and to any proposal which calls for class actions within the context of the *Competition Act*.

The federal government has so far relied on its jurisdiction over criminal law to legislate on competition law matters and the courts have found that federal authority in this area rests on the criminal law power. Another head of power, however, — trade and commerce — may also support federal authority in this field. While an early case (1881)[1] found that the general regulation of trade affecting the entire country was a component of the trade and commerce power, subsequent decisions were not generous in their interpretation of the meaning and scope of this component. Recent cases, however, may be opening the door to its revitalization. In the *Canadian National Transportation* case (1983),[2] Mr. Justice Dickson (now Chief Justice) of the Supreme Court of Canada drew upon a previous judgment of then Chief Justice Laskin[3] to enumerate the following list of possible criteria for the valid exercise of the general trade and commerce power:

(a) the presence of a national regulatory scheme,

(b) the oversight of a regulatory agency,

(c) a concern with trade in general rather than with an aspect of a particular business,

(d) the constitutional incapability of the provinces to act, and

(e) the jeopardizing of the successful operation of the scheme in some parts of the country because of the failure to include one or more provinces.[4]

He concluded that the presence of these factors would increase the probability that the statute in question was of genuine national economic concern.[5]

These criteria were applied by the Federal Court of Appeal in the *Rocois Construction* case (1985)[6] in which that Court upheld the constitutionality of paragraph 31.1(1)(a) (the civil damages provision) of the then *Combines Investigation Act* on the basis of the trade and commerce power. This provision was found to have a "rational functional connection with the overall federal economic plan manifested in the Act in relation to