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Digital Enforcement and Intelligence Branch
Competition Bureau Canada
50 Victoria Street
Gatineau, Quebec K1A 0C9

Submitted via the online feedback portal at: https://competition-bureau.canada.ca/feedback-form-artificial-intelligence-and-competition-discussion-paper

Re: Consultation on artificial intelligence and competition

The Canadian Chamber of Commerce welcomes the opportunity to contribute to the Competition Bureau (the Bureau)'s consultation on competition and artificial intelligence (AI).

The Canadian Chamber of Commerce is the country's largest business association with an active network of nearly 400 chambers of commerce and boards of trade representing nearly 200,000 businesses of all sizes, in all sectors and regions of our country. As such, we consulted with members from a variety of sectors, including telecommunications, cyber security, finance, insurance, manufacturing and the creative industries, represented on the Canadian Chamber's Digital Economy Committee and Future of AI Council.

Although the development of AI is still in the early stages, it brings both excitement and uncertainty about reshaping our future in profound ways. AI's potential has led to many speculating on its global prominence poised to unlock significant opportunities for players across all areas of the digital economy, revolutionize many aspects of markets and augment productivity and GDP growth. The Canadian Chamber of Commerce's Business Data Lab recently studied the potential economic impacts of generative AI in Canada, finding that it could increase productivity between 1% and 6% in the next decade. Given such transformative implications, we understand the desire to start considering the link between AI and competition and whether competition authorities require additional tools to address potential emerging issues.

As the Competition Bureau considers how AI may affect competition in Canada, we believe that the following aspects should be taken into account:

Competition is strong across the AI ecosystem.

A 2022 report from Traxcn identified 1,696 AI startups in Canada – a number that has likely since increased substantially given the exponential growth in enthusiasm following the release of ChatGPT and other modern large language models (LLMs). Canada is also home to three world-renowned AI innovation hubs in Toronto, Montreal and Edmonton, and there is significant investment and innovation in AI taking place across the country. Overall, Canada boasts a thriving

AI ecosystem, including everything from established leaders to startups operating in the fintech, cleantech and life sciences sectors, to name only a few[1].

However, as highlighted by the Bureau, there is concern that high entry costs and the drive to achieve economies of scale could eventually limit the entry of new participants into the AI ecosystem. This concern is understandable, especially for the development of new foundation models (FMs), which requires access to significant compute power to process large quantities of data. An entrant looking to develop a new FM generally has two options: 1) build their own physical compute power, which requires significant, and potentially prohibitive, investment or 2) rely on a cloud computing provider. While computing power resources, both in terms of physical hardware and cloud capacity, do seem to be relatively concentrated, it is important to remember that there is only an ambiguous relationship between concentration and competition[2]. There are currently several actual or potential competitors that are developing or offering alternative technologies, and current evidence does not suggest that this concentration has prevented the development of new technologies or the emergence of new competitors. Indeed, competition to develop FMs is intense and growing: model developers include familiar and well-established multinationals, but competition is also being led by many innovative start-ups developing proprietary and open-source models (e.g., OpenAI). Additionally, the Budget 2024 AI investment is anticipated to have a material impact on facilitating access to compute, especially for SMEs and new entrants (thereby making any concern on this issue premature).

With the rapid growth in FMs, the market for services that support their development is also facing a significant expansion. For instance, developers now can opt for various compute options, including on-premises solutions, online solutions provided by cloud services providers, solutions deployed in a co-located environment, and hybrid solutions that combine these options. In addition, developers have access to large volumes of data on the open internet and in publicly available datasets and can also use synthetic datasets as a cost-effective way of getting new, structured data. In any event, the volume of data alone cannot predict the future success of an FM – the most effective solution may not be the largest model, and may instead be a smaller, smarter, more efficient model. It therefore seems unlikely that incumbent firms would be able to block potential competitors by restricting access to data, nor will economies of scale provide incumbents with an unassailable advantage.

Competition in AI markets downstream from FM development is also strong. The synergy between the proliferation of FMs, advancements in compute options and availability of data is lowering the barriers to developing AI-powered applications. Thousands of apps are already in development/built on this technology and investment is pouring into the space, with hundreds of AI companies attracting investment over the last few years[3]. Such a surge in the number and

[1] See Montréal International, *Why Artificial Intelligence Giants are Heading to Montréal.* https://www.montrealinternational.com/en/keysectors/artificial-intelligence/
[2] OECD. *Market Concentration.* Issues paper by the Secretariat, June 2018. https://one.oecd.org/document/DAF/COMP/WD(2018)46/en/pdf
[3] Deloitte, *Impact and opportunities: Canada's AI ecosystem – 2023.* https://www2.deloitte.com/content/dam/Deloitte/ca/Documents/press-releases/ca-national-ai-report-2023-aoda-en.pdf

variety of applications is driving competition, enabling both businesses and consumers to choose from a huge variety of applications and ways to use AI.

Current law is sufficient to address any anti-competitive conduct in AI markets.

Competition in AI is nascent and dynamic, and for that reason, we believe it is too early to say to what extent the competition concerns flagged by the Bureau will come to fruition. Therefore, at this stage of AI development, applying existing competition law in a predictable manner provides clarity without hindering innovation. Examples of anti-competitive conduct raised by the Bureau and other regulators (e.g., tying, bundling, exclusive dealing, and anti-competitive M&A transactions) can already be addressed with existing competition laws. Sector-specific regulation in a dynamic sector like AI would create unnecessary barriers to entry by introducing regulatory overhead that smaller competitors struggle to support. Especially given that AIDA and its future regulations are still working through the legislative process, it is, again, premature and risks redundancy or lack of harmony to consider additional regulatory interventions until the full framework is in place.

The link between AI and competition, as well as competition in AI markets, has been or is being studied by competition authorities in other jurisdictions, including the UK's Competition & Markets Authority (CMA) and France's Autorité de la concurrence. While these studies point to potential risks similar to those discussed by the Bureau, they do not conclude that competition is being stifled across the AI ecosystem. When pondering the potential role of regulation in addressing potential competition issues, the CMA notes, "Overly burdensome regulation may make it unnecessarily difficult for competition and innovation to flourish, and at worst may lead to concentration and become a significant barrier to entry in its own right[4]." We applaud the Bureau for taking a first step to develop a better understanding of the Canadian context, but we caution against a view that developments in AI will necessarily require intervention by competition authorities, particularly with the significantly expanded powers introduced into the Competition Act only last week through the Bill C-59 amendments.

There are no doubt many other concerns relating to AI, which may have economic or even social impacts. The emergence of "deepfakes," for example, can facilitate deceptive marketing practices or be used to weaken public trust in institutions. AI can also complicate intellectual property protections such as copyrights, particularly in creative industries, which could harm investment and competition. While these concerns are important, they may implicate other branches of government, and it is not clear that the Bureau is best suited to address them. We therefore encourage transparent and ongoing dialogue with industry as our understanding of these issues develops.

[4] Competition & Markets Authority. *AI Foundation Models: Short Version.* September 2023. https://assets.publishing.service.gov.uk/media/65081d2c4cd3c3000d68cb6d/Short_version_.pdf

Thank you for the opportunity to submit our recommendations. We gladly make ourselves available at your convenience to meet and discuss our letter and recommendations further.

Sincerely,

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