

CANADIAN
ANTI-MONOPOLY PROJECT

**CAMP submission to the Competition
Bureau's request for information (RFI)
related to RBC's proposed acquisition
of HSBC Canada**



The Canadian Anti-Monopoly Project (CAMP) welcomes the Competition Bureau's public call for market participants to provide information into the review of this important 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 acquisition of HSBC Canada by RBC would remove an aggressive competitor and further entrench an incumbent in Canada's oligopoly banking market. Amid a housing affordability crisis and persistent economic uncertainty, Canadians need a more, not less, competitive banking sector.

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

- Already experiencing a widespread cost of living crisis, Canadians are set to see already record mortgage payments increase as more borrowers refinance in a higher interest rate environment. In this economic climate, the presence of HSBC Canada, an aggressive and consistent competitor in the mortgage space, is set to become even more important.
- 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 demonstrates a lack of competition in Canada's concentrated banking market, a situation that will only intensify with the removal of HSBC Canada.
- The Bureau's public request for information is a positive and important step to improving the transparency of the organization and ensuring those most affected by mergers can provide input into the review process. With that in mind, the current 30 day window may not be sufficient for Canadians to participate fully.

The Role of Smaller Competitors in Canada's Mortgage Market

Canadians have experienced one of the greatest increases in the cost of living in our lifetime, and in no area has this stress been more pronounced than Canada's housing market. Already buckling under current 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 the higher interest rate environment.

In an environment of extreme cost of living pressures and higher interest rates, competition from all sources is all the more important.

Although HSBC Canada holds a small national market share, it consistently competes aggressively in the consumer 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 aggressive competitor can play in disrupting oligopoly markets. By differentiating itself with

aggressive rates that the Big Six 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 a more attractive offer from competitors like HSBC Canada, customers of the Big Six will have less leverage when their existing mortgages come up for refinancing.

Beyond its aggressive pricing, HSBC Canada is unique as the subsidiary of a global bank, offering a unique value proposition to internationally-focused customers. HSBC Canada's physical presence is also concentrated in British Columbia's Lower Mainland and the Greater Toronto Area, two hotspots of Canada's housing affordability crisis, where the differential in posted RBC and HSBC Canada mortgage rates can add up to \$30,000 in additional interest paid on the average home over a five year mortgage.

Unfortunately, Canada's competition law devalues the role that smaller competitors can play, especially when disrupting oligopolies where no particular player may be individually dominant. The Bureau makes the situation worse through its self-imposed merger enforcement [guidelines](#), creating a "safe harbour" threshold for mergers resulting in below a combined 35% market share. An example of Canada's lax merger enforcement, the Bureau's safe harbour threshold is above the 30% presumptive illegality threshold established in the [Philadelphia National Bank](#) case before the US Supreme Court. Though a broader issue than just RBC-HSBC Canada, the transaction is an opportunity to demonstrate that the Bureau takes the role of smaller competitors seriously, and in the future should amend its merger enforcement guidelines accordingly.

As more and more Canadians are exposed to the pressures of a higher interest rate environment, the Bureau needs to make a steadfast defense of competition, departing from the received wisdom that has driven Canada's ineffective merger law.

Removing an Option for Small Business Banking

Small businesses in Canada, still recovering from the consequences of the COVID-19 pandemic, have had to weather rising cost 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 signs that Canada's banking sector is not delivering much-needed competition to the small business market. In a recent [survey](#) 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 increased prices and unfair contract terms. Half of the respondents to the same survey agreed that it was harder for them to succeed as a result of market consolidation, and 63% of those small businesses surveyed agreed that the Competition Bureau should be more active in preventing mergers in their industries.

Of the Big Six 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 competition on the merits, this position should be maintained by competition on the merits instead of the acquisition of competitors.

As in the mortgage market, the role of the Bureau should be to protect and increase competition in the small business banking sector, rather than allow it to be reduced, something the Bureau has consistently supported through its [advocacy](#) on open banking and innovation in the financial technology space.

Public Requests for Information

The Bureau's public requests for information, not limited to RBC-HSBC Canada, is a welcome sign that the organization is willing to ask the Canadian public for their input into its ongoing reviews and investigations. Unlike the Competition and Markets Authority (CMA) in the UK, the Bureau's investigative process is a black box for Canadians, with little opportunity for everyday consumers, producers and workers to provide input. Combined with its [public confirmation](#) of its review of the transaction, the RFI is an important step to bringing Canadians into the competition law process.

While a positive step, the Bureau should look to extend the time period for future public RFIs to ensure that Canadians are given adequate time to provide their perspective. Understanding that the Bureau is working under tight timelines and often with the merging parties as a constraint, longer RFI periods, potentially beginning earlier in the Bureau's review, would ensure a broader range of relevant information is brought to the Bureau's attention, and that all affected Canadians have the opportunity to provide their perspective. In future reform of the *Competition Act*, the government should consider building in a dedicated public comment period to transactions that affect a material number of Canadians.

Conclusion

With the proposed acquisition of HSBC Canada by RBC the Competition Bureau 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. Today Canadians need a more, not less, competitive banking sector as they navigate the economic headwinds of the recent and coming years. CAMP welcomes the Bureau's continued efforts to bring the public into its merger enforcement process and is ready to assist in whatever way possible.