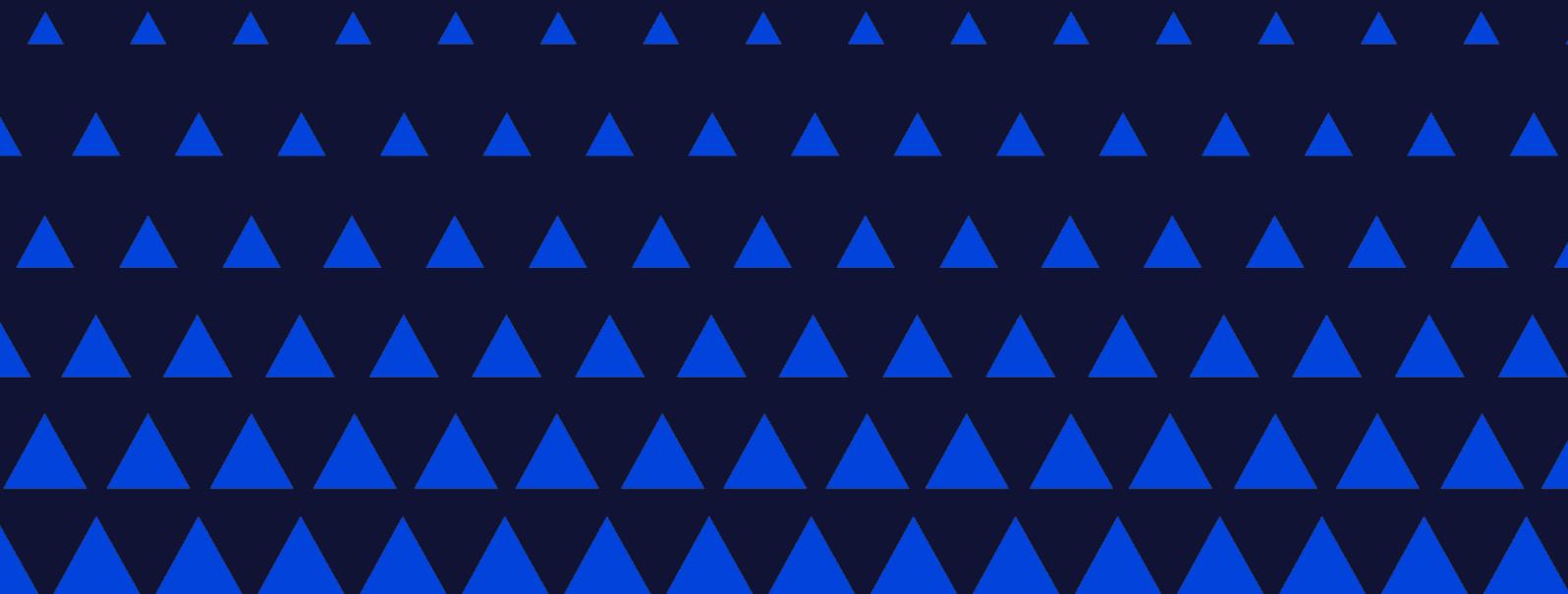


— CAMP Submission to the
Competition Bureau's
Proposed Anti-Competitive
Conduct and Agreements
Enforcement Guidelines

January 29, 2026



About CAMP

The Canadian Anti-Monopoly Project (CAMP) is a think tank dedicated to addressing the issue of monopoly power in Canada and around the world. CAMP produces research and advocates for policy to make the Canadian economy more fair, free, and democratic.

Introduction

CAMP welcomes the opportunity to comment on the Competition Bureau's anti-competitive conduct and agreements enforcement guidelines (ACCA). The *Competition Act's* conduct provisions are an important tool to shape the flow of fair competition in Canada. Accordingly, clear guidelines are important for providing guidance to both businesses and the public on what is and is not considered acceptable conduct in the market.

Canada's anti-competitive conduct and agreement provisions have been underutilized, with years-long gaps between litigated abuse of dominance cases as just one example of this. It is CAMP's hope that the proposed enforcement guidelines follow the intent of recent amendments to the *Competition Act* and signal a shift towards more active and assertive enforcement of these provisions. With that in mind, CAMP's feedback can be summarized as follows:

- A unified, conduct-first approach is welcome, breaking down unhelpful distinctions between different varieties of potentially harmful conduct
- References to temporary orders is a positive development, with the potential for more detail on when the Bureau will make use of these orders
- The removal of safe harbour language present in previous guidance is an improvement but clarity that an enforcement gap does not exist at lower levels of market concentration would be helpful
- The use of anti-competitive conduct and agreements provisions to address serial acquisitions is an important addition to the guidelines

Moving Towards a Conduct-First Approach

In contrast to the approaches taken by our peers in the U.S. and E.U., Canada's *Competition Act* draws several distinctions between varieties of anti-competitive conduct, resulting in a thicket of tests and criteria for individuals or businesses on either side of a competition issue to navigate. Canada's competition law enforcement should focus on putting a stop to anti-competitive conduct in whatever form it takes rather than addressing conduct that fits best into the analytic frameworks laid out in a specific provision.

CAMP welcomes the move to unify the guidance across provisions against anti-competitive conduct and agreements and the signal that multiple provisions of the *Competition Act* will be used to pursue conduct where appropriate. CAMP hopes this signals a shift away from enforcement against conduct that fits neatly into the confines of a given provision and towards the use of all available enforcement tools to pursue anti-competitive conduct in all its forms.

Shifting to Faster Resolution of Competition Issues

CAMP is glad to see references to the use of temporary orders to pause conduct or agreements under investigation or the subject of an application to the

Competition Tribunal.¹ Greater use of temporary orders would increase the incentives for companies to reach faster resolution of competition law investigations either to remove temporary orders or receive clarity on whether conduct is offside the *Competition Act*. Recognizing that competition law investigations are complex processes, the current time from inception to resolution is an issue for the credibility and efficacy of Canadian competition law.

To reference just one example, the ongoing Google online advertising case will be heard by the Competition Tribunal in January 2027, more than five years after the first court order against the company was announced.² In the time since, enforcers and courts in other jurisdictions have identified harms arising from substantially the same conduct under investigation in Canada.

Normalizing the use of temporary orders is one way the Bureau can increase the pace of competition law enforcement and deliver benefits and clarity to Canadians faster. More detail on the situations in which the Bureau would pursue temporary or interim remedies would be a positive development.

Modernizing Our Understanding of Market Power and Dominance

Recent amendments to Canada's competition law have expanded the scope of enforcement and pushed back against outdated blind spots in enforcement. Reflecting that shift, CAMP is glad to see the removal of safe harbour language from previous guidance that may have limited the ability of the law to reach otherwise harmful anti-competitive conduct or agreements.³ CAMP also welcomes the broadening of the concept of exclusion to consider the ability to exclude as a direct indicator of market power and to include conduct that makes competitors less effective to the detriment of competition in the market.⁴

While the Bureau notes that a firm or group of firms is more likely to have market power if their market share is more than 30 percent, a reduction from references

¹ Competition Bureau, Anti-competitive Conduct and Agreements Enforcement Guidelines (2025)

5 Remedies

<https://competition-bureau.canada.ca/en/how-we-foster-competition/consultations/anti-competitive-conduct-and-agreements#sec05>

² Competition Bureau, Competition Bureau obtains court order to advance an investigation of Google

<https://www.canada.ca/en/competition-bureau/news/2021/10/competition-bureau-obtains-court-order-to-advance-an-investigation-of-google.html>

³ Competition Bureau, Competitor Collaboration Guidelines (2021)

3.4.2 Market Shares

<https://competition-bureau.canada.ca/en/how-we-foster-competition/education-and-outreach/competitor-collaboration-guidelines#sec03-4>

⁴ Competition Bureau, Anti-competitive Conduct and Agreements Enforcement Guidelines (2025)

3.1 Exclusion

<https://competition-bureau.canada.ca/en/how-we-foster-competition/consultations/anti-competitive-conduct-and-agreements#sec03-1>

to 35 percent in previous guidance, the proposed guidance maintains the threshold of 50 percent for single firm dominance and 65 percent for joint dominance. With the rebuttable presumptions under the merger provisions of the *Competition Act* as a guide and aligning with the goal of a unified approach across provisions, the Bureau should be clear that an enforcement gap does not exist against anti-competitive conduct or agreements below the single firm or joint dominance market share screens.

Challenging Serial Acquisitions

CAMP welcomes reference to serial acquisitions and the potential for the anti-competitive conduct or agreements provisions to address the issue.⁵ Serial or creeping acquisitions, a series of acquisitions which when combined may result in harms to competition, remain a blind spot for Canadian merger law. Reporting and research in Canada document the consolidation of once fragmented and predominantly owner-operated industries where individual acquisitions would not trigger pre-merger notification or merit investigation in the past.⁶

Canadians deserve competition in these markets regardless of the form consolidation takes. It is important that the Bureau remain clear that these other enforcement avenues are available for the agency to address acquisitions with the potential to harm competition.

Conclusion

CAMP welcomes the opportunity to contribute to the development of the Bureau's enforcement guidance. Overall, the proposed guidance is a positive step that reflects the spirit and intent of recent amendments to the *Competition Act*. Though room for improvement exists, CAMP encourages the Bureau to move quickly to adopt the proposed form and content of the guidance.

Going forward, CAMP hopes this refresh of the Bureau's enforcement guidance represents a shift towards a more frequent updating of the agency's guidance to reflect the ongoing evolution of case law, research and policy activity on the topic of competition and monopoly.

⁵ Competition Bureau, Anti-competitive Conduct and Agreements Enforcement Guidelines (2025)

8.1 Intersection with the merger provisions

<https://competition-bureau.canada.ca/en/how-we-foster-competition/consultations/anti-competitive-conduct-and-agreements#sec08-1>

⁶ Canadian Anti-Monopoly Project (CAMP), The Private Equity Playbook (2004)

<https://antimonopoly.ca/wp-content/uploads/2024/11/CAMP-PRIVATE-EQUITY-PLAYBOOK-FINAL.pdf>