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Time for an overhaul?

Competition Policy in Canada

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TRUE NORTH IN CANADIAN PUBLIC POLICY

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The federal government is currently conducting consultations on whether its competition policy needs to be updated. The reasons for the interest in reviewing competition policy are clear. For some time, the dominance of a few large technology companies in their specific markets has raised concerns about whether competition is being throttled. But would enacting and enforcing stricter competition policy be necessary or helpful?

Two tests would help determine the answer. One is demonstrating that more rules governing competition in Canada will actually improve outcomes for customers and boost innovation in a particular industry. The other is ensuring that changes to competition policy will improve overall economic performance and will not reinforce the malaise currently afflicting Canada's business community.

There are two fundamentally different approaches to competition policy. One of them, the Chicago School, argues that the focus of such policies should be solely on "consumer welfare." Firm size or market dominance is not important to the Chicago School as long as it is easy for competitors to enter the marketplace. Moreover, it is difficult to define the boundaries of a specific market: at some point, everyone (including governments) are competing for the customer's dollars or time.

The second approach to competition policy, the European Union approach, perhaps puts "too much emphasis on incumbent firms (making sure that no incumbent firm acquires a dominant position) at the expense of entry considerations," according to economist William Baumol of Princeton University. So antitrust regulators who focus on the market share of a dominant firm end up penalizing it for being exceptionally productive and efficient. Yet productive and efficient firms can provide better products that people want to buy – and at lower costs.

The question needs to be asked whether governments are serious about fostering more competition in Canada's economy when their extensive regulations and other policies insulate many sectors from more competition. Canada is particularly prone to government regulation of competition. There are large segments of Canada's economy where competition is limited, especially by restrictions on the entry of foreign firms.

Canada cannot afford any more government initiatives that undermine the performance of its business sector. The country currently suffers from an ongoing problem of chronic slow growth and weak business investment. Further, over the two decades starting in 2000, Canada's total factor productivity fell 0.6 percent, ending decades of sustained growth and leading to a slowdown of overall growth. The OECD recently forecast that Canada would have the worst real GDP per capita growth among its 29 member nations between 2020 and 2060 because of its low productivity growth and weak capital investment.

> *The country currently suffers from an ongoing problem of chronic slow growth and weak business investment*

Unfortunately, there are all too many examples of governments fostering an anti-business attitude in Canada. The most recent is the Trudeau government's so-called "green transition" policy encouraging the shift of workers from the oil and gas industry to renewable or green energy projects. Stoking the notion that oil and gas production is in terminal decline misses the opportunity to build public support for the attempt by energy producers, notably in the oilsands, to substantially reduce emissions with the goal of becoming net-zero producers by 2050.

In an environment already hostile to business success, a move by policy-makers to tighten the enforcement of competition laws will be interpreted by the business community as yet another attack on business by governments in Canada. There is little point in changing Canada's *Competition Act* without broader changes in government policies and attitudes to business. The greater hindrance to competition in Canada is the behaviour of governments, not of firms. If competition regulations can force a change in business structures because they harm consumers, then they should also be empowered to correct government actions that clearly favour producers at the cost of consumers. Improving these conditions rather than changing competition policy would increase competition in the marketplace. MLI

***Le gouvernement fédéral mène actuellement** des consultations sur l'opportunité d'actualiser sa politique de concurrence. L'intérêt à examiner cette politique est limpide : depuis quelque temps, un petit nombre de grandes entreprises technologiques domine certains marchés, ce qui fait craindre un étouffement de la concurrence. Toutefois, serait-il nécessaire ou utile de promulguer et de mettre en œuvre une politique plus stricte?*

Deux tests pourraient être utiles pour répondre à cette question. Le premier peut démontrer que l'ajout de règles supplémentaires pour régir la concurrence au Canada occasionnera une réelle amélioration de l'expérience client et une poussée de l'innovation dans un secteur particulier. Le but du deuxième est d'assurer que les changements apportés à la politique amélioreront les performances économiques globales et n'ajouteront pas au malaise qui frappe actuellement le monde des affaires canadien.

Il existe deux modèles fondamentalement différents de la politique de concurrence. Selon l'un d'eux, de l'école de Chicago, les politiques doivent être axées uniquement sur le « bien-être du consommateur ». La taille de l'entreprise ou sa position dominante sur le marché n'importe pas du moment qu'il est facile pour les concurrents d'y entrer. En outre, il est difficile de définir les limites d'un marché particulier : à un moment ou l'autre, tout le monde (y compris les gouvernements) se dispute l'argent ou le temps du client.

> *Le Canada est particulièrement enclin à la réglementation gouvernementale en matière de concurrence.*

Le second modèle, qui a été adopté par l'Union européenne, met peut-être trop l'accent sur les entreprises existantes (en veillant à ce qu'aucune d'elles n'acquière une position dominante) au détriment des considérations relatives à l'entrée, selon l'économiste William Baumol de l'Université Princeton. En effet, les autorités de la concurrence qui accordent la première importance à la part de marché de l'entreprise dominante finissent par la pénaliser pour sa productivité et son efficacité exceptionnelle. Pourtant, les entreprises productives et efficaces sont à même d'offrir les meilleurs produits qui soient, et que les gens sont prêts à acheter – à moindre coût.

Il convient de se demander si les gouvernements cherchent véritablement à favoriser une meilleure concurrence au sein de l'économie canadienne, car quantité de réglementations et de politiques mettent de nombreux secteurs à l'abri d'une concurrence accrue. Le Canada est particulièrement enclin à la réglementation gouvernementale en matière de concurrence. De vastes segments de l'économie canadienne ne sont exposés *qu'à une concurrence limitée, notamment en raison des barrières à l'entrée pour les entreprises étrangères.*

Le Canada ne peut plus se permettre de lancer des initiatives gouvernementales qui nuisent au secteur des entreprises. Le pays souffre actuellement de difficultés durables causées par la lenteur chronique de sa croissance et la faiblesse des investissements des entreprises. En outre, au cours des deux décennies qui ont débuté en 2000, la productivité factorielle totale a baissé de 0,6 %, mettant fin à des décennies de croissance soutenue et entraînant un ralentissement de la croissance globale. D'ailleurs, l'OCDE a récemment prévu que, parmi ses 29 pays membres, le Canada afficherait la plus faible croissance de son PIB réel par habitant entre 2020 et 2060 en raison de la croissance peu élevée de sa productivité et de la mollesse de ses immobilisations.

Malheureusement, trop nombreux sont les exemples qui montrent que les gouvernements encouragent une attitude anti-entreprise au Canada. Le dernier a trait à la politique dite de « transition verte » du gouvernement Trudeau, qui encourage le déplacement des travailleurs de l'industrie pétrolière et gazière vers des projets d'énergie renouvelable ou verte. En alimentant l'idée que la production de pétrole et de gaz est en phase terminale de déclin, on manque l'occasion de susciter le soutien du public aux efforts déployés par les producteurs d'énergie, notamment dans les sables bitumineux, pour réduire considérablement les émissions en vue d'atteindre la cible d'émissions nulles d'ici 2050.

Dans un environnement déjà hostile à la réussite des entreprises, toute action des décideurs politiques visant à muscler l'application des lois sur la concurrence sera interprétée par les milieux d'affaires comme une attaque de plus de la part des gouvernements du Canada contre les entreprises. Il ne sert pas à grand-chose de modifier la Loi sur la concurrence *si les politiques et l'attitude des pouvoirs publics à l'égard des entreprises ne changent pas en profondeur. Le plus grand obstacle à la concurrence au Canada est le comportement des gouvernements, et non pas celui des entreprises. Si les règlements en matière de concurrence permettent de forcer un changement dans les structures d'entreprise parce qu'elles nuisent aux consommateurs, ils devraient également donner accès aux moyens de corriger les actions gouvernementales favorisant nettement les producteurs aux dépens des consommateurs. L'amélioration de ces conditions, plutôt que la modification de la politique de concurrence, permettrait d'accroître la concurrence sur le marché.* MLI

Introduction

The federal government is currently conducting consultations on whether its competition policy needs to be updated (Innovation, Science and Economic Development Canada 2022). Some analysts advocate a dramatic overhaul of the *Competition Act* after its last revision in 2009. Others think small changes would be enough, or even just using better judgment in enforcing the current Act.

The reasons for the interest in reviewing competition policy are clear. For some time the dominance of a few large technology companies in their specific markets has raised concerns about whether competition is being throttled. Meanwhile, some academics have pointed an accusatory finger at the concentration of firms in certain markets to explain lacklustre innovation in the economy. More recently, the sudden surge of prices since mid-2021, especially for food and energy, has fed suspicions that firms are colluding to raise prices for consumers. Finally, some high-profile mergers, such as the Rogers-Shaw union, have raised questions about whether consumer interests are being protected.

There are two tests to determine if enacting and enforcing stricter competition policy are required. One is demonstrating that more rules governing competition in Canada will actually improve outcomes for customers and boost innovation in a particular industry. The other is ensuring that changes to competition policy will improve overall economic performance and will not reinforce the malaise currently afflicting Canada's business community. The question needs to be asked whether governments are serious about fostering more competition in Canada's economy when their extensive regulations and other policies insulate many sectors from more competition. These policies include import quotas on agricultural imports, restrictions on foreign ownership in banking, telecommunications, transportation, and culture, and a thicket of barriers that inhibit inter-provincial trade.

Beyond these specific questions about competition policy lies the ongoing problem of chronic slow growth and weak business investment in Canada. This lethargy, evident in Canada's abysmal productivity and low rate of innovation, partly reflects an increasingly hostile environment for businesses operating in Canada. Any review of competition policy should take into account how new policies would affect the sentiment of Canada's business community.

Governments hinder business by not consistently and clearly stating what are acceptable business practices under the *Competition Act*. A growing number of commentators are questioning the competence of the Competition Commission bureaucracy after the Competition Tribunal (which oversees the application of competition law) overruled a number of its recent judgments. Not even a well-conceived set of laws matters if they are not properly interpreted and enforced.

Competition within an industry

Almost all economists agree that anti-competitive business practices that raise consumer prices or block the entry and growth of innovative firms should be illegal. As the noted conservative political analyst Yuval Levin wrote, "the case for capitalism is not a case for license or for laissez faire. It is a case for national wealth as a moral good; for the interest of the mass of consumers as the guide for policy; for clear and uniform rules of competition imposed upon all; for letting markets set prices, letting buyers make choices, and letting producers experiment, innovate, and make what they think they can sell—all the while protecting consumers and punishing abuses" (quoted in Bahnsen 2021, 148).

One challenge for competition policy is whether it is better to try and identify the conditions that could lead to anti-competitive behaviour or wait until such behaviour manifests and does actual harm to consumers (Innovation, Science and Economic Development Canada 2022). Too often, competition policy focuses on a largely futile attempt at the former, using arbitrary tools such as measures of market dominance (notably concentration ratios, which measure the share of an industry's sales or output accounted for by its largest firms).

A related challenge for competition policy is defining the marketplace for competition. Aghion and Griffith distinguish between two types of competition: "'competition *in* markets' (which corresponds to our measures of product market competition) and 'competition *for* markets' (which captures both entry and the ability to escape current markets by creating new ones)" (Aghion and Griffith 2005, 85; emphasis in the original).

> *Competition within a specific market is the traditional focus of measures of market dominance.*

Competition within a specific market is the traditional focus of measures of market dominance such as concentration ratios. The concentration ratio for a particular industry may be a starting point, but it is misleading as a guide to competition policy for a number of reasons. One problem is defining the market.[1] Is Facebook competing with other companies producing profiles of individuals, or is it competing with all social media companies, or even more broadly for all companies who want the consumer's time and money? Furthermore, a firm's dominant position in a market may simply reflect that it excels at delivering a product at a price that consumers find valuable and almost irreplaceable. If the consumer is not being harmed, why would government take steps against such a firm?

Competition for markets (rather than within a market) acknowledges that all firms are competing for consumer non-essential purchases (as distinguished from essentials such as food, shelter, and clothing). Competition policy has little impact on competition for markets, which in Canada is weakened by other factors that limit business formation, including extensive government protection of entrenched interests, shallow financial markets that restrict funding for new ventures, and a culture that is averse to risk-taking. Improving these conditions rather than changing competition policy would increase competition in the marketplace.

Governments often deliberately hinder competition

Governments themselves often encourage the dominance of large or entrenched firms. Tyler Cowen cites research that shows that concentration ratios are correlated with government regulation of business because "As government regulates business more, this favors corporations large enough to have substantial legal and compliance departments. Regulation serves as a kind of fixed cost of doing business, discouraging market entry" (Cowen 2019, 89).

> *Barriers to inter-provincial trade erected by provincial governments also help insulate local economies from competition.*

Canada is particularly prone to government regulation of competition. There are large segments of Canada's economy where competition is limited, especially by restrictions on the entry of foreign firms. This includes airlines, telecommunications, banking, agriculture, media, and culture industries (Cross, 2014). As Addy (2023) observed, in these sectors "concentration is not a sign of market failure but rather a government policy choice." The government could foster more competition tomorrow by easing its regulations and lowering its trade restrictions instead of targeting the full force of competition policy on sectors such as high technology, where companies have succeeded by satisfying customer needs rather than by thwarting competition in the marketplace.

Barriers to inter-provincial trade erected by provincial governments also help insulate local economies from competition. A 2017 Statistics Canada study found that these barriers to inter-provincial trade had the effective impact of a 7 percent duty on all domestic trade flows. By comparison, trade across state borders in the US moves as if there were no custom duties (Bemrose et al. 2017). The negative impact of barriers to inter-provincial trade is substantial, with the IMF estimating they lower GDP per capita by 4 percent (Alvarez et al. 2019).

Two schools of thought on competition policy

There has always been a tension within the economics profession between two fundamentally different approaches to competition policy. On the one hand are those who broadly share the Chicago School perspective "about the relatively harmless nature of monopoly and the positive role of large corporations" versus the more European emphasis on "the need for robust antimonopoly policies" (Stedman Jones 2012, 7).

Chicago School adherents argue that the focus should be solely on "consumer welfare" especially whether there is upward pricing pressure as a result of corporate behaviour (*The Economist*, 2020). Firm size or market dominance is not important to the Chicago School as long as it is easy for competitors to enter the marketplace. Moreover, it is difficult to define the boundaries of a specific market: at some point, everyone (including governments) are competing for the customer's dollars or time; the head of Netflix claimed the firm's main competitor was "sleep" (quoted in *The Economist* 2023b).

An OECD report supports the assertion that competition drives innovation, since productivity increases are far greater in the largest manufacturing and services firms. Productivity rose the most in the largest firms: in manufacturing, the leading firms saw productivity increase 33 percent between 2001 and 2013, while the top 5 percent of service firms boosted productivity by 44 percent. Productivity for all other firms rose by 7 percent in manufacturing and 5 percent in services (Zakaria 2020, 156). Zakaria concludes that the reason is that "in today's economy, big is beautiful. Size allows companies to take advantage of the two dominant economic trends of our time—globalization and the Information Revolution" (Zakaria 2020, 156).

Even a dominant market share does not insulate a firm from competition, particularly in the area of technology where supremacy has always proved temporary. IBM once dominated mainframe computing, while Nokia and Research in Motion briefly were leaders in cellphones, but technological change overtook these firms. More recently, Facebook, with its older clientele, is losing market share to TikTok. Microsoft is another case in point; at its peak, it had as dominating a market position as Google or Facebook do today (Galloway 2017, 154). But by the time the European Union took Microsoft to court for monopoly, its position was eroded by technological changes that made its software obsolete for many users. Amazon remains dominant only because it has been able to shift from selling books online to serving completely new markets such as cloud computing. The key to competitive behaviour among firms, especially in technology, is innovation and not prices, which is difficult if not impossible for competition policy to measure and regulate (Baumol 2002, 4).

William Baumol of Princeton University criticized the European Union approach that "may put too much emphasis on incumbent firms (making sure that no incumbent firm acquires a dominant position) at the expense of entry considerations." This is because "promoting entry is as important for innovation and productivity growth as preventing collusion or predatory behavior among incumbent firms" (Baumol 2002, 65).

The current focus of antitrust regulators on the market share of a dominant firm or firms penalizes them for being exceptionally productive and efficient. Yale Brozen of the University of Chicago argues this is mistaken, because:

> If firms grow to where their market shares concentrate an industry or make one firm dominant, it must be because of superior management, economies of scale, or the production of better products that satisfy a major portion of buyers at a lower cost to them. The growth must be not only the result of lower costs but also of competitive behavior. The benefits of lower costs, to make low-cost firms 'dominant,' must be passed on to buyers in sufficient amount to attract them to low-cost firms. To maintain a large market share, the dominant firm or firms cannot restrict output to maintain price but must expand with the industry. Any attempts at monopolistic or collusive behavior requires restriction of output. Such attempts entail a consequent sacrifice of market share. (quoted in Van Overtveldt 2007, 219)

From the viewpoint of the Chicago School, the creation of government antitrust powers in the early 20th century in response to the so-called "robber barons" (such as Rockefeller of Standard Oil or Vanderbilt and his railroads) was mistaken. These leaders and their companies dominated industries because they were providing consumers with better products at lower prices (indeed the US economy at the time was booming even as overall prices deflated). As one historian observed, "all the industries alleged to have been monopolized by the trusts in the 1880s had relatively rising outputs and relatively rapidly falling prices between 1880 and 1900—just the opposite of the behavior one expects from a monopoly" (Higgs, 2005 322). The price declines were substantial, with the price of oil, steel, and aluminium falling 80 percent or more relative to average prices (Field 2012, 162). Lower prices and innovative technologies are just the type of economic progress governments do not want to inhibit with overzealous competition policy.[2]

The American jurist Robert Bork refined the Chicago School's views arguing that competition policy should focus on consumer welfare and not the welfare of other firms (*The Economist*, 2022). Bork articulated "that no firm size created by internal growth should be subject to antitrust procedures. The reason, of course, is that the achievement of large size by internal growth, whether the result is monopoly or membership in an oligopoly, demonstrates superior efficiency over the range of the market held" (quoted in Van Overtveldt 2007, 308).

Gary Becker of the University of Chicago argued that the monopoly of government regulators leads to even greater inefficiency than a lack of competition in the business sector. He wrote that "monopoly and other imperfections are at least as important, and perhaps substantially more so, in the political sector as in the marketplace… Does the existence of market imperfections justify government intervention? The answer would be 'no' if the imperfections in government behavior were greater than those in the market. It may be preferable not to regulate economic monopolies and to suffer their bad effects, rather than to regulate them and suffer the effects of political imperfections" (quoted in Van Overtveldt 2007, 222-223).

Becker's questioning of the competence of the bureaucracy overseeing the implementation of competition policy resonates in Canada. Questions have been raised recently about the competence of bureaucrats administering competition policy under the auspices of the Competition Commissioner. The Competition Tribunal, which oversees the rulings of the commissioner, has rejected three of its rulings in recent months. In one case, the tribunal struck down a ruling of the commissioner's that attempted to block an Ontario corporation from buying grain elevators, saying the commissioner's approach "fails on the facts, from a precedential and legal standpoint, and from a conceptual and economic perspective" (Corcoran 2023). Previously, the tribunal dismissed the commissioner's attempt to block a merger between Tervita and Secure Energy

Services, a decision upheld by the Federal Court of Appeal. Most recently, the tribunal ended the commissioner's attempt to block the Rogers-Shaw telecom merger, rejecting all the commissioner's major claims and concluding his perspective is "divorced from reality" by deliberately ignoring the plan to sell Quebec-based Videotron as part of the proposal (Corcoran 2023).

Becker's arguments convinced his Chicago colleague George Stigler to drop his support of activist antitrust policy and instead support "a minimalist antitrust policy that would permit essentially all honest business practices except conspiracies to raise prices and divide up markets. The way to prevent monopolistic practices, he came to believe, is to encourage domestic and foreign competition, not through detailed regulation of business" (Becker, quoted in Van Overtveldt 2007, 223).

> *Questions have been raised recently about the competence of bureaucrats administering competition policy.*

In response to the Chicago School's critique of a vigorous approach to competition policy, some economists recently blamed lagging innovation in the OECD on a lack of competition due to increased concentration of market share among a small number of firms (see Tepper and Hearn 2018; and Lindsey and Teles 2017). There are some flaws in their analysis. Most of the evidence cited for rising concentration is for America, but the US remains the most innovative and productive economy in the OECD (Phelps et al. 2020). As well, statistical evidence on rising concentration is not clear. For example, in the US only 95 out of 1066 industries saw the market share of the four leading firms increase to a level of above 60 percent between 2002 and 2012 (Atkinson 2021, 8). Similarly, an analysis conducted by *The Economist* found that the weighted average of the market share of the top four firms in 900 sectors in the US rose from 26 percent in 1997 to 32 percent in 2012, but then levelled off up to 2017 (*The Economist*, 2021).

While the evidence is inconclusive on whether concentration is increasing in OECD countries, including Canada, the key variable for the Chicago School is not rising concentration but whether it can be demonstrated this is harming consumers. For example, the high tech industry is often criticized for the dominance of its leading firms. However, they became dominant because "The world's biggest tech giants charge consumers either nothing (Alphabet, Google's parent company, and Meta, formerly Facebook) or as little as possible (Amazon)" (*The Economist* 2022). As well, the dominance of Facebook, Google, and Microsoft reflects the power of network effects, where the more people use the product the better the product becomes, which in turn makes it more attractive to other customers. In such winner-takes-all networks, "there is not much competition policy can do" (*The Economist* 2023a).

Competition policy in a broader context

Canada cannot afford any more government initiatives that undermine the performance of its business sector. Over the two decades starting in 2000, Canada's total factor productivity fell 0.6 percent, ending decades of sustained growth and leading to a slowdown of overall growth (Statistics Canada 2023). Nor are there signs that our lagging performance will change any time soon. Recently, the OECD forecast that Canada would have the worst real GDP per capita growth among its 29 member nations between 2020 and 2060 because of its low productivity growth and weak capital investment (which outweigh Canada's advantages in labour force growth) (Guillemette and Turner 2021, 13).

Canada's weak economic performance is rooted in its poor record in business investment and lack of business dynamism. Weak investment has its origins in a wide range of policies, including regulatory uncertainty (notably of the energy sector, including pipelines), high taxes, an overreliance on debt-fuelled household and government consumption, and shallow financial markets. Low business investment means that the average Canadian worker has only half the capital tools to work with as their American counterpart (Robson and Wu 2022). More importantly, Canada has seen its entrepreneurial spirit flag and its commitment to growth led by the business sector rather than government wane (Cross 2020).

Unfortunately, there are all too many examples of governments fostering an anti-business attitude in Canada.[3] The most recent is the Trudeau government's so-called "green transition" policy encouraging the shift of workers from the oil and gas industry to renewable or green energy projects. This policy promulgates the belief that the oil and gas industry, currently Canada's largest, inevitably will decline as the world shifts to renewable energy sources (consistent with Prime Minister Trudeau's musings in 2017 that "We can't shut down the oilsands tomorrow. We need to phase them out") (Muzyka 2017).

Stoking the notion that oil and gas production is in terminal decline misses the opportunity to build public support for the attempt by energy producers, notably in the oilsands, to substantially reduce emissions with the goal of becoming net-zero producers by 2050. The oilsands industry's vision is that once its competitors who produce shale oil and conventional oil exhaust their supply of either deposits or financing in North America, the oilsands will be the only producers remaining, supplying North American needs with a low-emissions or net zero-emissions product (Fellows 2022, 21). The International Energy Agency (IEA) projects that even in its scenario of net-zero emissions in 2050, the world will still need fossil fuels to meet 15 percent of global energy demand because of industrial demand (for goods such as chemicals and plastics) even if all our transportation and heating needs are met by electricity from renewable sources (IEA 2022, 239). Since the economy will continue to require oil, the oilsands would have the North American market to themselves. This is the positive vision of the future of our energy sector that Canada's prime minister should be promoting, especially on the international stage.

Another symptom of the lack of understanding of business practices or even outright hostility to firms in Canada's public discourse are the unfounded allegations that "greedflation" has stoked recent price increases as firms have raised prices to fatten their profit margins. This argument fails in both theory and practice. It does not explain why firms suddenly exercised pricing power in a period of rising inflation after three decades of low inflation when they mysteriously did not act collectively to raise prices (which, if true, would be a legitimate target for the Competition Bureau).[4] Inflation was fuelled by the unprecedented injection of monetary and fiscal stimulus in an economy suffering from supply shocks to logistics, energy, and Canada's labour market. More practically, financial markets do not see any benefit to corporations from an inflationary environment. Stock markets around the western world sagged as inflation took off in 2021 and markets continued to recede in 2022 and into 2023. This mirrors the prolonged slump in stock markets seen during the 1970s in a period of persistent high inflation. Clearly, markets believe inflation is a negative for corporate finances.

> *Canada's overall economic growth has slowed steadily for years even as these pro-growth policies were enacted.*

The lack of dynamism in Canada's business sector helps explain what Don Drummond, one of Canada's leading economists, called the "conundrum" of this country's economic performance in recent decades (Drummond, 2011). One way of explaining Canada's economic conundrum, where adopting several pro-growth policies ends up having little effect, is to look at the broader attitude of Canadian society and governments to business dynamism and entrepreneurship.[5] Policy-makers in Canada have adopted many of the recommendations advocated to lift growth: immigration is at a record high; we are the only nation with free trade agreements with all of the other G7 nations; we have adopted tax policies such as shifting from income taxes to a consumption tax and implementing a carbon tax (unlike the US in both cases); and we have the highest level of education in the OECD. Nevertheless, Canada's overall economic growth has slowed steadily for years even as these pro-growth policies were enacted, hence the conundrum. This lethargy has its origin in Canada failing to correct several policies and cultural attitudes that outweigh the positive (if exaggerated) impact of those just listed. An indifference bordering on hostility to business interests is the most prominent of these failings, as Canada mistakenly relies on its public sector to drive growth.

The risk is that, in an environment already hostile to business success, a move by policy-makers to tighten the enforcement of competition laws will be interpreted by the business community as yet another attack on business by governments in Canada. Research from Edmund Phelps and his colleagues shows that Canada lags behind other countries, notably the US, in embracing those values that are most associated with business dynamism and entrepreneurship (Phelps et al. 2020). Jim Balsillie, co-founder of Research In Motion, agreed with this finding, claiming “there is evidence of Canadian hostility to hometown success. Fellow Peterborough resident and celebrated author Robertson Davies called it Canada’s ‘tall poppy syndrome’: the inclination to cut down those standing above the crowd” (quoted in Nowak 2015).

There is a broader malaise among business people in Canada. A survey of 165 Canadian business leaders commissioned by EY Canada from the Abacus Data polling firm in 2018 found that 56 percent said that not enough is being done to ensure that we retain our competitiveness with US regulations and 64 percent felt not enough was being done to maintain our tax competitiveness (O’Riordan, 2018). For example, that year Rob Wildeboer, then chairman of the auto parts firm Martinrea International, opened a research and development complex in Michigan instead of Canada. He said that Martinrea shifted south of the border because the US was more business-friendly, warning Canada of the need to “Be competitive, or you’re going to kill the goose that laid the golden egg” (Owram and Quinn, 2018). In such an environment, it is hard to imagine that tighter or more complex competition laws in Canada would encourage entrepreneurs to start the firms and make the investments that create growth over the long-term.

There is another downside to governments in Canada adopting regulations and rent-seeking policies that inherently reduce competition and favour entrenched interests. Not only is their doing so anti-competitive and expensive for customers, it fosters a cynical attitude to business success and wealth because it associates in the public’s mind business success with government favouritism. This cynicism is one reason for the hostility to business success evident in the Balsillie quote cited earlier. Furthermore, rent-seeking can start a vicious circle where “wealth derived from distorted markets is recycled into influence over government. Incumbents can choose to invest in protecting themselves from competition rather than inventing new products and production methods or improving existing ones” (Lindsey and Teles 2017, 8). The end result of this so-called crony capitalism is that “the machinery of creative destruction is slowing down” (Lindsey and Teles 2017, 13).

Conclusion

There is little point in changing Canada's *Competition Act* without broader changes in government policies and attitudes to business. The greater hindrance to competition in Canada is the behaviour of governments, not of firms. Governments do the most to tilt the playing field in favour of entrenched incumbent firms with their wide range of regulations and restrictions on trade and foreign ownership that impede competition. If competition regulations can force a change in business structures because they harm consumers, then they should also be empowered to correct government actions that clearly favour producers at the cost of consumers, such as supply management policies that raise food prices for consumers by restricting domestic and foreign supplies. Any revision to competition policy should also take into account the competence of the bureaucracy administering competition laws.

Governments could foster more competition in our economy by opening the large segments of Canada's economy currently insulated from competitive forces and improving regulations. More broadly, governments need to take the lead in encouraging increased innovation and fostering a more entrepreneurial culture in Canada. These initiatives would have a larger and longer-lasting impact on competition in Canada's economy than the changes currently being contemplated to the *Competition Act*. MLI

About the author

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References

Addy, George. 2023. "Before Rewriting the Competition Act, let's Review the Competition Bureau's Performance." *National Post* (February 3). Available at https://financialpost.com/opinion/gbefore-rewriting-competition-act-review-competition-bureau-performance.

Aghion, Philippe, and Rachel Griffith. 2005. *Competition and Growth: Reconciling Theory and Evidence.* MIT Press.

Alvarez, Jorge, Ivo Krznar, and Trevor Tombe. 2019. *Internal Trade in Canada: Case for Liberalization.* Working Paper 2019/158 (July). International Monetary Fund. Available at https://www.imf.org/en/Publications/WP/Issues/2019/07/22/Internal-Trade-in-Canada-Case-for-Liberalization-47100.

Atkinson, Robert D. 2021. *How Progressives Have Spun Dubious Theories and Faulty Research into a Harmful New Antitrust Doctrine*. Information Technology & Innovation Foundation (March 10). Available at https://www2.itif.org/2021-monopoly-myths-summary-report.pdf.

Bahnsen, David L. 2021. *There's No Free Lunch: 250 Economic Truths*. Post Hill Press.

Baumol, William J. 2002. *The Free Market Innovation Machine: Analyzing the Growth Miracle of Capitalism.* Princeton University Press.

Bemrose, Robby K., W. Mark Brown, and Jesse Tweedle. 2017. *Going the Distance: Estimating the Effect of Provincial Borders on Trade when Geography Matters*. Catalogue number 11F0019M – No. 394. Statistics Canada. Available at https://www150.statcan.gc.ca/n1/pub/11f0019m/11f0019m2017394-eng.pdf.

Corcoran, Terence. 2023. "The Absurdity of Competition Policies." *National Post* (January 11). Available at https://financialpost.com/opinion/competition-telecom-policies.

Cowen, Tyler. 2019. *Big Business: A Love Letter to an American Anti-Hero*. St. Martin's Press.

Cross, Philip. 2014. E*stimating the True Size of Government: Adjusting for Regulation*. Macdonald-Laurier Institute (May). Available at https://macdonald-laurier.ca/mli-files/pdf/MLIPCrossSizeOfGovernmentPaper0514.pdf.

Cross, Philip. 2020. *An Entrepreneurial Canada? Understanding Canada's Chronic Lack of Innovation and How We Can Fix It*. Macdonald-Laurier Institute (September). Available at https://macdonaldlaurier.ca/mli-files/pdf/20200901_Innovation_Creative_Destruction_Cross_PAPER_FWeb.pdf.

Drummond, Don. 2011. "Confessions of a Serial Productivity Researcher." *International Productivity Monitor* 22 (Fall): 3-10.

The Economist. 2020. "Economics Brief: Competition." *The Economist* (August 8).

The Economist. 2021. "Bring out the Vim-o-Meter." *The Economist* (September 18).

The Economist. 2022. "Special Report: Business and the State." *The Economist* (January 15).

The Economist. 2023a. "Activision Activism." *The Economist* (February 11).

The Economist. 2023b. "In Search of a Problem." *The Economist* (March 4).

Fellows, G. Kent. 2022. Last Barrel Standing? *Confronting the Myth of "High-Cost" Canadian Oil Sands Production*. Commentary No 635 (December). C.D. Howe Institute. Available at https://www.cdhowe.org/sites/default/files/2023-01/Commentary_635.pdf.

Galloway, Scott. 2017. *The Four: The Hidden DNA of Amazon, Apple, Facebook, and Google*. Portfolio.

Greenspan, Alan, and Adrian Wooldridge. 2018. *Capitalism in America: A History*. Penguin Press.

Guillemette, Yvan, and David Turner. 2021. *The Long Game: Fiscal Outlooks to 2060 Underline Need for Structural Reform*. OECD Economic Policy Paper No 29 (October). OECD. Available at https://www.oecd-ilibrary.org/docserver/a112307e-en.pdf.

Higgs, Robert. 2005. *Against Leviathan: Government Power and a Free Society*. Independent Institute.

Innovation, Science and Economic Development Canada. 2022. *The Future of Competition Policy in Canada*. Government of Canada. Available at https://ised-isde.canada.ca/site/strategic-policy-sector/sites/default/files/attachments/2022/The-Future-of-Competition-Policy-eng_0.pdf.

International Energy Agency [IEA]. 2022. *World Energy Outlook 2022*. IEA. Available at: https://iea.blob.core.windows.net/assets/830fe099-5530-48f2-a7c1-11f35d510983/WorldEnergyOutlook2022.pdf.

Lal, Deepak. 2006. *Reviving the Invisible Hand: The Case for Classical Liberalism in the Twenty-First Century*. Princeton University Press.

Lindsey, Brink, and Steven M. Teles. 2017. *The Captured Economy*. Oxford University Press.

Muzyka, Kyle. 2017. "Trudeau's 'Phase Out' Oilsands Comments Spark Outrage in Alberta." CBC News (January 13). Available at https://www.cbc.ca/news/canada/edmonton/justin-trudeau-oilsands-phase-out-1.3934701.

Nowak, Peter. 2015. "Why are Canadians So Hostile to Business Success?" *Canadian Business* (July 22). Available at https://archive.canadianbusiness.com/leadership/why-are-canadians-so-hostile-to-business-success/.

O'Riordan, Fred. 2018. "Is the Government Listening to Canada's Businesses?" *Globe and Mail* (September 2). Available at https://www.theglobeandmail.com/business/commentary/article-is-the-government-listening-to-canadas-businesses/.

Owram, Kristine, and Greg Quinn. 2018. "Sunny Ways Get Dose of Economic Reality." *National Post* (June 6).

Phelps, Edmund, Raicho Bojilov, Hian Teck Hoon, and Gylfi Zoega. 2020. *Dynamism: The Values That Drive Innovation, Job Satisfaction, and Economic Growth*. Harvard University Press.

Robson, William, and Miles Wu. 2022. *Canada's Investment Imperative: Stronger Business Investment. Can We Get It?* Intelligence Memo (February 2). C.D. Howe Institute. Available at: https://www.cdhowe.org/sites/default/files/2022-02/IM_Robson%20and%20Wu_2022_0202_0.pdf.

Snyder, Jesse. 2018. "Tide of Investment Set to Recede from Oilpatch Amid More Pipeline Delays." *National Post* (August 30). Available at https://financialpost.com/commodities/tide-of-investment-set-to-recede-from-oilpatch-amid-more-pipeline-delays.

Statistics Canada. 2023. Table 36-10-0208-01: Multifactor Productivity, Value-Added, Capital Input and Labour Input in the Aggregate Business Sector. Statistics Canada. Available at https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3610020801 (retrieved on February 15, 2023).

Stedman Jones, Daniel. 2012. *Masters of the Universe: Hayek, Friedman, and the Birth of Neoliberal Politics.* Princeton University Press.

Tepper, Jonathan, and Denise Hearn. 2018. *The Myth of Capitalism: Monopolies and the Death of Competition*. Wiley.

Van Overtveldt, Johan. 2007. *The Chicago School: How the University of Chicago Assembled the Thinkers Who Revolutionized Economics and Business*. Agate B2.

Zakaria, Fareed. 2020. *Ten Lessons for a Post-Pandemic World*. W.W. Norton.

Endnotes

1 The innate flaws of concentration ratios are why Statistics Canada stopped compiling and publishing them years ago.

2 Lower prices are the exact opposite of what is implied by the term "robber baron," whose origin comes from medieval German lords called the "Rauberitter" that charged illegal tolls on the roads crossing their lands without providing any upgrades to these paths in return, resulting in a transfer of money from common people to nobles (Tepper and Hearn 2018, 114-115). Instead, according to former US Federal Reserve Chair Alan Greenspan, the 19th century "robber barons" in the US "laid the foundations of the age of the common man: an age in which almost every aspect of life for ordinary people became massively—and sometimes unrecognizably—better" (Greenspan and Wooldridge 2018, 427). The attack on the robber barons culminated in the Sherman Antitrust Laws in the United States that became the foundation for competition policy in North America. However, Schumpeter warned against using hostility to monopolies as a way "of attributing to that sinister power practically everything it disliked about business. To the typical liberal bourgeois in particular, monopoly became the father of almost all abuses—in fact, it became his pet bogey" (quoted in Lal 2006, 59).

3 Governments are not the only source of anti-growth actions in Canada. Even after the Trudeau Cabinet approved building the Trans Mountain pipeline expansion, the Federal Court of Appeal overruled it in 2016, halting construction and compelling the national energy regulator to repeat a portion of its consultation process (Snyder 2018).

4 Isolated cases of collusion to raise prices do exist, notably the price rigging for bread carried out by Loblaws and others in the early part of this century. Such anti-competitive practices are clearly the purview of competition laws, and the grocery firms were made to repay their customers.

5 Another explanation is that while Canada correctly implemented several policies to promote growth, they were outweighed by other, wrong-headed policies that had a larger impact, such as inter-provincial trade barriers and low rates of innovation.

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