Zirjan Derwa
Direct Line: 416.777.6442
e-mail: derwaz@bennettjones.com

February 1, 2022

Via Email

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

Dear Senator Wetston:

Re: SUBMISSION: *Examining the Canadian Competition Act in the Digital Era*

INTRODUCTION

I am writing in response to your request for submissions to promote a dialogue on paths forward for Canadian competition law.

Overall, I agree with Professor Iacobucci – the *Competition Act* effectively addresses anti-competitive behaviour, although targeted amendments could potentially address existing policy gaps. A key question raised in Professor Iacobucci's discussion is whether the *Competition Act* should continue to focus on economic objectives, or shift to incorporate a variety of policy objectives such as privacy, economic equality, the diffusion of political power, *etc*.

In this submission, I caution against wholesale reform of the *Competition Act* to introduce non-economic objectives into the purpose clause of the *Competition Act*. As you have aptly described in your cover letter accompanying this consultation, the *Competition Act* plays an important role in promoting economic prosperity by facilitating greater efficiency, innovation and productivity in Canada. To continue to do so, it must continue to be rooted in economic objectives.

Please note that the views expressed in this letter are my own; they are neither necessarily those of my law firm nor any of our clients.

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The overarching design of the *Competition Act*, since its enactment in 1986 has been to promote economic welfare. The Supreme Court in *Southam* stated that "[t]he aims of the [Competition] Act are more "economic" than they are strictly "legal".[1]

Below, I list several (non-exhaustive) reasons why it would be unwise and counterproductive to deviate from this guiding principle by introducing non-economic objectives into the purpose clause of *Competition Act*. This broadly aligns with Professor Iacobucci's view that prioritizing efficiency over

[1] *Canada (Director of Investigation and Research) v Southam Inc*, [1997] 1 SCR 748 at para 48.

other objectives is preferable as it avoids the indeterminacy and it will often promote other values (*e.g.*, low prices may be "fair" and efficient).[2]

1. Economic objectives promote economic growth

The potential expansion of the *Competition Act's* objectives beyond the economic domain threaten the goals of competition policy, and would be detrimental to Canada's long-term economic growth and innovation.[3]

The emergence of digitally-enabled business models has stimulated renewed calls for potential antitrust reform. While debate is healthy, antitrust agencies recognize the benefits to consumers and businesses alike of the rise of innovative digital competitors. For example, in the recently published "Compendium of approaches to improving competition in digital markets", the United Kingdom's Competition and Markets Authority states that the "growth of digital markets has brought enormous benefits to business, consumers, and society as a whole".[4] It is essential that any amendments to the *Competition Act* not erode these benefits or economic growth generally.

Commissioner Boswell has become more outspoken about the need for certain amendments to the *Competition Act* (and greater funding) to address the challenges identified as driven by the emergence of "digital markets". However, significantly, he has not suggested that it would be desirable to amend the framework of the *Competition Act* to include non-economic objectives.[5] Of course, competition policy in most jurisdictions, as in Canada, ties the outcome of a competition assessment to carefully examined economic research and theory.[6] This is desirable, as it means that the economic approach of competition policies and companion enforcement actions, are (at least in theory) justified by economic research and analysis.[7]

Professor Carl Shapiro, a well-regarded American economist, identifies the core principle guiding antitrust in the United States as "protecting the competitive process, so consumers receive the full benefits of vigorous competition".[8] He recognizes that, while there may be room for stricter or improved enforcement, it would be unwise to abandon this core principle of protecting the competitive process, given how well it has served the United States:

> The fundamental danger that 21st century populism poses to antitrust [is] that populism will cause us to abandon this core principle and thereby undermine economic growth and deprive consumers of many of the benefits of vigorous but fair competition. Economic growth will be undermined if firms are discouraged from competing vigorously for fear that they will be found to have violated the antitrust laws, or for fear they will be broken up if they are too successful.[9]

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[2] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at page 68.
[3] Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at pages 10 and 25.
[4] Competition and Markets Authority, "Compendium of approaches to improving competition in digital markets" (2021) at page 11.
[5] See for example, Commissioner Boswell's speech during the 2021 Canadian Bar Association Competition Law Fall Conference. A copy of this speech is available here: https://www.canada.ca/en/competition-bureau/news/2021/10/canada-needs-more-competition.html.
[6] Joshua D. Wright *et al.*, "Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust" (2019) 51:1 Arizona State Law Journal 293 at page 354.
[7] Joshua Wright and Aurelien Portuese, " Antitrust Populism: Towards a Taxonomy" (2020) 25:1 Stanford Journal of Law, Business, and Finance 131 at pages 143-144.
[8] Carl Shapiro, "Antitrust in a time of populism" (2018) 61 International Journal of Industrial Organization 714 at page 745.
[9] Carl Shapiro, "Antitrust in a time of populism" (2018) 61 International Journal of Industrial Organization 714 at page 745.

Competition policy based on economic objectives is based on carefully studied economic research and theory, leading to lower prices, greater choice, long-term economic growth and innovation. In contrast, competition legislation that caters to non-economic objectives would likely result in higher prices, stunted growth and adverse effects on innovation, ultimately leading to greater harms even to the non-economic goals that those agitating for significant reform seek to achieve.[10] Ultimately, Parliament must resist calls to expand the *Competition Act*'s purpose to include non-economic objectives. By and large, the *Competition Act* is sufficiently flexible to address potentially anti-competitive conduct in digital segments.[11] While some targeted amendments to the *Competition Act*, such as expanding the scope for private enforcement of abuse of dominance, would be constructive, wholesale amendments are neither necessary nor desirable. In particular, changes to a "purpose" clause to incorporate a variety of non-economic policy objectives would likely have a broad and material deleterious effect on the legislation as a whole.

2. Predictability is critical

Canada's current competition framework has been designed primarily informed by economic objectives, enhancing the predictability of outcomes. This is a vital feature of the existing framework; stable, predictable and consistent laws are essential for the business community and in turn, to the benefit of all Canadians.

Esteemed academics have recognized that a fundamental shift from economic objectives would threaten the process and outcomes of competition policy.[12] Professor Herbert Hovenkamp, a world-renowned scholar of antitrust law and policy, states that the "interjection of populist goals, by broadening the proscriptions of business conduct, would multiply legal uncertainties and threaten inefficiencies not easily recognized or proved".[13] Former US Federal Trade Commission ("**FTC**") Commissioner and now-Professor Joshua Wright and co-authors agree that shifting from economic objectives will result in unpredictability, as decisions will be contingent on socio-political goals.[14] In his discussion paper, Professor Iacobucci, viewing this issue through a Canadian lens, agrees. He explains that legislation that seeks to achieve two (or more) inconsistent goals will lead to indeterminacy.[15] It would render the application of the *Competition Act* unpredictable and risk arbitrariness.[16] As such, however pressing certain social and other non-economic goals may be, to incorporate them as competition laws would be destructive to the very economic welfare the *Competition Act* was designed to promote.

Businesses, in general and overwhelmingly, are keen to comply with competition laws; however, to do so effectively, it is critical they can identify the boundaries of these laws. Ambiguity in the law breeds confusion and inefficiency. The *Competition Act*'s recently amended criminal conspiracy

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[10] Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at page 25.
[11] Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at page 10.
[12] See for example, Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at page 12.
[13]Joshua Wright and Aurelien Portuese, " Antitrust Populism: Towards a Taxonomy" (2020) 25:1 Stanford Journal of Law, Business, and Finance 131 at page 177.
[14] Joshua D. Wright *et al.*, "Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust" (2019) 51:1 Arizona State Law Journal 293 at page 353.
[15] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at pages 54, 59, 63 and 68-69.
[16] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at page 55.

provisions (section 45) are an example in the competition law context demonstrating the importance of legal predictability.

That section, which criminalizes conspiracies, agreements and arrangements to fix prices, allocate markets or limit supply, underwent significant amendments which took effect in 2010. Before these amendments, an agreement (which on formation could have no pro-competitive rationale) would only violate section 45 of the *Competition Act* if proven to "unduly" lessen competition. The amendments made any price-fixing agreements *per-se* illegal, irrespective of whether they affect competition (consistent with the laws of Canada's key trading partners). The amendments also included increased penalties to make section 45 one of Canada's most serious white-collar offences. An individual found to contravene section 45 may be imprisoned for a maximum term of 14 years or subjected to a fine not exceeding $25 million per offence, or to both, and a corporation may be subjected to a fine not exceeding $25 million per offence.

The amendments are criminal provisions with penalties meant to target only hardcore cartels. However, the provisions are drafted so broadly that they theoretically apply to innocuous and pro-competitive conduct in some instances. Well before these amendments, several commentators had discussed the chilling effect associated with an overly broad drafting of section 45, because law-abiding businesses understandably refuse to take any risk of committing a criminal offence.[17] While the Competition Bureau has tried to address this over-reach by publishing detailed enforcement guidelines regarding these provisions, it has not entirely eliminated the uncertainty. This is because enforcement guidelines do not have the force of law, and they cannot address every scenario. It seems hardly appropriate for criminal liability, which includes fines and possible incarceration, to depend on the interpretation of enforcement guidelines and prosecutorial discretion. In addition, there has been a dearth of meaningful jurisprudence concerning these provisions, and the case law remains largely undeveloped. The business community has thus had to deal with uncertainty, resulting in an unwanted chilling effect (including increased compliance costs), as they have to navigate potential criminal risk for legitimate and often pro-competitive conduct that should not fall within the purview of criminal cartel provisions. While good for the business of advisory counsel, it is bad policy.

The purpose of the example above is not to criticize the current drafting of section 45 of the *Competition Act*, which at least removed the nebulous "unduly" standard from a criminal provision. Instead, it is to demonstrate that unpredictability in the law has real costs, and should be avoided whenever possible. It is also foreseeable that unpredictability would be much more significant if brought on by changes to the underlying objectives of the *Competition Act* since it would influence the interpretation of the entire statute.

Ultimately, incorporating a variety of non-economic policy objectives into the *Competition Act* has a higher risk of resulting in legislation that goes directly against the fundamentals of the rule of law that laws are clear, stable and applied consistently. Introducing policy objectives to the purpose clause of the legislation would inevitably create uncertainty in the business community, ultimately leading to a chilling effect on pro-competitive and innovative conduct.[18]

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[17] McCarthy Tétrault, "Proposed Amendments to Section 45 of the *Competition Act*" (2001). A copy of this paper is available here: https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/tetrault.pdf/$FILE/tetrault.pdf. The authors believed that under the prior iteration of section 45 a large number of pro-competitive arrangements, which otherwise present some antitrust risk, do not proceed because counsel cannot give an unqualified opinion that there is no risk of criminal prosecution.

[18] Joshua D. Wright *et al.*, "Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust" (2019) 51:1 Arizona State Law Journal 293 at page 363.

3. Competition authorities' expertise lies in the field of economic analysis

Professor Shapiro, writing from a US perspective, has stated that antitrust institutions are poorly suited to address problems not directly related to competition.[19] The same is true in Canada. The expertise of the Canadian competition institutions; namely, the Competition Bureau and the Competition Tribunal, is rooted in economics and commerce.[20] The Supreme Court in *Southam* explicitly recognized the importance of this expertise:

> The "efficiency and adaptability of the Canadian economy" and the relationships among Canadian companies and their foreign competitors are matters that business women and men and economists are better able to understand than is a typical judge.
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> ***
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> … the Tribunal's expertise lies in economics and in commerce. The Tribunal comprises not more than four judicial members, all of whom are judges of the Federal Court -- Trial Division, and not more than eight lay members, who are appointed on the advice of a council of persons learned in "economics, industry, commerce or public affairs". See Competition Tribunal Act, s. 3. The preponderance of lay members reflects the judgment of Parliament that, for purposes of administering the *Competition Act*, economic or commercial expertise is more desirable and important than legal acumen.[21]

Even if it were desirable to broaden the objectives of the *Competition Act* beyond the economic realm, the resources required to do so effectively would militate against such changes. As Professor Iacobucci explains in his discussion paper, the inclusion of new objectives would require the Competition Bureau (and the Competition Tribunal) to acquire expertise in those areas.[22] It is not reasonable, nor is it efficient, for a single organization to become an expert across a wide range of complex subject matters, each with their own nuances.[23]

The notion that the Competition Bureau is underfunded has been a consistent theme for years. For example, a recent newspaper article described the Competition Bureau as a "woefully underfunded for a national law enforcement body that is expected to pursue complex and sprawling investigations against deep-pocketed corporations".[24] The federal government has pledged in its April 2021 budget to increase the Competition Bureau's budget by $96 million over the next five years. The Commissioner has already earmarked the areas for this investment, including through the creation of a new Digital Enforcement and Intelligence Branch.[25] This funding ought to allow the Commissioner and Competition Bureau to perform its mandate more fully. It should assist with antitrust investigations that understandably have become more complex due to larger volumes of data and information. However, it is unrealistic to think it would allow the institution to become an expert across a broader range of complex subject matters.

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[19] Carl Shapiro, "Antitrust in a time of populism" (2018) 61 International Journal of Industrial Organization 714 at page 716-717.
[20] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at page 58.
[21] *Canada (Director of Investigation and Research) v Southam Inc*, [1997] 1 SCR 748 at paras 48 and 51.
[22] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at page 57.
[23] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at page 57.
[24] Financial Post Staff, "Competition Bureau gets a budget boost, but is it enough to make companies think twice?" A copy of this article is available here: https://financialpost.com/news/economy/competition-bureau-gets-a-budget-boost-but-is-it-enough-to-make-companies-think-twice.
[25] See for example, Commissioner Boswell's speech during the 2021 Canadian Bar Association Competition Law Fall Conference. A copy of this speech is available here: https://www.canada.ca/en/competition-bureau/news/2021/10/canada-needs-more-competition.html.

Suppose the *Competition Act* is amended to include a variety of non-economic policies. In that case, the Competition Bureau would have to devote what funds it has to become "a jack of all trades and a master of none". This, too, militates against incorporating such other policy objectives into the *Competition Act*.

4. More effective policy instruments for non-economic objectives

As discussed above, competition policy and competition institutions are not designed to address societal and political concerns such as inequality and degradation of free speech and democracy.[26] That is not to dismiss these legitimate objectives – to the contrary, they are critically important to the fabric of Canadian society. However, academics have cautioned that trying to use competition policy to solve problems outside of the traditional landscape will likely not work.[27] In fact, it could very well backfire and have deleterious effects.[28]

More effective tools can and should be used to address these issues beyond the scope of competition law. As an example, let us consider economic inequality. Lina Khan, the current Chair of the FTC, has advanced that antitrust can be used to address this objective. However, significantly, she does not suggest that antitrust should embrace economic redistribution as an explicit objective; instead, she suggests that weak enforcement has failed to preserve competitive markets, which has led to regressive economic distribution. [29] Specifically, she argues that lax enforcement of existing American antitrust has allowed firms to maintain and entrench their market power, which has transferred wealth from ordinary Americans to affluent executives and shareholders.[30] Professor Wright and his co-authors have countered that there is no empirical evidence to support the proposition that increased antitrust enforcement could have beneficial effects on economic inequality.[31]

While enhanced antitrust enforcement may be beneficial, it is not clear that this is the case. More importantly, as Professor Iacobucci explains in his discussion paper, more specialized instruments than antitrust law are better suited to address distributive objectives.[32] These instruments include income or wealth taxation as well as progressive government spending. If a government is trying to ameliorate economic inequality, it seems clear that it would be more efficacious and efficient to do so directly using more targeted policy instruments.

In addition, even if it were desirable to enhance competition enforcement to reduce economic inequality, this is not reasonably advanced by making economic inequality an explicit objective of the *Competition Act*. As Professor Iacobucci explains, including this objective would result in the perverse situation of potentially encouraging a subset of inefficient, anticompetitive mergers that increase prices provided that they also promote economic equality.

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[26] Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at page 28.
[27] See for example, Carl Shapiro, "Antitrust in a time of populism" (2018) 61 International Journal of Industrial Organization 714 at page 746.
[28] See for example, Carl Shapiro, "Antitrust in a time of populism" (2018) 61 International Journal of Industrial Organization 714 at page 746; also see Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at page 28.
[29] Lina Khan and Sandeep Vaheesan, "Market Power and Inequality: The Antitrust Counterrevolution and Its Discontents" (2017) 11 Harvard Law & Policy Review 235 at page 237.
[30] Lina Khan and Sandeep Vaheesan, "Market Power and Inequality: The Antitrust Counterrevolution and Its Discontents" (2017) 11 Harvard Law & Policy Review 235 at page at 238.
[31] Joshua D. Wright *et al.*, "Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust" (2019) 51:1 Arizona State Law Journal 293 at page 330.
[32] Edward M. Iacobucci, "Examining the Canadian *Competition Act* in the Digital Era" (2021) at page 57.

Likewise, it would be significantly more efficacious to use targeted legislation and government agencies to address specific objectives related to privacy, environment, *etc*. That is not to say that privacy, for example, should never be a factor considered by the Bureau when assessing a merger or conducting an investigation. On the contrary, as the Bureau has noted in its Big Data paper, it is entirely conceivable that in some contexts, consumers may view privacy as an essential element of quality and, as such, it will be a relevant dimension of competition between firms in those cases.[33]

Competition policy plays a vital role in ensuring competitive markets; however, it cannot effectively be used as a malleable policy instrument to address all of society's problems. There are specialized instruments that are far better suited to address non-economic objectives.

5. Beware of unintended consequences

Recent history has also demonstrated that it is important to be cautious when making wholesale changes to competition laws – as it may not always result in the expected or intended outcome.

As an example, we can again consider the amendments to the *Competition Act* that took effect in 2010, the most significant amendments to the legislation since 1986. As noted above, one of the significant changes during that round of amendments were the changes to the criminal conspiracy provisions, providing the Crown no longer had to demonstrate that an impugned agreement "unduly" lessened competition. Proponents of reform believed that this "undueness" element placed a significant burden on prosecutors, because it required proof that an accused possessed market power and that an agreement was likely to injure competition, making the prosecution of criminal conspiracy cases more difficult in Canada than other parts of the world.[34] Because of these difficulties, otherwise illegal cartel activity did not get prosecuted or deterred effectively.

Because the amendments made the enforcement of hard-core criminal cartel activity easier, it was anticipated that cartel enforcement would expand, and more price-fixers would be brought to justice. Yet paradoxically, enforcement has noticeably decreased over the past decade. While it is certainly possible that the breadth of the current iteration of section 45 has had a powerful deterrent effect (and there were other objectives to the amendments beyond expanding prosecution), the dearth of adjudicated cases since is surprising nonetheless, and demonstrates that wholesale changes to competition laws do not always have the intended or expected effect.

While legislatures need to be willing to change legislation if the circumstances warrant it, the risk that changes may not have the intended or desired effect is particularly true as it relates to overarching changes to a "purpose" clause, which could have a broad and material effect on the legislation as a whole. If the expected outcome is not reasonably certain, it should militate against making such potentially far-reaching changes.

Specifically, any amendments to the *Competition Act* must not inadvertently curtail the innovation and general economic growth brought on by the emergence of digitally-enabled business models. As discussed above, antitrust agencies recognize that these advances have enormous benefits for consumers and businesses alike. The CMA's "Compendium of approaches to improving competition

[33] Competition Bureau, “Big data and innovation: key themes for competition policy in Canada” (2018).
[34] Canadian Bar Association – National Competition Law Section, " Submission on Reform of Section 45 of the *Competition Act* (Conspiracy)" (2003) at page 5. A copy of this submission is available here: https://www.cba.org/CMSPages/GetFile.aspx?guid=9e7cda88-8569-41a2-8e6a-a2bd01bbeec0

in digital markets" explains that such firms are beneficial in several ways, including by enabling businesses to attract new customers and grow rapidly; allowing consumers to find new products and services and to connect with each other; and driving innovation and economic growth.[35] The C.D. Howe Institute, an independent not-for-profit research institute, recently published a report demonstrating that the proliferation of online shopping choices for Canadian consumers is driving the evolution of the retail sector and spurring new forms of competition.[36] In particular, the recent emergence of an abundance of online options ranging from marketplaces to web stores to social media portals, has resulted in more sales channels for sellers to get their products directly in front of interested consumers. This has primarily benefitted consumers through enhanced competition, increased optionality and enhanced customer experience.[37] These technological innovations have also resulted in cost reductions in all forms of retail – whether online, offline or using omnichannel sales methods.[38] Academics have warned that enacting regulations purportedly to safeguard consumers form big tech will likely chill innovation and ultimately harm consumers.[39] These are real consequences that Parliament must be cognizant of before considering any amendments adding non-economic objectives to the purpose clause of the *Competition Act*.

6. Canada does not have to lead enforcement against digital market segments and should tread carefully

The recent calls to reform antitrust laws have largely followed the emergence of digital market segments. There is no doubt that these segments exhibit features that raise new challenges for antitrust agencies, including the global nature of the most prominent digital firms.[40] However, it is precisely the global nature of these segments that may weigh against amending Canada's competition legislation to include non-economic objectives that could adversely affect Canada's long-term economic growth.

Canada and the Competition Bureau should recognize that it does not need to lead enforcement activity against global digital market segments. It may be more effective for any such enforcement activity to be led by antitrust agencies in other jurisdictions that have a closer nexus to those companies, and for the Competition Bureau to utilize its scarce resources on other matters, or alternatively, surgically conduct investigations that raise a particularly profound concern in Canada. Whatever the Competition Bureau does or does not do, there can be no question that owing to the global nature of digital market segments; remedies in those jurisdictions (particularly the United States and the European Union) are more likely than not to address any theoretical issue in Canada.

Moreover, suppose other jurisdictions broaden their competition legislation to incorporate non-economic objectives to appeal to populist causes notwithstanding the absence of a principled foundation in doing – a no longer remote possibility in these very shifting times. There is no reason to prematurely abandon competition policies heavily supported by economic research to make sweeping changes to the *Competition Act*. Instead, it would be prudent to observe the efficacy of such changes in those other jurisdictions. In the unlikely event that including non-economic objectives turns out to be highly beneficial to competition policy and long-term economic growth, it would then be straightforward to explore incorporating those objectives into the *Competition Act*. In such

[35] Competition and Markets Authority, "Compendium of approaches to improving competition in digital markets" (2021) at page 11.
[36] Daniel Schwanen, "Shoppers' Choice: The Evolution of Retailing in the Digital Age", C.D. Howe Institute (2021).
[37] Daniel Schwanen, "Shoppers' Choice: The Evolution of Retailing in the Digital Age", C.D. Howe Institute (2021).
[38] Daniel Schwanen, "Shoppers' Choice: The Evolution of Retailing in the Digital Age", C.D. Howe Institute (2021).
[39] Anthony Niblett and Daniel Sokol, "Why Canadians don't need sweeping changes to competition policy to handle Big Tech" (2021) Macdonald-Laurier Institute at page 27.
[40] Competition and Markets Authority, "Compendium of approaches to improving competition in digital markets" (2021) at page 13.

circumstances, any evidence as to the efficacy of these non-economic objectives from other jurisdictions would serve as valuable support for including such objectives in the *Competition Act*.

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It is essential that Canada's competition policy framework remains effective and that the Competition Bureau is adequately equipped to fulfill its mandate. This may require targeted amendments to the *Competition Act*, such as expanding the scope for private enforcement of abuse of dominance. However, wholesale amendments to the *Competition Act* are neither necessary nor desirable. In particular, Parliament must resist calls, however well-intentioned, to expand the *Competition Act's* objectives beyond the economic domain. This will threaten the outcomes of competition policy and almost certainly would be detrimental to Canada's long-term economic growth.

I appreciate the opportunity to respond to your request for submissions to promote additional dialogue on paths forward for Canadian competition law.

Please let me know should you wish to discuss any of the matters set out herein or should you require any additional information. Thank you in advance for your attention to this matter.

Yours truly,

Zirjan Derwa