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301 Wellington Street
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41489 - Lilleyman v. Tri-Union Seafoods LLC, et al. – CAMP intention to intervene if leave is granted

By this letter, the [Canadian Anti-Monopoly Project \(CAMP\)](#) seeks to support the application for leave to appeal of the proposed Appellant Vanessa Lilleyman as raising issues of public importance concern the test for certification of class proceeding in a case alleging a price fixing conspiracy which has harmed Canadian consumers.

CAMP is a non-profit think tank focused on addressing the consequences of monopoly in the Canadian economy and building a more free, fair, and democratic economy. The mandate of CAMP is to conduct research, education and advocacy in support of policy that fosters fair competition and protects consumers, entrepreneurs and workers.

CAMP meets this mandate across several fronts. CAMP has made material contributions to the [strengthening of Canadian competition policy](#), a key underutilized lever for protecting consumers. Beyond competition policy, CAMP has advocated for pro-competition approaches to key economic policy areas such as [financial regulation](#). CAMP has also conducted and published research on the state of [monopoly in the Canadian food system](#) and its costs to producers and consumers.

Three points reflect the public importance of the issues raised in this proposed appeal. First, there is ample evidence that a generalized concern about price-fixing is well-founded in Canada, ranging from the ongoing litigation regarding the bread price-fixing scandal to the Competition Bureau investigation underway into algorithmic price-fixing in the retail gasoline market.¹ A primary consequence of anti-competitive behaviour such as price-fixing is inflated prices for consumers. Amid an affordability crisis, with a record number of Canadians experiencing food

¹ CBC, [Canada Bread agrees to \\$50M fine for role in bread price-fixing scandal](#) (2023)
Competition Bureau Canada, [Competition Bureau advances an investigation into Kalibrate's gas pricing services](#) (2024)



insecurity, addressing conduct that artificially inflates the cost of living is of utmost importance.² Accordingly, the application's potential to prevent a narrowing of the scope of legal tools to combat price fixing is relevant to Canadian consumers and the goal of fair competition in our economy.

Second, price-fixing frequently extends beyond the borders of a single national jurisdiction. Markets across the food system are characterized by multinational companies with global operations, and management decisions taken in one jurisdiction can have effects well beyond the borders of that jurisdiction. Examples of trans-national cartels include the infamous lysine price-fixing conspiracy between the agribusiness companies Archer Daniels Midland (ADM), Ajinomoto, Kyowa Hakko Kogyo, Sewon America Inc. and Cheil Jedang Ltd.³ Though the primary antitrust effort was American, buyers of lysine in both the United States and Canada were able to recover damages from the conduct. Given their potential transnational nature, the content of the application has important implications for the future pursuit of cartels that implicate Canadian consumers but are initiated or discovered outside our own borders.

Finally, in recent amendments to the federal *Competition Act* in both 2022 and 2024, Parliament affirmed and expanded the role of private parties in seeking redress from anti-competitive conduct in all its forms.⁴ As this court has recognized in *Pioneer Corp v Godfrey*, private enforcement of the *Competition Act*, including class actions, is an important complement to public competition law enforcement.⁵ Indeed, because the effects of price fixing are often widely distributed, class actions may be the only practicable way for consumers to obtain redress.⁶ By expanding the range of conduct available to private access and lowering the standard for leave to the Competition Tribunal, parliamentarians sent a clear signal that they intend for private access to play a larger role in the future development of the body of competition law. Any decision with the potential to instead narrow that role is worth serious consideration. If the bar for certification of price fixing class proceedings is set too high, this could frustrate the ability of consumers to seek redress and to provide an effective and complementary deterrent to dissuade anti-competitive trans-national conspiracies.

Given the foregoing, CAMP respectfully submits that leave should be granted. CAMP would seek to intervene on the appeal if leave is granted.

² Statistics Canada, [Canadians are facing higher levels of food insecurity](#) (2024)

³ United States Department of Justice, [Former Top ADM Executives, Japanese Executive, Indicted in Lysine Price Fixing Conspiracy](#) (1996)

⁴ Competition Bureau Canada, [Guide to the 2022 amendments to the *Competition Act*](#) (2022)

Competition Bureau Canada, [Guide to the June 2024 amendments to the *Competition Act*](#) (2024)

⁵ 2019 SCC 42 at para 65

⁶ See eg *Vitapharm Canada Ltd v F Hoffman-La Roche Ltd* (2005), 74 OR (2d) 758 (SC) at paras. 34 and 36.