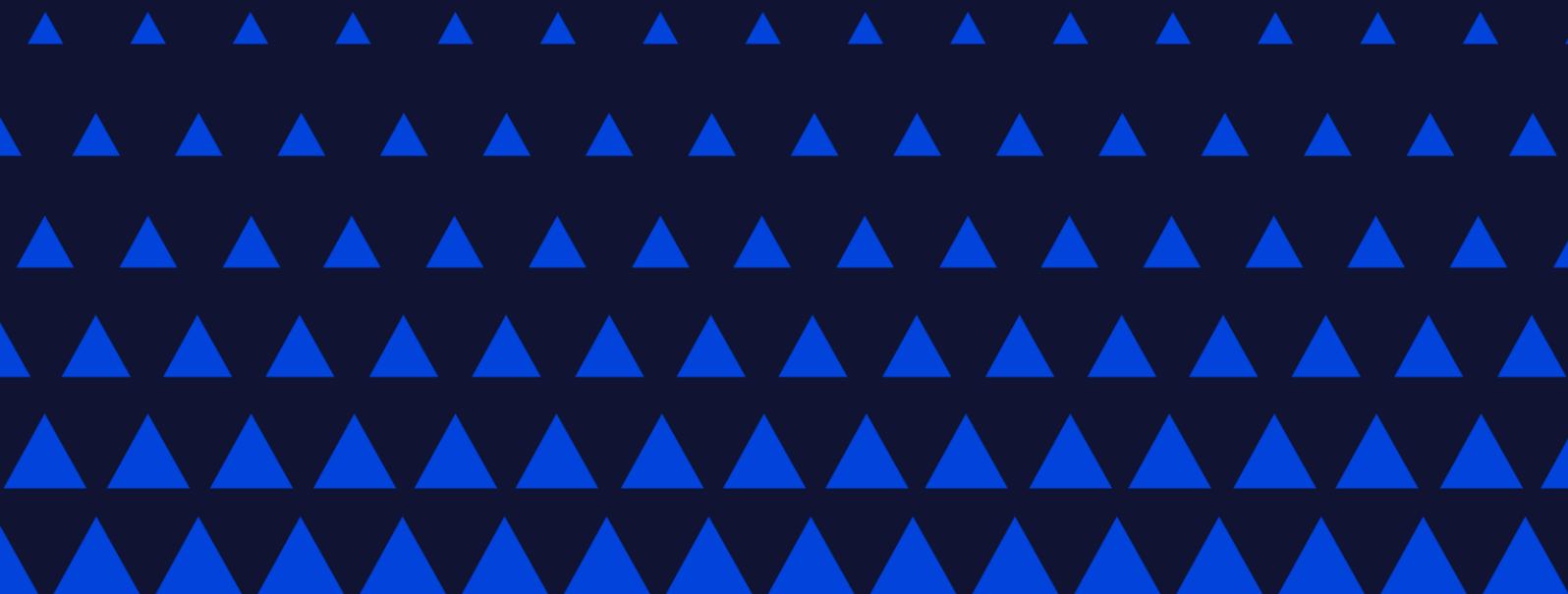


# Protecting Competition in Artificial Intelligence

**Response to the Competition**

**Bureau's Call for Information**



The Canadian Anti-Monopoly Project (CAMP) welcomes the Competition Bureau's call for information on the markets for artificial intelligence (AI). Just as important as tackling existing monopolies in the Canadian economy, the Competition Bureau should also prevent the development of monopolies in the first place. To do so, the Competition Bureau must maintain a current understanding of market conditions, especially in rapidly evolving markets.

AI appears to have the potential to act as a democratizing force in digital markets which show signs of stagnation and concentration of economic power. Preserving this potential is important to ensuring the next generation of digital markets are more vibrant and competitive than those that have come before them.

Successful startups have shown that small, innovative firms can develop AI capabilities rivaling those of tech giants with exponentially more resources. However, the familiar faces in digital markets like Google, Microsoft and Amazon maintain significant control over the resources required to develop AI systems. Leaving control of these resources to tech giants, many of whom are already under antitrust scrutiny today at home and internationally, risks undercutting the disruptive potential of AI, and reaffirming or even exacerbating already established market dominance.

The possible harms of allowing these same companies to dominate the burgeoning AI market to entrench and extend their reach are tremendous. For example, AI shows potential to improve many aspects of healthcare, [from diagnosis to treatment recommendations, to administrative tasks](#). Diverse and competitive markets will be key to ensuring that these kinds of innovations are realized, and their benefits are widespread.

Unlike in established markets where the presence of oligopoly is already causing harm, the emerging markets for AI capabilities represent an opportunity to prevent the harms of consolidation proactively. A better understanding of the competitive dynamics of the markets for AI today is necessary to avoid future domination of these markets by a small handful of firms.

To protect and promote competition in the markets for AI, CAMP urges the Competition Bureau to:

- Use its market study powers to assess the state of competition of the markets for AI
- Investigate whether partnerships with upstart AI firms are providing major tech firms with undue influence and if these partnerships constitute acquisitions by stealth
- Better understand how AI capabilities can be used to engage in anticompetitive conduct

## Use New Market Study Powers to Better Understand Emerging AI Market

Though outreach to market participants and engagement with the public is a good first step, there is a limit to the knowledge that can be acquired through these processes, as the Bureau itself [has noted](#). The Bureau should follow the lead of international peers and take the opportunity to put to work the new market study powers granted by Bill C-56 to better understand competitive dynamics in the emerging markets in the AI value chain. Market studies are an important tool not just for understanding the effects of long-established monopolies but also the dynamic of emerging markets, to prevent those markets from trending towards consolidation.

The Bureau, like other international competition authorities, cannot allow the same pattern we have seen play out in critical digital markets over the past 20 years to repeat in the markets for AI. Studying the role being played by major technology incumbents in shaping the future of AI would be an important preventative measure to avoid being blindsided by the entrenchment of new monopolies in the future.

For example, AI development depends on resources controlled by the same firms currently dominating prominent digital markets. Public information suggests that compute expenses account for [as much as 80% of the costs](#) of operating an AI start up. As work by the [Open Markets Institute](#) and [AI NOW Institute](#) shows, dominant technology firms occupy leading positions across compute resources, semiconductor, and data access links in the AI value chain. This means not only that these high compute expenses reinforce existing market power, but also that these firms have a direct interest in shaping the future development of AI. The Bureau should use its market study powers to understand each segment of the AI value chain and any emerging economic bottlenecks that might already be distorting competition.

## Ensure AI partnerships with dominant tech firms are not acquisitions by stealth

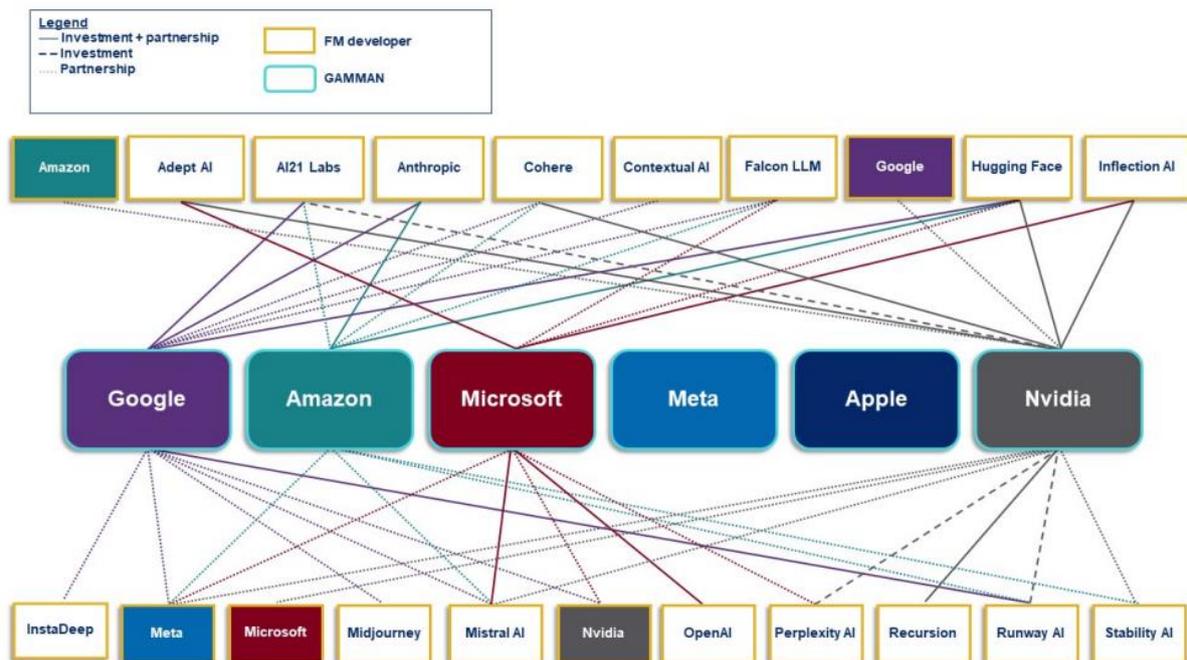
Smaller upstart companies like OpenAI, Mistral and Cohere have showcased the ability to innovate and leapfrog the efforts of more established rivals in the development of AI capabilities. Around the world, new companies have developed applications with capabilities rivaling those of the digital giants, forcing incumbents to invest more resources to compete and continuously improve their own products.

But these developments mask the level of interconnectedness between new firms building the future of AI and the companies that have come to dominate digital markets. The development of AI has been characterized by several high-profile investments and partnerships between dominant tech firms and emerging AI companies, including:

- Microsoft’s “multi-billion dollar, multi-year” investments in both OpenAI and Mistral
- Amazon’s \$4 billion investment in Anthropic and undisclosed investment in Hugging Face
- Google’s investments in Hugging Face, Anthropic and Runway
- Apple’s distribution partnership with OpenAI to integrate ChatGPT into its platforms

These investments represent only a small sample of the complex web of relationships between emerging AI firms and dominant digital players. In their recent report, the UK Competition and Markets Authority illustrated the extent of these partnerships between AI upstarts and dominant tech firms.

**Figure 5 – Relationships between GAMMAN and FM developers<sup>29</sup>**



Source: UK CMA, AI Foundation Models: Update paper

We have already seen evidence that these funding relationships come with a high degree of indirect control over the governance of AI startups. This was most recently on display with the [rapid firing and rehiring](#) of OpenAI CEO Sam Altman and the influence played throughout the process by Microsoft CEO Satya Nadella.

The Bureau's [merger guidelines](#) lay out several factors for determining whether an organization or individual has control or a significant interest in another company, including "influence over the selection of management or of members of key board committees" and the "practical extent to which the acquirer can otherwise impose pressure on the business's decision-making processes." These factors suggest grounds for examining whether these partnerships serve as acquisitions by stealth of the innovative firms that could make up the future competitive landscape. The Bureau should be vigilant for tactics by already dominant firms to avoid scrutiny while attempting to extend their dominance into other critical markets.

## Uncover how AI tools facilitate anticompetitive conduct

While promoting competition in the markets for the development of AI is important, it is equally important to ensure that the capabilities enabled by AI do not facilitate the familiar anticompetitive conduct that the *Competition Act* is designed to prevent. As a law of general application, the *Competition Act* must be able to address and deter conduct that harms competition, no matter the capability or technology used to engage in it.

While much of the recent dialogue around AI relates to popular leading-edge consumer facing products like generative AI and Large Language Models (LLMs), other forms of AI, such as automated pricing algorithms have the potential to enable anti-competitive practices.

In their [2021 study](#) of pricing outcomes in German retail gasoline markets, Bank of Canada economists found that algorithmic pricing software could increase margins when adopted by both players in duopoly markets. The ongoing investigation and suits against [RealPage](#) in the U.S. provides another example of how algorithmic pricing can facilitate anticompetitive outcomes even in markets with concentration levels much lower than the typical abuse of dominance or collusion case.

Part of the Bureau's study of the markets for AI should include how these capabilities might be used to engage in anticompetitive behaviour. Should the study identify limitations in the *Competition Act* that might prevent the Bureau

from acting decisively against AI-facilitated anticompetitive conduct those limitations should be clearly communicated to lawmakers. Algorithmically facilitated collusion is collusion, and Canadians deserve to be protected from it.

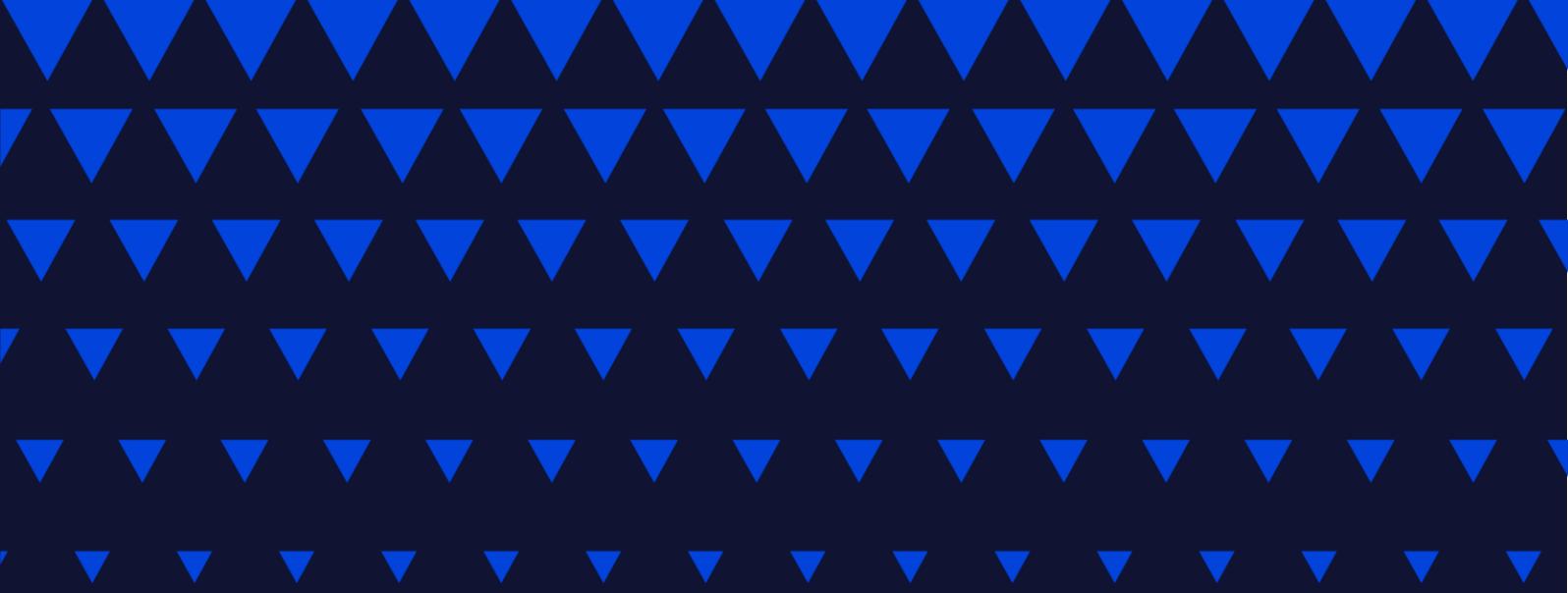
That the above examples reflect relatively rudimentary implementations of AI suggests that the sophistication of these systems and their ability to engage in problematic conduct undetected is only set to increase. Already, more advanced AI systems hold the potential for violations of Canada's competition law, particularly those against deceptive marketing. As the ability of AI to impersonate humans increases, the Bureau should explore how these capabilities might enhance the ability of bad actors to distort competition and deceive consumers.

As part of its work protecting Canadians against deceptive marketing practices the Bureau should work with other institutions of the federal government to inform action against the broader harms that might arise from AI-assisted impersonation. Threats to public safety and democracy are not the responsibility of the Competition Bureau, but like the value of a diverse news marketplace for the health of our democracy, the potential intersection of the Bureau's mandate to promote and protect competition and other important policy goals should not be discounted.

## **Conclusion**

CAMP welcomes the Bureau's attention on the emerging markets for AI and its recognition of the importance of keeping pace with rapidly evolving markets. Though still early days, the markets for AI hold promise for unseating the dominant firms that have characterized the last iteration of digital markets. But there are already signs emerging that the power that has been allowed to accumulate in digital markets will play out again in the evolution of AI.

The Bureau must not repeat the past mistakes of competition authorities around the world in being blinded to the dangers of monopoly in the context of rapid innovation and invention. Breaking with Canada's pro-monopoly past, Canadians have given the Bureau the tools to keep ahead of developing market trends instead of simply playing catch up. AI markets provide an opportunity to put those tools to work.



**CAMP**

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