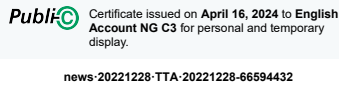


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Public input sought in Ottawa's review of law

Advocates hope to see lower prices, better conditions for workers

Christine Dob Toronto Star

Lower prices, better treatment for workers and an economy not dominated by a handful of mega-corporations.

That's the dream, at least, for some competition law reform advocates.

The federal government is looking for input from experts as well as the public at large on its review of the Competition Act, which is set to wrap up on Feb. 27.

It's the first major review in more than a decade to tackle the laws that shape key elements of how businesses operate, including rules around mergers, misleading advertising and how to stop dominant companies from abusing their power.

And in a consultation paper, the government has indicated it's open to some new ideas, like considering for the first time how two companies merging might affect people's jobs.

"I think there's an opportunity to integrate workers and worker welfare into the legislation in a way that's never been done before," said Robin Shaban, who recently co-founded the Canadian Anti-

Monopoly Project, a think tank dedicated in part to reforming competition laws.

As it stands, the Competition Act doesn't mention workers as a factor to consider in mergers and job losses can actually be a positive factor for companies arguing that a takeover should be approved.

The "efficiencies defence," can save an anti-competitive merger from being blocked if the merging companies prove there are sufficient cost savings and it has been a factor in the Rogers-Shaw merger trial. The uniquely Canadian defence is also up for debate in the government review.

When it comes to consumers, Shaban (who uses they/them pronouns) said better merger laws, in the past, could have prevented industries from consolidating into a handful of companies with the power to charge what they want.

"That ship has sailed," said Shaban.

Still, they said, a change to the "abuse of dominance" rules could lead to lower prices. Shaban is calling for the government to add a new provision that bans

dominant players - think big tech giants, for example - from exploiting consumers or workers.

An "exploitation" doctrine is already enshrined in European competition laws and Shaban said if Canada added it to the act, it could rein in truly egregious behaviour and also "send a signal to the business community: You can't just be setting higher prices just because you can."

The Competition Bureau, the agency that enforces the act, has also called for more power to investigate markets as a means of uncovering potential problems.

The bureau is currently conducting a market study of what's behind sky-high food prices - whether grocery giants have used inflation to help pad their profits was one of the biggest questions of the year - but it has pointed out that it can't force companies to turn over information that would help in its probe.

"It's embarrassing that we don't have this power," Shaban said. "It's completely out of step internationally."

Business law firms have lobbied against

giving the bureau unchecked investigatory powers, arguing it would impose a significant administrative burden on companies.

There are details to be worked out, but Jennifer Quaid, a civil law professor and vice-dean of research at the University of Ottawa, said she puts new market study powers in the category of "likely changes" the government will make.

Quaid said Ottawa has fallen into a pattern of conducting broad reviews of competition policy every decade or so, rather than making small tweaks every few years.

With the rapid shift toward a digital and data-driven economy in recent years, she said, a more nimble approach would be welcome.

Still, the government likely wants to deliver actual changes on this front before another election is called, Quaid said, noting that timeline could mean it ends up making a handful of changes on the more technical side but doesn't fundamentally revamp competition law design in Canada.

The consultation documents are "not easy reading," Quaid said,⁹⁶ but she encouraged Canadians who are interested in "how the market economy works or how business practices are playing out writ large" to take part in the review.

She said people should not feel constrained by what's in the government paper.

"People should not be put off by the way the walled garden looks. They should hop over the wall and get in there."