

December 15, 2021

The Office of the Honourable Howard Wetston, C.M., Q.C., LL.D
Room 316, East Block
Senate of Canada
Ottawa, Ontario K1A 0A4

Re: Submission to the Consultation on *Examining the Canadian Competition Act in Digital Era*

Dear Senator Howard Wetston,

Thank you for opening this call for submissions on the suitability of Canada's Competition Act for dealing with the issues in our digital era. I believe before beginning to address concerns within a digital context, any review of our Competition Act should first investigate how well this legislation functions in traditional markets. My expertise lies in how market concentration within stages of the agriculture supply chain affects small- and medium-sized family farm's ability to identify and pursue new, value-added business opportunities.

Canada is the world's 5th largest exporter of agriculture and agri-food products, and agri-food has been identified as one of the key sectors for stimulating further economic growth¹. Specifically, our agri-food sector has been challenged to increase its exports by 32% to \$75 billion annually over the next decade, with greater innovation, domestic value-added processing, and market diversification targeted as top priorities for achieving this growth². Canadian policy makers are looking to stimulate entrepreneurship and value-adding in agriculture to achieve the twin goals of progress on sustainable food systems and GDP growth, but our agri-food sector is heavily consolidated. Stimulating entrepreneurship and innovation within sectors that are heavily concentrated is difficult for two reasons:

- 1) High concentration reduces competition in markets. A lack of competition can allow powerful firms to raise prices without providing efficiency gains, or better quality or service³, thereby constraining the profits of other firms that could be reinvested to pursue new activities.
- 2) Concentration can reduce innovation at both the new venture and corporate level, limiting the range of existing and new products available to primary producers⁴.

Canadian policy makers must overcome the tension between creating a thriving entrepreneurial environment and the constraints on innovation brought on by consolidation. Reviewing and revising the Competition Act provides a suitable avenue to achieve the national priorities set out for our agri-food sector. Previous work undertaken by the Senate Standing

¹ Canada, Advisory Council on Economic Growth. (2017). [Unleashing the Growth Potential of Key Sectors](#).

² Canada, Economic Strategy Tables. (2018). [Report of Canada's Economic Strategy Tables: Agri-Food](#).

³ OECD (2017). [Common Ownership by Institutional Investors and its Impact on Competition: Background Note](#). Directorate for Financial and Enterprise Affairs.

⁴ Fuglie, K. O., Heisey, P., King, J., & Schimmelpfennig, D. (2012). [Rising concentration in agricultural input industries influences new farm technologies](#). USDA Economic Research service.

Parrish, M. (2016). [How the Dow-DuPont Merger Will Impact the Chemicals Industry](#). Manufacturing.net.

Committee of Agriculture and Agri-Food has highlighted competition issues and is worth reviewing.

A 2010 report by the Senate Standing Committee of Agriculture and Agri-Food recommended that the Competition Bureau and Agriculture and Agri-Food Canada (AAFC) cooperate to study competition issues affecting the agriculture sector in the 21st century and the appropriate role for competition and regulatory enforcement⁵. In the Government's response to the report, they declined to direct the Competition Bureau and AAFC to pursue this new study⁶. The Government's defence was that analyses by organizations such as OECD noted that while there has been consolidation at all levels of the food supply chain in Canada, there was inconclusive evidence to show whether concentration has led to changes in market power, higher retail food prices, and/or lower returns to farmers. The Government indicated that international trade limits the potential for companies to extract extra income from their suppliers when most imports are traded at world prices. In the Biden Executive Order on Promoting Competition in the American Economy, the President referred to a loss of competitiveness in key agricultural markets—these are global agricultural input markets which are controlled by four transnational corporations, and these concentration issues are similar in Canada⁷. Analyses track consolidation using the concentration ratio (CR). A CR4 of 40% (where 4 firms control at least 40% of the market) is considered concentrated. The global market for agro-chemicals has a CR4 of 65%, animal pharmaceuticals is 58%, seeds is 52%, and farm equipment is 45%. The agro-chemical giants are ChemChina/Syngenta, Bayer, BASF, and Corteva⁸.

Since the federal government declined to investigate this back in 2010, we lack an official report on Canadian agri-food concentration, but 2008 Statistics Canada data revealed that most segments of Canadian food sectors were considered concentrated. Consolidation has been measured using the concentration ratio (CR). A CR4 of 40% (where 4 firms control at least 40% of the market) is considered concentrated. The following Canadian sectors have a CR greater than 40%: Dairy, Grain and Oilseed Milling, Sugar and Confectionery, Meat, and Fruit and Vegetable preserves and Specialty Food⁹. More recently, food retail was shown to have a CR4 of 69% (Loblaw, Empire, Metro, Costco) which will worsen somewhat with the Empire merger with Longo's¹⁰.

The COVID-19 pandemic helped expose the weaknesses due to concentration at processing stage of the value chain, most notably in meat processing. Nearly all of the beef sold in Canadian grocery stores and exported from Canada comes from these three high-volume, high-throughput meat packing plants. Cargill's High River facility, the JBS plant in Brooks, Alberta and the Cargill plant in Guelph, Ontario together process over 95% of the beef in Canada, as well as nearly all of Canada's \$3 billion worth of beef exports. Much has been written about the increases in meat

⁵Standing Senate Committee on Agriculture and Forestry. (2010). [*Competitiveness of Canadian Agriculture*](#).

⁶ Government of Canada. [*Government Response To The Third Report Of The Standing Committee On Agriculture And Agri-food: "Competitiveness Of Canadian Agriculture"*](#).

⁷ Government of the United States. (2021). [*Executive Order on Promoting Competition in the American Economy*](#).

⁸ Howard, P. (2020). [*The Food System: Concentration and Its Impacts*](#).

⁹ Compiled through a special tabulation of Statistics Canada's Annual Survey of Manufacturing and Logging in: AAFC. (2011). [*An Overview of the Canadian Agriculture and Agri-Food System*](#).

¹⁰ USDA Foreign Agriculture Service. (2021). [*Retail Foods - Canada*](#).

prices throughout the pandemic due to plant shutdowns from worker illnesses¹¹. Additionally, food processors operating in Canada will blame retail concentration for limiting what options are available to farmers for processing products—the top five grocery chains control 80 percent of food sales and have been accused of bullying their suppliers. This was noted in an April 2021 Senate AGRI report into strengthening Canadian food processing capacity through a recommendation to establish a code of conduct for grocers. Trade spend (the fees, deductions, and admin costs required to get grocery products on shelves) has grown twice the rate of sales over the past five years and Canada’s trade spend accounts for 28% compared to 18% in the U.S.¹².

The 2016 census indicated continued consolidation in farming as well. There were 193,492 Canadian farms in 2016, down almost six per cent from the previous census in 2011. However, Statistics Canada also noted that this is the lowest rate of decline in farm numbers in the past 20 years¹³. Canadian farms are split between large farmers who have been winning the share of gains from consolidation and struggling small farms. More than 70% of Canadian farmland is in the Prairie provinces of Alberta, Saskatchewan, and Manitoba. Farms in these provinces operating more than 10,000 acres saw average net incomes of \$820k, whereas farms under 1,000 acres only earned \$34,000. These are averages - some large farm net incomes are much higher than \$820k and small farm incomes fell far below \$34k. This means that the large farms represent 2% of all Prairie farmers but earn 15% of the net income, leaving the smaller farms representing 53% of all Prairie farms receive only 18% of net incomes or revenue. 50% of Canadian farmland is also owned by a small percentage of families (about 0.0025% or 94,000 people)¹⁴.

There are also valid concerns about concentration affecting farm incomes, with farm realized net income hovering around zero since the mid-1980s and farm debt doubling since 2000¹⁵. The amount of each dollar a farmer receives from consumer food purchases is called the “farm share”. In 2010, the Canadian farm share was estimated at 17% (17¢ out of \$1) based on a study by Jessica Kelly, a University of Guelph Masters student. This number was in line with American farmers’ share at the time (17.6¢ of every \$1) but the U.S. share has fallen to 14.3¢ as of 2019. Canada has not legislatively mandated food dollar research, so unlike the US Economic Research Service, we do not have the same breadth and depth of understanding¹⁶. However, another Senate AGRI report in 2010 noted that “many see concentration and the lack of competition in the agri-food chain as the main culprit behind declining farm income...the vast majority of witnesses agree that farmers do not have the same market power to negotiate and compete with a reduced number of input suppliers, processes, and retailers. As a result, the farmer’s share of a dollar spent at the grocery store has been decreasing”.

In addition to the multiple Senate reports detailing competition issues, the Competition Bureau has also considered many cases regarding anticompetitive behaviour in agriculture over the past three years. In May 2018 Bayer agreed to divest assets to BASF SE as per an agreement

¹¹ National Farmers Union. (2020). [Meat packing concentration makes Canada’s food system vulnerable](#)

¹² Senate Standing Committee on Agriculture and Agri-Food. April 2020. [Room to Grow. Strengthening Food Processing Capacity in Canada for Food Security and Exports.](#)

¹³ Hein, T. (2020). [How much bigger are farms getting?](#). Country Guide.

¹⁴ Qualman et al. (2020). [Concentration Matters: Farmland Inequality on the Prairies.](#) Canadian Centre for Policy Alternatives.

¹⁵ National Farmers Union. (2020). [Tackling the Farm Income Crisis.](#)

¹⁶ Nakagawa, K. & Maxell, B. (2013). [Canadian Food Dollar Breakdown between Farm and Marketing.](#)

reached with the Bureau regarding Bayer's merger with Monsanto. Prior to the sale, BASF supplied 5% of the market and under the divestment agreement it will gain Bayer's 55% market share, leaving BASF with 60% of canola seeds¹⁷. In November 2018, La Coop fédérée (LCF) was not allowed to purchase four of Cargill's retail sites in Southern Ontario (two in South Central and two in Southwestern Ontario) at the risk of introducing a monopoly situation in those geographies¹⁸. A similar remedy was levied in July 2021 to move forward Federated Co-operatives Limited (FCL) and Blair's family of Companies joint venture, this time with respect to the retailing of crop inputs in Lipton, Saskatchewan¹⁹. The Bureau's strategy appears to be narrow remedies that often switch the players' market share without considering why the market is structured around two players to begin with. The frequency of competition issues in this sector is interesting without considering digital aspects and warrants further study.

In closing, there are many competition issues warranting study in Canada's agricultural sector that reflect the need for a review of how well the *Competition Act* serves producers and consumers and I strongly support a robust examination of the Act. Agriculture is also undergoing its own digital revolution, and the Bureau has successfully obtained a court order to investigate anticompetitive behaviour between major input suppliers withholding products from an e-commerce startup²⁰. This case demonstrates that the digital transformation of agriculture will exacerbate the existing competition concerns in this sector and I look forward to contributing to further dialogue on this pressing issue.

Sincerely,



Andrew Nixon
Arrell Scholar, PhD Management Candidate
School of Hospitality, Food and Tourism Management
University of Guelph

¹⁷ Competition Bureau. (2018). [Competition Bureau statement regarding Bayer AG's acquisition of Monsanto Company](#)

¹⁸ Competition Bureau. (2018). [Competition Bureau statement regarding La Coop fédérée's proposed acquisition of Cargill Limited's grain and retail crop inputs businesses in Ontario](#)

¹⁹ Competition Bureau. (2021). [Competition Bureau statement regarding the proposed joint venture between Federated Co-operatives Limited and Blair's Family of Companies](#)

²⁰ Competition Bureau. (2020). [Competition Bureau obtains court orders to advance agricultural investigation](#)