CANADIAN
ANTI-MONOPOLY PROJECT

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CAMP SUBMISSION TO THE DEPARTMENT OF FINANCE'S WHOLE-OF-GOVERNMENT COMPETITION PLAN

AT A GLANCE

01

Give departments an affirmative mandate to address public and private barriers to competition.

02

Establish a standing Competition Council that operates in public, with a scorecard.

03

Use federal procurement and industrial policy as deliberate drivers of competition.

Introduction

CAMP welcomes efforts to create a whole-of-government competition plan. A whole-of-government approach means treating competition as a shared responsibility across federal departments, rather than an issue confined to the Competition Bureau or a single piece of legislation.

In practice, it would require departments to consider how their rules, spending and policy choices either open markets to new entrants or reinforce the position of dominant firms. Competition has been on the sidelines of policy discussions for decades in Canada, and the health of the economy has suffered as a result. Other countries like the U.S. have shown that a unified approach to competition across government can be a powerful tool in disrupting the power of entrenched incumbents.

But for the plan to succeed, three things must be true.

> **Competition enables other economic goals — it does not trade against them**
> A foundational assumption of Canada's competition policy for four decades was that competition was something to be traded off for other goals like economic efficiency. This assumption has proven false. Across the goals of affordability, productivity, and resilience, a stronger stance on competition is the answer.

Government shapes how and what kind of competition occurs

Rather than simply getting out of the way, government has an affirmative role to play in promoting competition in the Canadian economy. The effort to open competition in Canada's financial sector is an excellent example of the need for policy action to break open markets dominated by incumbents.

The plan cannot be a one-shot review

The inability of countless red tape reviews at the federal, provincial, and municipal level to arrest the weakening state of competition in Canada highlights the limitation of this approach. Instead, a whole-of-government approach should be understood as a continuous operating posture, with institutional mechanisms to support ongoing effort, monitoring, and accountability for all those involved.

With these points in mind, CAMP makes three recommendations to improve the likelihood that this worthwhile effort is successful.

1 RECOMMENDATION

Give federal departments an affirmative mandate to address private and public barriers to competition

Federal departments are only responsible for the scope of their mandates. Without an affirmative mandate to promote competition, the task will always be second to the other goals in a department's mandate. Whatever the mechanism, promoting competition should be incorporated into the mandates of federal government departments. This kind of mandate should not take the form of an additional review layer on top of regulatory action, adding delay and complexity to existing processes. Instead, a mandate to promote competition should be the frame applied to the work of the department.

Importantly, the mandates should require departments to look both inward and outward: inward at the rules and regulations within a department's purview and their effect on competition, and outward at the practices occurring within markets that are hindering competition. Ensuring that departments have a role in addressing both public and private barriers to competition increases the likelihood that they will succeed at the task.

The first step in this process will be building a deeper understanding of the state of competition in the various markets that fall within their respective domains. Many of the markets where incumbents are most entrenched are black boxes to the government and public. Partnering with Statistics Canada or requesting information-gathering powers where appropriate, federal departments must build a detailed and ongoing evidence base on the state of competition within their remit.

2

RECOMMENDATION

Establish a Competition Council that operates in public

Making good on these new mandates will require a mechanism to maintain this operating posture and avoid falling into the trap of previous ineffective regulatory reviews. In executing a whole-of-government competition plan, the Government of Canada should establish a body responsible for monitoring progress and providing accountability for performance against these goals.

Chaired by either the Privy Council Office or Finance Canada, the government should establish a standing Competition Council comprised of senior leadership from all relevant federal departments. The function of the Council will be to create a lightweight body responsible for tracking progress on pro-competition mandates across departments and create the opportunity for departments to share learnings with one another. While monitoring by a small secretariat associated with the Council should be ongoing, the Council itself should meet on an annual basis.

THE COUNCIL IN PUBLIC

- Readouts of the annual Council meetings made public.
- A public scorecard, maintained by the secretariat, measuring performance against commitments.
- A standing agenda item on the advocacy and policy recommendations of the Competition Bureau — with participants either adopting them or explaining why they have not.

With a relatively lightweight institutional infrastructure, the Council would be a venue to demonstrate progress and provide accountability on the goal of using all levers available to the federal government to improve competition in Canada.

3

RECOMMENDATION

Understand the potential of federal procurement and industrial policy as a driver of competition

Federal procurement demand and industrial policy writ large can be powerful levers in promoting competition if designed and implemented correctly. Often understood in terms of reducing barriers to participation for smaller players and dedicating portions of funding for new entrants or players of a certain size, procurement and industrial policy can have a deeper positive impact on competition when structured correctly. Moving beyond trying to create a diverse group of participants, these programs can be understood as platforms for other businesses — even those indirectly related to the procurement or funding itself — to enter, grow and thrive. In this way, procurement can serve as a platform for more diverse markets outside the confines of an individual purchase or funding push.

> **CASE IN POINT · FEDERAL CLOUD COMPUTING SPEND**
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> Today's cloud computing market has two major hallmarks of a traditional oligopoly: three established players responsible for the vast majority of spend, and material costs for any customer looking to switch providers. By building portability and interoperability standards into federal cloud computing contracts, the federal government can reduce not only its own switching costs but those of private sector actors — and open segments of the government's cloud purchasing envelope to smaller providers, domestic or foreign, who might otherwise be shut out by technical or commercial barriers.

A competition mandate could operate alongside emerging industrial-policy machinery, especially when paired with cross-departmental program review, dedicated institutional expertise, clear strategic objectives and rigorous evaluation to improve the coherence of federal market-shaping policies. Expanding the view to include various industrial policy efforts, intellectual property connected to federal funding should be made accessible on commercial terms to other Canadian businesses. Canadian research has found that domestic innovators frequently transfer intellectual property abroad and that smaller firms can be prevented from scaling by the cost of accessing complementary patents. Industrial support should therefore consider not only the creation of intellectual property, but who can access, commercialize and build upon it. This can be achieved through possible mechanisms like a sovereign patent pool or innovation asset collective.

Whether through the activities of crown corporations or private sector entities funded by the federal government, the fruits of these activities should be understood as a platform for broader benefits beyond the original scope of the funded activity. Bringing down the barriers to participation in federal procurement and industrial policy can support competition by making it easier for participants of all sizes to compete and deliver public value. To go further in supporting competition, the products of that participation must be made into a foundation for further economic activity.

CONCLUSION

A whole-of-government competition plan is an opportunity to chart a fundamentally different course for the Canadian economy amid generational uncertainty. Key to making the most of that opportunity is understanding the task not as a one-off review of potential regulatory barriers to competition, but as creating an operating posture that makes the promotion of competition an ongoing goal.

By giving departments affirmative mandates to promote competition, creating a public mechanism to drive and monitor progress against those mandates, and understanding procurement and industrial support as pro-competitive levers, the government can create such a posture.