

Competition Tribunal Act

announcements of the Minister of Consumer and Corporate Affairs (Mr. Côté) that we have consulted with the Business Council on National Issues, the Canadian Chamber of Commerce, the Consumer's Association of Canada, the Canadian Manufacturers Association, the Canadian Bar Association, the Grocery Products Manufacturers of Canada, the Canadian Federation of Independent Business, the Canadian Federation of Independent Petroleum Marketers, and the Petroleum Marketers Association of Canada.

Surely we can be realistic enough to admit that not only has there been more adequate consultation during the last 19 months, but that there was 16 years of consultation by the former Government. Many of the things contained in this legislation were introduced by the former Government through at least two cabinet Ministers since I became a Member 1979. Changes to the competition legislation have been next to nil for 75 years. We are dealing with obsolete legislation that makes it virtually impossible to get a conviction on dominant position or conspiracy, or whatever you wish to pursue in the marketplace today in order to give the small businessman a break. It is difficult to prove that big business may or may not be taking advantage of dominant position in the marketplace. If the present legislation had any teeth we would have some convictions. I do not believe there is anyone sitting on either side of the House who does not feel that there are areas in which we would like to proceed to bring changes to the competition legislation in order to give a better deal to small business persons.

The central objective is simple. In Canada we need a charter for the marketplace, something which we do not now have. We need rules which can be enforced. We need an understanding of amendments to the Act, and we also need full consultation on an on-going basis in the future. We must recognize the need for continual changes to competition legislation.

The Minister of Consumer and Corporate Affairs outlined some major proposals in the House this morning. The former Minister of Consumer and Corporate Affairs, the Liberal Member for the riding of Papineau, recognized that we should get on with it. This legislation may not contain everything he wants, but I am sure the former Minister would agree that the legislation which he introduced did not contain everything he wanted either. However, I think we all generally agree that we need to make changes, and to make them fast.

We need a charter for the marketplace, as explained by the Minister this morning, because we recognize that the drive and momentum must come from Canadian small businesses. These are businesses which employ up to 50 people and make sales of up to \$2 million each year. Amendments are needed to ensure the full and continued contribution of this sector to our well-being as a nation, and what a contribution they make.

I am not sure that we realize that small business is the well-spring of a large share of our economic output. Ninety-seven per cent of the business enterprises in the country are in that category. Of every 100 people employed in Canada today, 47 work in small business. Furthermore, Mr. Speaker, this sector

has been playing a central part in the current economic recovery. In the 19 months since the last election there has been a net increase of 580,000 jobs. One hundred and ninety-four thousand of these jobs, one-third of the total job creation, are in the service sector, a sector which is 98 per cent small business. In short, the role of small business is large in the economic future of our nation, as in any nation in a free marketplace today. It is indispensable. Its contribution must be protected and cultivated. Several of the key amendments in this Bill are designed to let us do that more effectively than we can today.

I would like to consider first the section which deals with the abuse of dominant position; in simple terms, the misuse of market muscle to restrict competition. As any thinking person understands, "big" is not synonymous with "bad". Many big businesses have grown to their size because they are very efficient. We can point to some Canadian examples of that in telecommunications. Companies have become multinational giants because they got to market with innovative products earlier than their competitors. Bigness may be what you need to bankroll exploration and to gamble on research and development. Bigness is often what you need in order to be audacious on a grand scale.

Competition law is not aimed at market power *per se*, but at its abuse. The amendments before us make it clear that the practices to be discouraged must be anti-competitive in nature. They allow for the defence based on superior competitive performance. However, market power, like any other power, can be abused. One example of this is its use to close the door to new competitors entering the marketplace. Another is to squeeze a vulnerable competitor out by cutting off its supplies, or through what is known as "predatory practices". Having been in small business myself for 25 years, I can verify that I have seen instances of that, with no legislation present to deal with it.

This Bill proposes that we approach abuse of dominant position monopoly as a civil matter rather than a criminal offence. As the Minister has pointed out, the criminal approach has not worked. In criminal law you must prove all the elements of the offence beyond any reasonable doubt. With respect to abuse of monopoly the effects are often perspective. We are concerned about the reduction of competition further down the road. This inherently conflicts with the criminal law approach.

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Moreover, monopoly problems often raise complex economic questions with which the criminal courts are not equipped to deal. The competition tribunal composed of judges from the federal court and lay appointments will have the necessary expertise to deal effectively with abuses of the dominant positions while ensuring a fair and equitable judicial procedure.

The criminal approach has another drawback. You do not have much room to manoeuvre to correct a problem, the