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Canada Needs More Competition

Takeaways from the Competition and Growth Summit

June 2021

Canada

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1. Executive Summary

The global health crisis brought about by the COVID-19 pandemic has upended entire sectors of the economy and has placed significant strain on public and household finances. As governments transition from crisis management to economic recovery, a central question is how to enable strong and inclusive economic growth.



“Policies that support competition drive innovation and productivity and can accelerate Canada’s post-pandemic economic recovery.”

Matthew Boswell
Commissioner of Competition

To help answer that question, from June 1 to June 3, 2021, the Competition Bureau hosted a Competition and Growth Summit (Summit), bringing together leading thinkers from government, academia and business, as well as the heads of independent competition authorities from Canada, the United States, United Kingdom, Australia and New Zealand.¹

Over three days, panelists discussed, respectively:

- 1) the role that competitive markets can play in fostering inclusive economic growth;
- 2) how governments can enable greater competition through pro-competitive policymaking and regulatory reform; and,
- 3) how competition agencies can use the tools at their disposal to protect and promote competition.

Hundreds of participants spanning over 20 countries joined the virtual conference, underscoring the importance and global relevance of these issues. Diverse perspectives and bold ideas were exchanged, with a broad consensus emerging around one central point: now, more than ever, competition matters. Competitive prices and product choices matter to consumers, particularly those struggling to make ends meet in the wake of the pandemic. Competitive wages and employment opportunities matter to workers, particularly those who remain unemployed or underemployed. Open and contestable markets matter to entrepreneurs and businesses of all sizes, but especially to small- and medium-sized enterprises who were among the hardest hit by the pandemic and who will need to reopen and expand in order to replace lost jobs and minimize labour market scarring. Competitive markets are also important to governments and taxpayers, who expect value for money on increased public procurement and infrastructure spending in the near-term, and who will want to grow the economy to pay down national debt over the longer-term.

¹ Summit program and details are available at: <https://www.canada.ca/en/competition-bureau/news/2021/03/competition-bureau-to-host-the-competition-and-growth-summit-in-june.html>.

² Competition Bureau (2020), [Empowering Small and Medium Enterprises through Pro-Competitive Policies](#).

³ Competition Bureau (2021), [2021 Vancouver Competition Policy Roundtable](#), speech by Matthew Boswell, Commissioner of Competition.

Overall, there is a palpable sense that competition policy has reached an inflection point. Prior to the pandemic, there was already mounting concern that a rise of market power was contributing to sluggish growth, stagnant wages and deeper economic inequality in advanced economies, including Canada, and that current marketplace frameworks could not always address the challenges of the digital age.⁴ Events of the past year have brought these concerns into much sharper relief as our dependence on services provided by digital giants has grown while consolidation is likely to accelerate across a wide range of sectors.⁵ Governments are now looking for ambitious solutions to not only drive recovery efforts, but to tackle legacy challenges and build back better.

Participants at the Summit generally agreed that a robust competition policy agenda will be critical to rebuilding stronger, more resilient and more inclusive economies. What this means for any particular country will depend on local realities. Nevertheless, there was general consensus that governments should: 1) eliminate or reduce unnecessary regulatory barriers to competition; 2) address any significant gaps in competition law enforcement frameworks; and, 3) ensure that competition authorities are adequately resourced to protect and promote competition in their jurisdictions.

The following report summarizes these and other key takeaways from the Summit with reference to supporting research.

2. Competition, productivity and economic growth

Day 1 of the Summit explored the role of competition in fostering economic recovery and inclusive growth.



“I believe that we can become a technology and innovation powerhouse, but in order to do so, we need to foster competition.”

Hon. François-Philippe Champagne
Minister of Innovation, Science and Industry

In recent years, competition policy has been identified as a key lever that governments can use to promote inclusive growth.⁶ This is the case for at least two reasons. The first is that competition spurs

⁴ These concerns, though subject to debate, have been driven primarily by evidence of increasing corporate concentration and mark-ups, declining business dynamism and investment, and the rise of superstar firms in digital markets with winner-take-all characteristics. See, for example: (1) IMF (2019), [Chapter 2: The Rise of Corporate Market Power and its Macroeconomic Effects](#); (2) Wilkins, C. (2018) [At the Crossroads: Innovation and Inclusive Growth](#); and, (3) Eeckhout, J. and Unger, G. (2020) [The Rise of Market Power and the Macroeconomic Implications](#).

⁵ For example, see IMF (2021), [Risking Market Power – A Threat to the Recovery?](#) (“Due to the pandemic, we estimate that [concentration of revenues among the four biggest players in a sector] could now increase in advanced economies by at least as much as it did in the fifteen years to end of 2015.”).

⁶ World Bank (2017), [A Step Ahead: Competition Policy for Shared Prosperity and Inclusive Growth](#).

innovation and greater productivity, increasing the total wealth available to society, and thus the total size of the pie that can be redistributed through progressive fiscal and social policies. Put another way, competition policy promotes strong inclusive growth by, first, promoting strong growth. Panelists acknowledged that there is an extensive body of research documenting the positive relationship between competition and productivity growth.⁷

The second way that competition policy can promote inclusive growth is by reducing inequality and contributing to the diffusion of economic opportunity. For example, OECD research using data from Canada and seven other high-income economies, finds that market power (stemming from a lack of competition) increases the wealth of the richest 10% of the population by between 12% and 21% while reducing the income of the poorest 20% by between 14% and 19%.⁸ This suggests that actions taken to boost competition would provide, on average, disproportionate benefits to lower-income Canadians. These benefits would be greater if actions were targeted to areas where poor and vulnerable groups are known to suffer disproportionately from a lack of competition. For example, several panelists pointed to the regressive impacts of Canada's supply management system, which, according to at least one study, raises the cost of dairy and poultry products for consumers, resulting in an implicit tax on poor households that is nearly five times greater than rich households as a percentage of income.⁹

In a similar vein, recent OECD research has found that opening up markets to greater competition can reduce gender-based employment discrimination and help promote female entrepreneurship and participation in labour markets.¹⁰ These benefits can arise, for instance, when competition is enhanced in markets that provide services that substitute for unpaid services traditionally provided by women within the household or that complement women's labour force participation in general, such as financial markets and infrastructure markets. The Competition Bureau is working with the OECD to champion further research on the link between competition and gender to better understand how these and other inclusivity considerations can factor into its work.¹¹

Takeaway #1:

Canada should look for ways to protect and promote competition as this will aid recovery by contributing to strong, inclusive growth.

Panelists discussed several ways that governments could support greater competition in Canada. These suggestions generally fell into two categories: 1) actions that would ease regulatory barriers to competition; and 2) actions that would limit anti-competitive behaviour in the marketplace.

⁷ One panelist pointed to seminal research carried out by William Lewis of the McKinsey Global Institute in the 1990's, which found higher levels of productivity in industries and countries where there was more competition. See Lewis, W. (2005), *The Power of Productivity: Wealth, Poverty, and the Threat to Global Stability*. For a more recent review of the literature on competition and productivity, see: (1) UK Competition and Markets Authority (2015), [Productivity and competition: A summary of the evidence](#); and, (2) OECD (2014), [Factsheet on how competition policy affects macro-economic outcomes](#).

⁸ OECD (2017), [Inequality: A hidden cost of market power](#).

⁹ Cardwell, R., Lawley, C., and Xiang, D. (2015), [Milked and feathered: the regressive welfare effects of Canada's supply management regime](#). The authors find that "Canada's [supply management] policies are highly regressive, imposing a burden of approximately 2.3 percent (\$339) of income per year on the poorest households, compared to 0.5 percent (\$554) for the richest households. The burden is larger for households with children."

¹⁰ OECD (2018), [Competition Policy and Gender](#).

¹¹ Competition Bureau (2021), [Fostering inclusive growth through competition](#), speech by Matthew Boswell, Commissioner of Competition. See also the OECD's portal on [Gender inclusive competition policy](#).

Regarding regulatory barriers, panelists noted that Canada lags peer countries on various indicators of regulatory competitiveness. For instance, according to the World Economic Forum's Executive Opinion Survey, Canada ranks 38th on perceived burden of government regulation and 53rd on perceived prevalence of non-tariff barriers.¹² Likewise, over the past decade, Canada has fallen 15 positions to 23rd on the World Bank's Ease of Doing Business indicator, an annual survey focused on business regulation affecting SMEs.¹³ And Canada's regulatory environment is ranked among the least conducive to product market competition, according to the OECD.¹⁴

These indicators point to a sizeable opportunity to accelerate Canada's recovery through smart, pro-competitive regulatory reform. For example, one panelist pointed to a study that found that Canada could boost GDP by a "mind-boggling" 4% by eliminating internal trade barriers.¹⁵ According to one of the authors of the study, this would boost Canada's economy "by nearly \$90 billion per year", or approximately "\$5,000 to \$6,000 per household", with a greater share of the benefits accruing to lower-income regions.¹⁶ Other studies estimate impacts of similar magnitude from easing foreign investment restrictions and other regulatory barriers to competition.¹⁷ Panelists underscored that such reforms would not have to come at the expense of legitimate regulatory objectives like protecting health and safety or the environment, as those goals need not run counter to competition, a point discussed further on Day 2.¹⁸

In terms of addressing anti-competitive business behaviour, panelists acknowledged that this is generally the responsibility of competition law enforcement authorities like the Competition Bureau. Panelists noted that there are new challenges confronting competition authorities stemming from digital transformation and the rise of large digital platforms that act as gatekeepers across a number of markets. While panelists did not offer any prescriptions, there was general agreement that competition authorities need to adapt their tools to these markets, and may require additional powers and resources to carry out their mandates in the 21st century. Indeed, linking back to growth, studies find that countries with stronger competition laws, and more resources dedicated to competition law enforcement, experience faster growth.¹⁹

The Canadian government is already taking significant steps to bolster competition law enforcement in Canada. Through Budget 2021, the federal government committed to providing the Competition Bureau with an additional \$96 million over five years, starting in 2021-22, and \$27.5 million ongoing thereafter, to

¹² World Economic Forum (2019), [The Global Competitiveness Report](#).

¹³ World Bank (2020), [Doing Business](#).

¹⁴ OECD, [Indicators of Product Market Regulation](#).

¹⁵ Alvarez, J., Krznar, I., and Tombe, T. (2019), [Internal Trade in Canada: Case for Liberalization](#). The panelist noted that barriers to internal trade are especially pernicious in Canada as they limit opportunities for Canadian businesses to scale-up domestically, compounding the competitiveness challenges associated with Canada's relatively small economy.

¹⁶ See testimony of Dr. Trevor Tombe to the [Standing Committee on Industry, Science and Technology](#), April 20, 2021.

¹⁷ See for example: (1) ab Iorwerth, A., and Rosell, C. (2018), [The Gains from More Competitive Regulation Settings in Canada](#); and (2) Cetté, G., Lopez, J., and Mairesse, J. (2018), [The impact of regulation on rent creation, rent sharing, and total factor productivity](#).

¹⁸ For example, one panelist noted that more stringent environmental regulations have led to slightly higher productivity, not less, evidence that runs counter to the narrative that climate protection policies come at the cost of competitiveness. See OECD (2021), [Assessing the Economic Impacts of Environmental Policies: Evidence from a Decade of OECD Research](#).

¹⁹ UK Competition and Markets Authority (2015), [Productivity and competition: A summary of the evidence](#).

enhance the Bureau's enforcement capacity and ensure it is equipped with the necessary digital tools for today's economy.²⁰ There is also growing recognition of the need to conduct a review of the *Competition Act* to ensure that it is fit for purpose.²¹

Takeaway #2:

Canada can foster competition, and therefore inclusive growth, by improving regulatory competitiveness and ensuring a robust and well-resourced competition law enforcement framework.

3. Competition and government agendas

Day 2 of the Summit delved deeper into the levers that governments can use to promote more open and competitive markets. Panelists generally echoed the sentiments expressed by panelists on Day 1, citing the importance of competition as a driver of Canada's post-crisis recovery, and highlighting some of Canada's legacy competition challenges that need to be overcome.



"I think the theme of this Summit, and of this session in particular, is central to our grandchildren's prosperity. If you want to be competitive at anything you must innovate. Innovation is essential to delivering productivity growth and productivity growth is the key element to delivering greater prosperity."

Senator Colin Deacon

In particular, one panelist pointed to a working paper published prior to the pandemic by researchers at York University, which finds that Canadian industries have become more concentrated over the last 20 years, a trend the authors attribute, in part, to "weak antitrust legislation and practices and increased barriers to entry."²² The panelist also noted that, according to the OECD, Canada has a higher proportion of older firms and lower start-up rates than other developed countries, with firm entry and exit rates waning since the 1980s.²³ According to researchers at the International Monetary Fund, there is a risk

²⁰ [Budget 2021: A Recovery Plan for Jobs, Growth, and Resilience](#).

²¹ See, for example: Canada (2021), [Competitiveness in Canada](#), a study by the Standing Committee on Industry, Science and Technology, 43rd Parliament, 2nd Session.

²² Bawania, R. and Larkin, Y. (2019), [Are Industries Becoming More Concentrated? The Canadian Perspective](#).

²³ OECD (2017), [Policies for stronger and more inclusive growth in Canada](#).

that the pandemic will exacerbate these trends through a wave of bankruptcies and consolidation, further weakening small business dynamism.²⁴ Were that to happen, this would further weigh on productivity growth, undermining recovery efforts.

This underscores the need for policymakers to make competition an urgent priority. At the same time, however, panelists acknowledged that there are challenges to overcome. For example, incumbents generally resist reforms that make it easier for new challengers to emerge. Further, supply chain fragilities revealed by the pandemic have, in some cases, stoked anti-trade sentiment and an urge for greater industrial self-sufficiency. More fundamentally, the mechanism by which competition delivers growth – namely, “creative destruction” – can often be messy and disruptive, at a time when markets are already unstable. Nevertheless, panelists generally agreed that these challenges are not insurmountable and that the benefits for Canada’s long-term prosperity from enhanced competition are worth the effort.

Looking at specific levers available to government, the discussion mirrored the discussion on Day 1, with panelists distinguishing between measures to address regulatory impediments to competition on the one hand, and private anti-competitive behaviour on the other.

Regarding regulatory impediments to competition, panelists agreed that governments should place greater emphasis on competition impact assessment in the design and evaluation of regulations.²⁵ This entails looking at public policies with a “competition lens” to identify elements that may serve to restrict competition. Regulators can then consider whether those restrictions are necessary and proportionate to their public interest objectives, and, critically, whether there are any alternative approaches that would allow for greater competition and innovation. In this way, competition impact assessment can lead to a more complete picture of the costs and benefits of regulation, and can steer regulators towards more agile, less restrictive ways of meeting objectives.

Many countries explicitly require regulations to undergo some form of competition impact assessment; however there is currently no such requirement in Canada. The OECD has identified this as an important policy gap, and has recommended that Canada establish a formalized institutional mechanism for competition impact assessment, consistent with international best practice, to support stronger and more inclusive growth.²⁶ Last year, the Competition Bureau published a toolkit to assist regulators in voluntarily conducting competition assessments, and encouraged regulators at all levels of government to seek out the Bureau’s competition expertise.²⁷

Panelists pointed to a number of specific areas that may be ripe for competition assessment in Canada, including: 1) foreign investment restrictions in federally regulated sectors such as banking, transportation and telecommunications²⁸; 2) agricultural supply management policies; 3) occupational licensing restrictions in self-regulated professions²⁹; and 4) barriers to internal trade. At the same time,

²⁴ Akcigit, U. et al. (2021), [Rising Corporate Market Power: Emerging Policy Issues](#).

²⁵ For details on competition impact assessment, see [OECD Recommendation on Competition Assessment](#).

²⁶ OECD (2017), [Policies for stronger and more inclusive growth in Canada](#). This was also one of the key insights of the Competition Policy Review Panel in 2008. See Canada (2008), [Compete to Win](#).

²⁷ Competition Bureau (2020), [Strengthening Canada’s economy through pro-competitive policies: A step-by-step guide to competition assessment](#).

²⁸ Schwanen, D. (2018), [Foreign Direct Investment in Canada – The Case for Further Openness and Transparency](#).

²⁹ Mysicka, R. et al (2020), [Licence to Capture: The Cost Consequences to Consumers of Occupational Regulation in Canada](#).

panelists were careful to acknowledge that regulations are not always at odds with competition and may actually be required to support greater competition in some instances. One panelist cited the example of open banking reform, which will require regulations governing data portability to enable greater competition and innovation in the sector. Thus, the key message is not that regulation is bad, but rather, that competition principles should inform regulatory design.

Takeaway #3:

Canada should seize opportunities for pro-competitive regulatory reform by urging regulators at all levels of government to apply a “competition lens” to public policies, consistent with international best practice.

In terms of measures to address private anti-competitive behaviour, panelists raised a range of suggestions to improve the *Competition Act*. One suggestion highlighted by several panelists was to expand the private access provisions of the *Competition Act* to allow businesses to bring abuse of dominance complaints directly to the Competition Tribunal for adjudication. Panelists noted that this would supplement resource-constrained enforcement by the Competition Bureau and clarify important areas of the law through jurisprudence, while guardrails could be put in place to minimize the risk of frivolous or vexatious litigation. Individual panelists also pointed to issues such as: 1) the limited fines and administrative monetary penalties available under the *Competition Act*, which may be leading to under-deterrence; 2) the rigid “code-like” tests that exist under certain provisions, which may be limiting the ability of case law to evolve as our collective understanding of markets evolves; 3) and the “efficiencies defence” for anti-competitive mergers, which may be limiting the Bureau’s ability to prevent harmful consolidation.

Takeaway #4:

The federal government should conduct a rigorous and comprehensive review of the *Competition Act* to ensure that it is fit for purpose.

4. Perspective from heads of competition agencies

Day 3 of the Summit focused on the role of competition authorities around the world, providing the heads of international authorities an opportunity to reflect on their experiences throughout the pandemic, and discuss the current tools at their disposal to protect and promote competitive markets.



“Competition policy is economic policy. To me, reforming antitrust law is about rejuvenating capitalism and building a post-pandemic economy that works for all.”

Senator Amy Klobuchar

Chair of the U.S. Senate Judiciary Subcommittee on Competition Policy, Antitrust, and Consumer Rights

Competition authorities noted various ways that they have adapted over the past year. For example, the Antitrust Division of the U.S. Department of Justice highlighted the work of its Procurement Collusion Strike Force, which has provided training to more than 12,000 procurement officials across the United States to help identify red flags of collusion, helping to safeguard taxpayer funds from illegal bid-rigging.³⁰ The U.S. Federal Trade Commission pointed to the dedication shown by enforcement staff in responding to a significant uptick in merger filings alongside a full litigation docket. The U.K. Competition and Markets Authority cited the competition advice it has provided to government on crisis-related interventions in specific sectors, as well as on broader issues that will outlast the pandemic such as digital regulation. The Australian Competition and Consumer Commission described how it used its unique authorization powers to allow companies in various sectors to coordinate activities to respond to the public interest exigencies of the pandemic, and what it is now doing to unwind those arrangements as crisis conditions subside. The New Zealand Commerce Commission highlighted its important consumer protection work as well as the role that international cooperation has played to understand approaches taken in other jurisdictions and acting decisively from an early stage of the pandemic. Lastly, the Competition Bureau emphasized its recent competition advocacy efforts, where it has urged policymakers at all levels of government to pursue pro-competitive reforms to blunt the economic damage caused by the pandemic and to create the best possible conditions for long-term economic recovery.³¹

These examples illustrate the important role that competition authorities have played throughout the pandemic, and will continue to play. While a range of topics were discussed, there was a general consensus among panelists that the following considerations should guide future efforts.

First, it is critical that competition authorities continue to use their full range of powers to safeguard competitive markets against anti-competitive activity. Although there have been calls for agencies to relax standards, particularly on merger control, doing so would risk causing long-term damage to the economy, undermining recovery prospects. Indeed, if anything, agencies generally signalled the need for enhanced scrutiny of mergers to preserve conditions for economic recovery, with a number of agencies noting that they were examining their merger review processes and standards with a critical eye.

Second, competition agencies should continue to serve as a voice for competition, providing expert advice to their governments to ensure that public policy decisions are made with competition principles in mind, reinforcing points raised in the first two days of the Summit.

³⁰ See US DOJ, [Procurement Collusion Strike Force](#). Research by the OECD suggests that elimination of bid rigging can help reduce procurement prices by 20% or more. See OECD, [Fighting bid rigging in public procurement](#).

³¹ For examples of the Bureau’s recent competition advocacy work, including speeches and submissions to regulators and policymakers, see: <https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/Q4169.html>.

Third, there was strong consensus that competition authorities should continue to cooperate with one another. With economies increasingly intertwined, and with digital markets raising new challenges that extend across borders, it is vital that competition authorities work together to achieve results

Takeaway #5:

Competition authorities should remain vigilant, using all of the tools and resources at their disposal to safeguard competitive markets. Competition agencies should provide advice to governments to inform recovery agendas and should continue to engage in international cooperation.

5. Recap of takeaways

The three-day Summit affirmed the role that competition can play in fostering long-term, sustainable growth. Below is a list of the five key takeaways that emerged from the discussions.

- **Takeaway #1:** Canada should look for ways to protect and promote competition as this will aid recovery by contributing to strong, inclusive growth.
- **Takeaway #2:** Canada can foster competition, and therefore inclusive growth, by improving regulatory competitiveness and ensuring a robust and well-resourced competition law enforcement framework.
- **Takeaway #3:** Canada should seize opportunities for pro-competitive regulatory reform by urging regulators at all levels of government to apply a “competition lens” to public policies, consistent with international best practice.
- **Takeaway #4:** The federal government should conduct a rigorous and comprehensive review of the *Competition Act* to ensure that it is fit for purpose.
- **Takeaway #5:** Competition authorities should remain vigilant, using all of the tools and resources at their disposal to safeguard competitive markets. Competition agencies should provide advice to governments to inform recovery agendas and should continue to engage in international cooperation.

Building on these insights, the Competition Bureau will continue to protect and promote competition through vigorous enforcement of the *Competition Act* and by advocating for pro-competitive policymaking at all levels of government.³²

³² Competition Bureau (2020), [Opportunity in the Face of Challenge: A Competitiveness Agenda for Canada's Future](#), speech by Matthew Boswell, Commissioner of Competition.

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