potential for harm present in RBC-HSBC Canada, most recently evidenced in the outcome of the Rogers-Shaw merger. Canada's competition law also misses important dimensions of competition at play in the proposed transaction outside the traditional bounds of competition law. As other groups have raised, there are notable differences in RBC and HSBC Canada's sustainability commitments, factors likely to be ignored by competition law but relevant to public interest consideration.

In the context of a permissive merger regime that undervalues the contributions of smaller but aggressive competitors and ignores important issues outside the traditional bounds of competition law, the Minister has an opportunity to use the public interest lens to look beyond the narrow confines of competition law analysis. That broader public interest lens should include consideration of HSBC Canada's contribution to lessening the burden on Canadian homeowners, preserving a competitive option for small businesses, and other important points of competitive differentiation between the two institutions. By bringing that lens to bear, the Minister can protect competition and the range of benefits it brings to Canadians where Canada's narrow competition laws cannot.

Conclusion

With the proposed acquisition of HSBC Canada by RBC the Minister of Finance has an opportunity to protect competition in one of the most vital markets of the Canadian economy. Allowing the acquisition to proceed would remove a unique and meaningful competitor that has consistently differentiated itself from the rest of Canada's oligopoly banking market. Rejecting the deal would maintain a competitive option for struggling homeowners and preserve access to credit and services for small businesses continuing to struggle in the wake of the pandemic. Though the scale of the transaction is very different from the proposed bank mergers in the 1990s that then Minister of Finance Paul Martin rejected, the underlying logic remains the same: Canadians deserve a more competitive banking sector.

CAMP welcomes the Department of Finance's efforts to bring the public into its evaluation of this important proposed transaction and is ready to assist in whatever way possible.