



June 30, 2009

The Hon. Tony Clement, P.C., M.P.  
Minister of Industry  
235 Queen Street, 11<sup>th</sup> Floor  
Ottawa, ON K1A 0H5

**RE: Progress Report on Competition Policy Review Panel Recommendations**

Dear Minister:

As Canada's leading business organizations, we are writing to you on the first anniversary of the Competition Policy Review Panel's Final Report *Compete to Win* to commend the government for the steps that it has taken to implement the Review Panel's recommendations to date and to urge it to move ambitiously to implement the balance of the Panel's recommendations.

The members of this business coalition came together last year to review the report and agreed at that time to monitor its progress and report back in one year's time. While the recession has Parliament's focus, it is paramount that the Competition Policy Review Panel's report be implemented to secure Canada's competitiveness in the global economy.

Overall, the members of this business coalition were pleased with the bold and innovative strategies that the report laid out for a long-term competitiveness strategy. This report cannot be left to languish on a shelf; it is critical to Canada achieving its goals.

There have been some positive developments over the last year but much more remains to be done. This letter highlights some of the key areas that the government needs to focus on, specifically: the *Investment Canada Act*; Sectoral Regimes; the *Competition Act*; and the Competitiveness Agenda.

*Investment Canada Act*

We welcome the recommendations that were put forward by the Review Panel regarding the *Investment Canada Act*. As part of Bill C-10, the *Budget Implementation Act*, the government amended the *Investment Canada Act* to increase the threshold for a review to \$1 billion and repealed the lower thresholds for investments in the financial services, transportation and uranium sectors. The government also introduced a "national security" review power for the Minister of Industry and made it mandatory to publish any reasons for not approving foreign investments. Also, unlike the parallel U.S. regime, there is no voluntary clearance mechanism and there is no

limitation period. There are also no *de minimus* exceptions and without this, any agreement, no matter the size or duration, would be subject to review.

All of these amendments are welcomed by our respective associations and we look forward to continuing to provide input to the government, specifically on the regulations that will define “enterprise value” and the guidelines on the scope and application of the national security review power that the Minister of Industry will have.

### Competition Act

For the most part, our associations agreed with the Review Panel’s recommendations in this area. For instance, we agreed with the recommendations to repeal the pricing and industry-specific provisions in the Act and to make the Competition Bureau strictly an enforcement body and not a policy and enforcement body as it is currently constituted.

However, we did not agree with the Review Panel’s recommendations regarding conspiracy, cartels and abuse of dominance, as well as its recommendations endorsing a U.S. style second request merger review process. The business community made its views widely known that these recommendations would likely increase costs and uncertainty for business and that they were not needed to achieve the Panel’s objective of greater competitiveness.

We are disappointed that the government chose to move forward with these recommendations without further consultation with the business community. The *Budget Implementation Act* (Bill C-10) introduced fundamental changes to the *Competition Act* with respect to competitor agreements, including a new *per se* criminal offence and a parallel civil provision. It also amended the merger notification regime to allow for the U.S. style second request approach. Bill C-10 also drastically increased fines for misleading advertising matters and it repealed certain pricing offences.

Members of this coalition remain concerned about the application of the new provisions relating to competitor collaborations and the merger review process. Nevertheless, recognizing that the amendments have now been adopted by Parliament, our associations look forward to being able to provide meaningful input with regard to their implementation and to any other proposed changes to framework legislation.

### Sectoral Regimes

Overall, we agreed with the Review Panel’s recommended changes regarding sectoral regimes and the need to periodically review these regimes to ensure that they are still valid and meeting the stated policy goals.

In air transport, we had recommended raising the foreign ownership cap and that this should also be done on a reciprocal basis. With the government setting the foreign ownership cap now at 49 percent, we are on the right track to improving our overall competitiveness as a nation and the development of a true Open Skies agreement between Canada and the European Union is a very positive development in this sector. We encourage the government to level the economic playing field with other countries through air services bi-lateral agreements.

For the uranium mining sector, we recognize the potential national security implications of investment and we agreed with the Review Panel that restrictions should be more liberalized, as long as the appropriate national security review mechanism is in place and functioning.

Regarding telecommunications and broadcasting, we agree with the Review Panel's recommendations regarding reforms and being consistent with the findings of the 2006 Telecommunications Policy Review Panel's Final Report but we do have some concerns that a two-phased approach to reform presents possible delays in implementing the recommendations to allow foreign companies to gain a foothold or acquire up to 10 percent of the market share in Canada.

In the financial services sector, we agree with the Review Panel's recommendation that the prohibition on bank mergers be lifted. The business community has been calling for this ban to be removed for many years and it is not helpful for competing in world markets. Once the barrier to bank mergers has been lifted, we propose that the federal government phase out the current percentage ownership restrictions over an appropriate time frame.

While action on the air transport sector is very much welcomed, there is more work to be done by the government and we ask that you move forward to improve Canada's approach to sectoral regimes.

#### Competitiveness Agenda

We were very pleased with the Review Panel's competitiveness agenda recommendations laid out in the report one year ago that, if implemented soon, will make Canada a much more competitive place for business investment. Most of our recommendations for improvements to Canada's competitiveness agenda were adopted by the Review Panel in its final report. These public policy issues include: taxation; the Canada-U.S. border; international trade policy; the removal of internal trade barriers; innovation and the protection of intellectual property rights; investment in post-secondary education and training; support for small- and medium-sized enterprises; immigration policy and procedures; our corporate and securities regulation; and the streamlining of regulation to ensure it does not impede competitiveness.

As the business community, we fully agreed with the Review Panel's that the Canada-U.S. border and access to the U.S. market remains Canada's number one trading priority. While security concerns at the border are legitimate, the "thickening" of the border cannot continue. It remains to be seen what the long term impact will be of the June 1<sup>st</sup> requirement that all Canadians and Americans will need a passport to cross the border into the United States but the government has been taking positive steps in discussions with the United States to ensure our border points are not clogged.

We were pleased that the Review Panel took our recommendation for changes to corporate and personal income tax rates and to ensure that Canada's tax policies are internationally competitive. While the country is obviously facing difficult times with large deficits projected, it remains our long-term goal to continue to reduce tax rates as a means of stimulating economic growth and enhancing international competitiveness. It was good for business to see the harmonization of the Ontario sales tax and the Goods and Services Tax (GST) into a single value-added sales tax beginning on July 1, 2010, and we are pleased to see the federal government's commitment to work with the four remaining provinces that have yet to harmonize their sales taxes with the GST) to do the same. Further, all general provincial capital taxes will be eliminated by 2012.

The Review Panel also called for the elimination of internal trade barriers by June 2011 and the establishment of a single national securities regulator. Both of these recommendations are embraced by business and we look forward to the federal government taking a leadership role on both of these issues in collaboration with the provinces and territories.

Regarding innovation and intellectual property rights, our coalition agrees fully with the panel's recommendations. Updated copyright legislation and providing more resources at Canada's border points will strongly increase our competitiveness as a destination for globally operating businesses to invest. Intellectual property protection, including patent protection, is the catalyst for new ideas and innovation, particularly today when research and development can take place in any part of the world. Stronger intellectual property rights safeguards have the potential to attract research and development to Canada and create jobs and investment in the knowledge-based economy.

Without a strong intellectual property rights environment, businesses can seek other jurisdictions in which to operate to ensure their intellectual property rights are protected. Allowing border services the ability to search and seize suspected counterfeit goods not only helps business, it also protects the health and safety of Canadians. Such initiatives are the right thing to do and the government committed to action in the 2008 Throne Speech. The Review Panel noted that counterfeiting and piracy legislation should be implemented before the end of 2009.

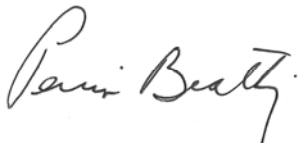
While not a recommendation from the Review Panel, the creation of a national information and communications technology strategy has been needed for a long time and focus on ICT adoption for business is key to productivity performance.

On the matter of Canada's corporate and securities laws and regulations, we believe that the Review Panel's recommendations were positive and we look forward to these recommendations being addressed by the government. Members of this coalition were also impressed by the Review Panel's recommendation to create a Canadian Competitiveness Council. This council, if properly structured by the government, could be a very useful tool to helping the business community and government stay on track with ensuring Canada's competitiveness.

Finally, while not specifically noted by the Review Panel, we are pleased that the government has entered into negotiations towards an economic agreement with the European Union. This agreement could have lasting positive effects for the Canadian business community and we look forward to providing further input into this process as the negotiations continue. Similarly, the beginnings of an economic agreement with India would also have potentially significant gains for Canada and this is a positive development.

Minister, there have been some positive developments over the past year with regard to maintaining Canada's competitiveness. While we understand the difficulties you face in operating with a sizeable deficit and minority Parliament, we urge you to continue to implement the sound strategies that the Competition Policy Review Panel laid out in June 2008.

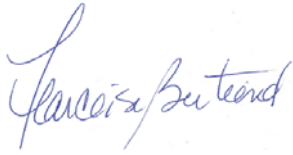
Sincerely,



Perrin Beatty  
President & CEO  
Canadian Chamber of Commerce



Avrim Lazar  
President & CEO  
Forest Products Association  
of Canada



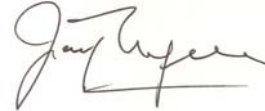
Françoise Bertrand  
President & CEO  
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Michael Skrobica  
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Jay Myers  
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cc. Richard Dicerni, Deputy Minister of Industry  
Paul Wilson, Prime Minister's Office  
Simon Kennedy, Privy Council Office  
All Members of Parliament