In summary, it could be fair to conclude that the wide variety of types of competition legislation make it difficult to make a simple comparison, on this point, between the anti-dumping system, which is relatively standardized, and competition policy in practice. It is accurate to say that the anti-dumping system, broadly speaking, protects competitors (so-called "primary-line injury" under the U.S. Robinson-Patman Act) and that explicit concern for the impact on competition has virtually ceased to be a factor; however, it is not clear that all competition policy is rigorously directed at the protection of competition, rather than the mere shielding of competitors from the impact of discrimination. Indeed, much of the criticism of the U.S. legislative scheme is on this account.

What is absent from the anti-dumping system is the notion of "second line", "third line" or "fourth line" injury — that is, injury to customers of first line buyers, injury to customers of customers, and customers of customers of customers.[14] This U.S. formulation is intended to make feasible, in a precise manner, the inquiry into the impact on competition. Most observers have considered this to be a major difference between the U.S. anti-trust system and the U.S. anti-dumping system; indeed this is very much the main point of the critical attack on the U.S. anti-dumping system. As our short comments on other systems above suggest, it is more difficult to make this sort of precise comparison in regard to the other less-articulated, and less-used systems. Be that as it may, these differences in standards will have to be addressed in even the most moderate attempt to make the two types of legislation less contradictory.

Cause of Injury

If one turns from "injury" to "casuality", it is also difficult to make a precise comparison. One reason is that, as we have noted above, there is more than one concept of casuality in trade policy legislation, in the context of whether injury is thought to be "separate" or "overall".

Given the rareness of Canadian prices discrimination cases, and the range of different procedural approaches to assessing the impact on competition in European competition law systems, as a practical matter, the only illuminating comparison to be made is with U.S. competition law. Here there are some parallels in the anti-dumping provisions and the "escape clause". For example, if a complainant makes a prima facie case of price discrimination, the discriminating supplier may be able to rebut by arguing that the adverse effect on its competitors is due to factors other than the price discrimination.[15] This is much the same as the approach in the Tokyo Round Codes on Anti-dumping and Countervail; it is an approach which is, in this writer's view, consistent with GATT Article VI and Article XIX.[16]

An interesting feature of the U.S. anti-trust system, from the point of view of trade policy, is the concept of aid from other markets. This was spelled out in the Humble Oil & Refining Co. case.[17]

> Injury (in primary - line injury cases) is not an effect of discimination directly. Rather it is the result of a low price which a discimination in price allowed the defendant to charge. High prices provide for the predatory defendant the profit margins with which to lower other