



Competition Bureau's Annual Plan Focuses on Proactive Monitoring, Health and Telecom in the Wake of COVID-19

August 05, 2020

Gideon Kwinter

On July 7, 2020, the Competition Bureau released its [annual plan](#), which sets out the Bureau's priorities and initiatives for the year ahead. This year's plan, titled "Protecting competition in uncertain times", demonstrates a focus on proactive detection, the telecommunications and health sectors, the digital economy and managing the implications of COVID-19.

More specifically, over the year ahead, the Bureau has its sights set on:

- **Proactive Intelligence Gathering:** The Bureau is establishing a "Monopolistic Practices Intelligence Unit" (a sister to its existing "Merger Notification and Intelligence Unit", which monitors for anticompetitive mergers). The new Unit is intended to examine and analyze trends in the marketplace to deter anti-competitive behavior before it happens. This suggests the Bureau will increasingly be carefully monitoring not only mergers but also ongoing industry conduct. While market complaints are likely to continue driving Bureau enforcement action, it will be important to be mindful of the Bureau's own proactive detection efforts in assessing competition risk and developing risk management strategies.
- **Telecommunications and Health Sectors:** The Bureau's competition promotion efforts this year will be focused on the health and telecommunications sectors. While the only specific initiatives identified in the Bureau's plan relate to continued participation in CRTC reviews, this focus is likely to inform the Bureau's enforcement priorities more generally, with transactions and continuing competitive conduct in these industries likely to attract heightened Bureau scrutiny.
- **COVID-19:** Managing the response to COVID-19 remains a priority for the Bureau. As detailed in the Bureau's earlier [guidance](#), its efforts will include continued monitoring of potentially deceptive marketing practices related to COVID-19 and contextual consideration of initiatives involving collaboration among competitors. While the Bureau has indicated that it will not interfere with necessary collaborative efforts undertaken in good faith, businesses should remain cognizant of the Bureau's sensitivity towards any attempts to abuse this flexibility.
- **Big Data and Privacy:** The Bureau's plan identifies a continued interest in the competitive implications of big data and further consideration of the Bureau's role in protecting consumer privacy. The Bureau's focus on these issues is likely to inform the breadth of its enforcement

activities. This priority may also indicate that the Bureau is prepared to examine factors that extend beyond traditional competition law analysis (like privacy). Particularly careful consideration should be given to transactions and competitive conduct in which big data and privacy issues intersect with the Bureau's other areas of focus, such as the telecommunications and health sectors.

While this year's annual plan does not represent a dramatic course change for the Bureau, it does suggest that certain industries and transactions are particularly likely to find themselves subject to Bureau scrutiny. For businesses, this reinforces the value of proactive consideration of potential sources of *Competition Act* risk and implementing thoughtful strategies for managing and mitigating these risks.

DISCLAIMER: This publication is intended to convey general information about legal issues and developments as of the indicated date. It does not constitute legal advice and must not be treated or relied on as such. Please read our full disclaimer at www.stikeman.com/legal-notice