

# Competition Policy

# Competition policy

- Monopoly power should be controlled!
- In the first part of this chapter...
  - Brief history of Competition policy in Canada
  - Competition act of 1986
  - Modifications
  - Objectives of competition policy
- In the second...
  - Collusion and horizontal agreements
  - Horizontal mergers
  - Vertical restraints and vertical mergers
  - Predation, monopolization and other abusive practices

# History of Competition Policy

- Trusts appear at the end of the 19<sup>th</sup> century
- Examples: sugar, coal, agriculture, fire insurance...
- Responding government policies:
  - Antitrust policy (US)
  - Competition policy (Canada)
- Act for the Prevention and Suppression of Combination Formed in Restraint of Trade:

“Everyone is guilty of an indictable offence... who conspires, combines, agrees or arranges with any other person... unlawfully...  
to unduly prevent, limit, or lessen the manufacture or production of any article or commodity, or to unreasonably increase the price thereof; or  
to unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation, or supply of such an article or commodity...”

# Chronology

- 1989 Act for the Prevention and Suppression of Combination Formed in Restraint of Trade
- 1910 Combines Investigation Act:
  - Include mergers and monopolization activities
  - Specialized enforcement mechanism
- 1923 Second Combines Investigation Act. Amendments:
  - price discrimination and predatory pricing (1935)
  - resale price maintenance (1951)
  - misleading advertising (1960)
  - service industries (1976)
- 1986 Competition Act

# Competition Act of 1986

- Explanation of the purpose:
  - “maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy”
- Criminal and civil violations:
  - Monopolization and mergers to the civil side
  - Conspiracy, price discrimination, resale price maintenance...  
criminal side
- Bureau of Competition Policy (under the “Commissioner”)
  - Communicate to the Attorney General of Canada (criminal cases) or to the competition tribunal (civil cases)
- Competition Tribunal
  - Not more than 4 judges and 8 lay members
  - “Faster”, “independent”, “experts”,...

# What does the competition tribunal look at?

Matter	Possible action
Refusal to deal	Order suppliers to supply
Consignment selling	Prohibition order
Exclusive dealing, tied selling, market restriction	Prohibition order
Abuse of dominant position	Prohibition order
Delivered pricing	Prohibition order
Foreign judgments and laws	Order not to obey
Specialization agreements	Registration
Mergers	Allow, disallow, modify

# Objectives of competition policy

- Influenced by social and historical factors
- Economic (social) welfare:
  - Standard measure used by economists
  - Overlooks income distribution among consumers and producers
  - Dynamic component important
  - Consumers own firms!
- Consumer surplus:
  - Do not always move together with social welfare
  - More dispersed power
  - Simpler

# Consumer or Social welfare, in practice?

- **EU: Consumer welfare**

“allows any agreement, decision or concerted practice “which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit”
- **US: Consumer welfare**

“the Agency considers whether cognizable efficiencies likely would be sufficient to reverse the merger’s potential to harm consumers in the relevant market, e.g., by preventing price increases in that market”
- **Canada, Australia and New Zealand: Social Welfare**



# Other objectives

- Defense of smaller firms
- Economic freedom
- Fighting inflation
- Fairness and equity
  - Ex-ante equity: equal opportunities
  - Ex-post equity: no rewards!
- Others