

- expand opportunities for Canadian participation in world markets at the same time recognizing the role of foreign competition in Canada (export and/or competitiveness objective);
- ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy (justice objective);
- provide consumers with competitive prices and product choices (consumer interest objective).

Whereas legislation prior to 1976 provided only for criminal matters, the new Competition Act provides for both criminal matters and reviewable matters. The change eases difficulties the Crown previously encountered in prosecuting certain matters requiring "proof beyond any reasonable doubt". The new legislation also recognizes that certain business practices have no redeeming qualities and are always against the public interest, while other matters are best considered on a case-by-case basis.

Criminal practices include conspiracy, bid-rigging, misleading advertising and deceptive marketing practices, predatory pricing, price discrimination, and price maintenance.

Reviewable matters include mergers, abuse of dominant position, refusal to deal⁹, consignment selling/exclusive dealing/tied selling/market restriction, and specialization agreements¹⁰.

The reasons for prohibiting certain business practices and reviewing others, therefore, are rooted partly in our notions of fairness and justice, partly in the social compromise surrounding capitalism, and partly in economic theory. As David McQueen has rightly pointed out, competition policy (that is, government intervention aimed at maintaining and enhancing competition) also "fits into the framework of political institutions and of how we resolve recurring conflicts between one dollar one vote and one man one vote".¹¹ These sometimes conflicting purposes find their reflection in the multiple objectives which the Act seeks to promote.¹²

⁹ Occurs when a supplier refuses to supply a customer on the usual terms of trade.

¹⁰ Refers to an agreement between competitors to each discontinue producing a product or service in order to facilitate specialization.

¹¹ David McQueen, "On Some Other Objectives of Competition Policy", in Khemani and Stanbury, supra, note 4, p. 23.

¹² Interestingly, the consumer protection objective of the Act, as outlined in section 1.1, is last. Indeed, the Economic Council of Canada had recommended in 1969 that competition legislation's sole objective should be to promote the efficiency of the economy without regard to wealth redistribution effects. The legal weight to be given to the ordering of the purpose clause in