July 9, 2025

A New Era of Canadian Competition Law

Over the past three years, the *Competition Act* has undergone its most significant transformation in decades. Through three waves of legislative amendments – introduced through Bills C-19, C-56, and C-59 – the framework for competition law enforcement in Canada has been fundamentally reshaped. Together, these reforms have expanded the powers of both the Commissioner of Competition and private parties, signaling a more aggressive and proactive enforcement regime.

Below is a summary of the key changes, grouped by legislative package.

First Wave: Expanding Liability and Penalties

Bill C-19 (June 2022)

- **Wage-Fixing & No-Poach Agreements Criminalized** – Employers who agree to fix wages or refrain from hiring each other's employees now face criminal sanctions. Penalties are no longer capped at $25 million and are instead left to the discretion of the court.
- **Abuse of Dominance Expanded** – New factors such as network effects, innovation, and consumer privacy must now be considered in abuse of dominance cases. Private parties were also granted limited rights to bring such cases with leave of the Tribunal.
- **Drip Pricing Prohibited** – Drip pricing is now expressly codified as a deceptive marketing practice, and violators face significant monetary penalties.
- **Stronger Penalties for Deceptive Marketing** – Maximum fines increased to the greater of $10 million for first-time violations ($15 million for repeat offenders) or three times the benefit gained.
- **Merger Avoidance Provisions Introduced** – Anti-avoidance measures were added to prevent parties from structuring transactions to avoid pre-merger notification thresholds.

Second Wave: Lowering the Enforcement Threshold

Bill C-56 (December 2023)

- **New Powers for Market Studies** – The Commissioner and Minister of Industry can now initiate market or industry studies, supported by court orders issued without notice to the other party, which compel the production of documents or testimony.
- **Eased Abuse of Dominance Test** – The Tribunal may now issue prohibition orders based on either anti-competitive intent or effect – previously, both were required. Monetary penalties still require proof of both.
- **Civil Agreements by Non-Competitors Now Reviewable** – The Tribunal can now intervene in agreements between non-competing firms if they substantially lessen competition.
- **Efficiencies Defence Repealed** – The much-debated efficiencies defence under sections 96 and 90.1 has been eliminated, aligning Canadian law more closely with international standards.
- **Greater Monetary Penalties** – Abuse of dominance penalties increased to the greater of $25 million ($35 million for repeat offenders), three times the benefit gained, or 3% of global revenues.

Final Wave: Enabling Private Enforcement

Bill C-59 (June 2024–2025)

This final package, phased in through June 2025, cements a shift toward broader, more adversarial enforcement, particularly through private rights of action.

- **Greenwashing Now Actionable** – Environmental claims, especially those tied to net-zero goals, must be substantiated using recognized methodologies. Misleading claims can be challenged as deceptive marketing.
- **Expanded Scope of Section 90.1** – Agreements that have already lessened competition can now be challenged, not just those that currently, or are likely to, do so. Penalties include significant administrative monetary penalties (AMPs) and divestiture orders.
- **Refusal to Supply Diagnostic or Repair Tools Prohibited** – “Right to repair” provisions now allow claims where businesses withhold diagnostic software, technical documentation, or parts, even if only part of the business is affected.

- **Reprisal Actions Banned** – Acts taken to punish individuals for cooperating with the Commissioner are now subject to prohibition orders and fines (up to $750,000 for individuals and $10 million for corporations).
- **Stricter Merger Review and Enforcement**
  - A reverse onus applies for mergers that exceed market concentration thresholds.
  - Remedies must fully restore pre-merger competition.
  - The Commissioner can challenge unnotified mergers up to three years after closing.
- **Private Rights of Action Significantly Expanded (Coming into Force June 2025)**
  - Private parties may now challenge deceptive marketing and anti-competitive agreements.
  - The Tribunal can grant damages and restitution orders.
  - The test for leave has been lowered: only a partial effect on an applicant's business is now sufficient.
  - The Tribunal may grant leave where it serves "the public interest" – a standard left open to judicial development.

What This Means for Businesses

The cumulative effect of these amendments is that both the Commissioner and private parties now have expanded enforcement powers, opening the door to a more litigation-driven enforcement approach to competition law. With the new private rights of action provisions in effect as of June 2025, that door is set to swing even wider. These changes lay the groundwork for a potential class action-like system that allows a single applicant to pursue claims in the public interest in an attempt to receive damages for a broader group. While the Tribunal lacks a formal class action process, the practical outcome of this system may nonetheless be similar to that of a class proceeding. This may ultimately pave the way for increased and novel litigation.

This is only one excerpt of our publication, Two Decades of Competition Tribunal Decisions: Data-Driven Insights , which analyzes how the Competition Tribunal has historically handled litigation. Read more here:

- Private Actions at the Competition Tribunal: What Businesses Need to Know