

Written Submission for the  
Study of Bill C-56, the  
*Affordable Housing and Groceries Act*



Canadian  
Chamber of  
Commerce

Chambre de  
Commerce  
du Canada

November 2023



## Recommendations

- 1) **Adjust amendments to the *Excise Tax Act* to ensure the enhancement to the GST New Residential Rental Property Rebate maximize creation of housing supply.**
- 2) **Refrain from adopting rushed amendments to the *Competition Act* that could harm innovation, consumers, and the Canadian economy.**



## Introduction

The Canadian Chamber of Commerce welcomes the opportunity to provide written feedback to the House of Commons Standing Committee on Finance as part of their study of Bill C-56, the *Affordable Housing and Groceries Act*.

We welcome amendments to the *Excise Tax Act* that should assist in the creation of much needed housing supply. That said, C-56 presents an opportunity to go further to help Canada tackle the housing crisis and restore affordability for Canadian families.

We also commend the government's efforts to ensure Canada's competition laws are strong in order to promote competition and foster a thriving economy. While we support the need to enhance competition in Canada, we urge the government to approach the proposed amendments to the *Competition Act* in C-56 with careful consideration and prudence.

However, with few days remaining in this year's legislative calendar, the Government's intention to rush Bill C-56 through Parliament, while giving the Standing Committee on Finance the authority to introduce further amendments to the *Competition Act*, leaves little to no time for analysis and consultation on the potential impact the amendments could have on businesses, consumers and the economy. We emphasize that changes to the *Competition Act*, which are consequential and lasting, should benefit from robust consultation with stakeholders.

## About the Canadian Chamber of Commerce

We are Canada's largest and most activated business network — representing 400 chambers of commerce and boards of trade and more than 200,000 businesses of all sizes, from all sectors of the economy and from every part of the country — to create the conditions for our collective success. We use deep local connections to create a powerful national vantage point no other network can equal. And, from working with government on economy-friendly policy to providing services that inform commerce and enable trade, we give each of our members more of what they need to succeed: insight into markets, competitors and trends, influence over the decisions and policies that drive business success and impact on business and economic performance.



## Recommendations

### 1) Adjust amendments to the *Excise Tax Act* to ensure the enhancement to the GST New Residential Rental Property Rebate maximize creation of housing supply.

Canada's global competitiveness and economic prosperity is intricately linked with our ability to attract investment. For companies to set up shop and create jobs in Canada, we need to assure them we remain able to attract the best talent, and we can't do that unless we can convince those talented workers they'll have somewhere affordable to live.

If it is acknowledged that housing in Canada has reached a crisis point, then the status quo will not do; we need to shift into crisis management. We need to use every tool in the toolbox to maximize housing supply and do so as quickly as possible.

While it is critical to incentivize the construction of new apartment buildings, student housing, and senior residences, it is also important to ensure projects currently under construction are completed in a timely manner.

Unfortunately, those projects are contending with interest rate increases, a shortage of skilled labour, lack of supply for raw materials, and challenges in refinancing or attracting new capital. The reality is the viability of current projects is now in question, which impacts the ability to successfully complete them, while also having the capacity to allocate capital to new ones.

For that reason, the Canadian Chamber recommends expanding the removal of GST to cover projects currently under construction.

To do so, clause 2 could be amended as follows:

#### ***Rebate for purpose-built rental housing***

***(3.1) The amount of a rebate under subsection (3) in respect of a taxable supply of purpose-built rental housing — being prescribed property — is determined in accordance with subsection (3.2) if prescribed conditions are met and if***

***(a) the taxable supply is a supply by way of sale of a residential complex or an interest in a residential complex to a person that is not a builder of the residential complex, or of a residential complex or an addition to a residential complex to a person that is, otherwise than by reason of subsection 190(1), a builder of the residential complex or addition, as the case may be, and the construction or last substantial renovation of the residential complex or addition, as the case may be, begins after, or is underway as of, September 13, 2023 but before 2031 and is substantially completed before 2036; or***

***(b) the taxable supply is a supply by way of sale of a residential complex that is deemed to be made to a person that has converted real property for use as the residential complex and is, as a result, deemed under subsection 190(1) to be a builder of the residential complex and the construction or alteration necessary to effect the conversion begins after, or is underway as of, September 13, 2023 but before 2031 and is substantially completed before 2036.***



Alternatively, the government could establish a GST rollover program for projects currently under construction, incentivizing entities to reinvest the equivalent GST amount into additional rental housing.

The government can enable the creation of the housing supply Canadians need if it demonstrates ambition and a commitment to implementing good policy while partnering with the private sector to leverage every tool at its disposal.

## 2) Refrain from adopting rushed amendments to the *Competition Act* that could harm innovation, consumers, and the Canadian Economy.

The Canadian Chamber of Commerce takes this opportunity to comment on several proposed amendments to the *Competition Act* included C-56 and in the Government's recent motion granting the Standing Committee on Finance the authority to expand the Bill's scope. We again highlight that these amendments are being rushed through Parliament, leaving no time for thorough analysis and consultation.

- **Formal Market Study Powers:** The proposed amendments grant the Minister and the Commissioner of Competition, in consultation with one another, the authority to direct the Competition Bureau to conduct market studies in the "public interest." We appreciate the intention behind this change, but must emphasize the concerns expressed during public consultations about the potential for overreach and politically motivated investigations. The requirement of a court order to compel information represents a reasonable safeguard against these risks. If enacted, these new powers should be used judiciously and include guardrails to prevent unnecessary disruptions to businesses and overly burdensome investigations.
- **Competitor Collaborations:** The Competition Bureau's ability to seek a prohibition order for anti-competitive agreements even when they do not involve at least two competitors is a far-reaching change to Section 90 with potential unintended consequences. Many agreements between firms and customers/suppliers are reviewable under other provisions of the *Competition Act*, such as the abuse of dominance provisions. If this change is implemented, we emphasize the importance of clear and fair enforcement guidelines to ensure that legitimate, procompetitive business agreements are not inadvertently penalized.
- **Repeal of the Efficiencies Defence:** We acknowledge the necessity of revising the efficiencies defence, which as it currently exists, places an onerous burden on the Competition Bureau to quantify all potential harms to competition from a merger when it is invoked by the merging parties. However, when gains in efficiency from a merger outweigh other potential harms, allowing the merger to proceed will yield the socially optimal outcome. We therefore urge the government to bear in mind the economic benefits that efficiency-enhancing mergers can create, such as jobs, investment in innovation, and economic growth.
- **Further Increases to Administrative Monetary Penalties (AMPs):** The Government has proposed to include in C-56 a radical increase to the AMP regime for contraventions of the abuse of dominance provisions. These increases more than double the fixed financial penalties from their current levels. It is unclear why such radical increases are necessary, especially when they were just increased in the *Budget Implementation Act, 2022*. AMPs climbing to \$35 million, when this amount is



greater than the variable penalty rates, would cripple businesses, have a chilling effect on investment, and likely dissuade vigorous competition. This is especially true as businesses are still adapting to the new abuse of dominance provisions, also included in the *Budget Implementation Act, 2022*. We therefore strongly recommend that these proposed AMP increases not be adopted.

- **Legal Test for Abuse of Dominant Position:** The Government has also proposed to include in C-56 a revision of the legal test for abuse of a dominant position prohibition order. While the legislative text has yet to be released, we are deeply concerned that this may result in a weakening of the standard that the Competition Tribunal must find that the conduct in question has resulted in a significant lessening or prevention (SPLC) of competition in order to prohibit that conduct. The SPLC test grounds competition law in a careful, fact-based economic analysis and prevents the politicization of enforcement that could otherwise discourage pro-competitive conduct. Making *priori* judgements about the competitive effects of conduct is misguided because what may harm competition in one circumstance may be pro-competitive in another. This is why the international standard for competition law is to judge conduct based on a rigorous analysis of its effects. Abandoning or weakening the SPLC standard would shield businesses from competition, punish benign or pro-competitive conduct and hurt consumers, innovation and Canada's economic growth. Further, deeming potentially pro-competitive conduct to be inherently harmful fosters an environment that is hostile to business, forcing companies to pause when they are looking to aggressively compete and innovate. We therefore strongly urge the Government to refrain from proposing any amendments that would weaken the SPLC standard.

We believe that the Government's ongoing review of the *Competition Act* is a good opportunity to take stock of our competition laws and make thoughtful refinements. We also appreciate the government recognizing, in the "What We Heard" report following the public consultation on competition policy earlier this year, that the *Competition Act* must apply "broad yet understandable principles" and that the Act "cannot be the vehicle to resolve every shortcoming in the free market, to address every consumer grievance or perceived unfairness that may occur between businesses."

Canada, to date, is rightly prioritizing its local needs rather than transplanting foreign legislation. Strengthening and protecting competition is a multi-faceted effort; the *Competition Act* is one tool to improve competition, but far from the only or most consequential one.

As the Competition Bureau has noted, creating a more dynamic Canadian economy will require re-examining regulations that seal off entire sectors from competition and removing barriers that often make interprovincial trade more difficult than trading internationally. Moving forward, we hope to see a continued focus on a whole-of-government approach and collaboration with provincial and territorial governments, which are much needed to improve competition in Canada.



## Contact

### **Pascal Chan**

*Senior Director, Transportation, Infrastructure & Construction*

Canadian Chamber of Commerce

1700 – 275 Slater Street

Ottawa ON K1P 5H9

[pchan@chamber.ca](mailto:pchan@chamber.ca)

### **Liam MacDonald**

*Policy Advisor*

Canadian Chamber of Commerce

1700 – 275 Slater Street

Ottawa ON K1P 5H9

[lmacdonald@chamber.ca](mailto:lmacdonald@chamber.ca)