

enforcement interventions. This is not to question the effectiveness or the need for Canada's merger control law, however. Even if the actual number of enforcement interventions is small, one cannot discount the possibility that Canada's current merger control law brings with it significant deterrence effects. The point of this section has been to note that the gradual elimination of tariffs between Canada and the United States is likely alleviating many of Canada's structural competition problems and to note the importance, for competition authorities, of continuing to take proper account of foreign competition.

Indeed, this has been the case in Canada as the Bureau of Competition Policy has declared that "within the scope of a relevant market that may be regional, North American or global, many merger transactions and business practices which formerly would have raised questions now are not of concern to domestic anti-trust authorities."³⁹

Commentators have pointed out that the FTA is a once and for all event, however. Once fully implemented, and barring future improvements, any residual or new tendencies towards monopolisation will no longer be constrained by added import competition (except from outside the free trade area). In this context, an independent Canadian merger review process will become more complicated because more mergers will be transboundary in their effects.

Under free trade, a merger of two foreign-based firms will have a greater effect on price in Canada. This is because the foreign share of the domestic market is larger, and so the elimination of a foreign firm withdraws more output from the market, permitting a higher price. There is a greater likelihood that domestic competition will be affected by what happens in the other jurisdiction.

In more and more sectors, the relevant market for competition enforcement purposes will be cross-border or North American in scope with the result that Canadian and U.S. antitrust authorities will, with increasing frequency, be reviewing the same merger transactions. This is not to deny the effects of globalization in creating even larger markets for some mergers. However, in the first instance, the free trade agreement will have bigger effects on merger control in Canada than globalization.

³⁹ "Globalisation and Competition Policy", a paper presented by Howard Wetston to an External Affairs and International Trade Canada "Rules of the Game" luncheon on March 5, 1993. On the other hand, others have argued that: "trade liberalization and globalization should not, in general, be viewed as a satisfactory substitute for an effective competition policy in constraining the exercise of market power". See Robert D. Anderson and S. Dev Khosla, "Competition Policy as a Dimension of Industrial Policy: a Comparative Perspective", Policy Directorate, Bureau of Competition Policy, Consumer & Corporate Affairs Canada, June 1993, p. 21.