

smaller concentrations that do not meet the Community dimension criteria. The probability of this occurring, however, should be somewhat reduced. EC competition authorities should be less likely to deal with smaller concentrations given the strains that will be placed on the limited resources that they will have available to also deal with concentrations coming under the Merger Control Regulation. Another factor that may weigh against frequent attempts by the EC Commission to apply the Community competition rules to smaller mergers is the long-standing resistance in many Member States against the Commission having sole jurisdiction even over large concentrations. The Commission may be reluctant to risk aggravating its relationship with these countries by conducting parallel investigations on smaller mergers when it is intending to seek expanded jurisdiction over mergers in the not too distant future.

3.4 Implications Relating to the Analysis of Mergers Under the Regulation

The analysis of concentrations under the Merger Control Regulation may have important implications for the ability of Canadian businesses to compete effectively in EC, Canadian and other markets. Excessively strict or discriminatory treatment of concentrations involving Canadian companies could impair their ability to gain access to European markets through mergers, acquisitions or other concentrations. Another potential concern that has often been raised is that the Regulation might promote the formation of large "European champion" companies for the intended purpose of helping EC industries to become dominant in Community and other markets.⁴¹

The final draft of the Merger Control Regulation, however, does not provide specifically for either discriminatory treatment of non-EC firms or the formation of dominant firms for the purpose of competing in world markets. Rather, as under the merger provisions of the Canadian Competition Act, the main criteria for assessing concentrations under the Regulation should be their potential implications for competition in domestic markets. The central focus that the final draft of the Regulation places on competition is a major change from some earlier drafts of the Regulation. These would have required the Commission to take greater account of broader industrial and social policy concerns.⁴²