

"If the market share in the tying product is over thirty percent, the Department will attempt to determine whether the seller has 'dominant' market power. Where the seller has dominant power, and the other factors necessary to find a per se violation are present, a tie will be considered per se illegal. In those situations where dominant market power is not present, the Department will apply a rule of reason analysis. Employing this analysis, it will only challenge those ties that unreasonably restrain competition in the tied product market, taking into account the competitive considerations previously described."

The Guidelines will undoubtedly be debated at length before congressional hearings and elsewhere.

PUBLICATIONS RECEIVED

John R. Baldwin, Paul K. Gorecki and John S. McVey, Imports, Secondary Output, Price-Cost Margins and Measures of Concentration: Evidence for Canada, 1979, Economic Council of Canada, Discussion Paper No. 263, Ottawa, 1984. The authors summarize new measures of concentration in 140 Canadian manufacturing industries for the year 1979 which contain two significant statistical refinements of census data not hitherto available.

The first adjustment concerns shipments by an industry of products which are the primary products of another industry. On average, about ten percent of an industry's shipments are of that category. The data used by the authors assign those secondary shipments to the industry of which they are primary products. As it turns out, this adjustment does not result in a substantial change in the overall level of concentration in manufacturing.

The second adjustment concerns imports. Previous studies have either ignored imports or have classified all manufactured imports to the appropriate industries. The problem with the latter approach is that a significant proportion of imports of a particular class may in fact consist of imports by the domestic producers of that class of product, whether for further processing or to fill out their product lines. In other words, such imports do not in fact compete with domestic shipments. The data presented by the authors take advantage of recent work by Statistics Canada which enables imports by a firm of products primary to that firm to be deducted from total imports of that class of product. As it turns out, that refinement results in substantial differences in overall concentration measures as compared with data which exclude imports and with data which include all manufactured imports.

Taking the two adjustments together, the authors find, for example, that the average four-firm concentration ratio in 1979 was 42.7 compared to a ratio of 52.6 with data which take no account of secondary products or imports. Also, since imports as a percentage of GNP have been rising, the authors

conclude that concentration in manufacturing has probably declined somewhat over the past ten years rather than remaining about the same as previously thought. The new data also show a significantly smaller difference between concentration in Canada and the U.S., although it remains substantial.

The new data take no account of exports, but the authors ran tests which indicate that the inclusion of exports would not have had a very large effect on the results.

Annual Report, Director of Investigation and Research, Combines Investigation, Combines Investigation Act, For the Year Ended March 31, 1984. The Report notes a trend towards increased competition in the Canadian economy. It states:

"Over the past decade, various structural changes have occurred which have had important implications for the degree of competition prevailing in different sectors of the Canadian economy. For example, the GATT-TOKYO round of tariff reductions has increased the international trade exposure of Canadian manufacturing industries; revisions to the Bank Act have resulted in considerable overlap in the range of services provided by different financial institutions and have allowed for foreign bank entry; the Stage I amendments to the Combines Investigation Act extended its coverage to the service-producing industries, which account for approximately 64 percent of the Canadian gross domestic product; U.S. deregulation of various transportation modes has had spill-over effects in Canada; and there has been a significant increase in corporate merger activity and in the number of government enterprises providing marketable goods and services.

"The net impact of these economic cross-currents on the general state of competition in the Canadian economy is difficult to gauge in a precise manner. Such an exercise would require in-depth analysis, on an industry basis, of factors which determine the ability of firms to directly influence or control market outcomes - particularly relating to prices, output, profit levels, product attributes and innovation. However, notwithstanding the lack of such detailed information, it is the general view of the Director that developments which have occurred over the past decade, as well as others which are in the offing, point toward increased competition in the Canadian economy. Some of the facts which can be highlighted in this connection are:

- the stabilization, in recent years, of the postwar trend toward higher aggregate and industry concentration levels;
- the significant degree of entry and exit of firms across industries;

- the turnover in the relative ranks of leading firms, which suggests they are not necessarily entrenched in their respective market positions;
- the reductions in tariffs, which have resulted in import penetration and increased competitive pressures on domestic industries;
- the decrease in horizontal merger activity among firms and the apparent increase in the rationalization of inefficient production; and
- the direction of regulatory changes in the transportation, telecommunications and financial sectors aimed towards more open and flexible markets and institutional arrangements.

"While these changes are noteworthy, it should also be remembered that the structure of the Canadian economy is still less competitive than that of its major trading partner, the United States. In the United States, it has been estimated that approximately 78 percent of national income emanates from sectors/industries which are 'effectively competitive'. In Canada, the estimate is lower and stands at approximately 44 percent. In addition, aggregate and industry concentration levels prevailing in Canada continue to remain higher than those of other Western industrialized countries, and a large portion of our economic activity (32 percent) remains governed by regulations which affect price and output levels."

CANADIAN COMPETITION POLICY RECORD

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