Competition, Antitrust and Foreign Investment

SUMMARY

The BLG Competition, Antitrust and Foreign Investment group is ranked in the Global Competition Review GCR 100 as one of Canada’s leading practices, and its members are routinely cited for excellence in major domestic and international peer and industry surveys such as Chambers Global, Who’s Who Legal, Lexpert and others. With over 10 full time competition/antitrust professionals, our national practice has the strength to handle our clients’ most significant needs through the firm’s offices in Toronto, Montreal, Vancouver and Calgary.

Our expertise and experience includes:

- Cartel investigations and litigation
- Competition related litigation
- Merger clearance
- Foreign investment advice and reviews under the Investment Canada Act
- Distribution, pricing and marketing and advertising

Our lawyers are involved in the domestic and international competition/antitrust policy communities, including leadership positions in the International Bar Association, Canadian Bar Association Competition Law Section, American Bar Association Section of Antitrust Law, the International Competition Network and Canadian Chamber of Commerce.

We have built strong relationships with leading clients and counsel in East Asia — notably, in South Korea and Japan, where our lawyers enjoy strong reputations for client service and quality.

Cartel investigations and competition related litigation

We have provided effective representation and counsel to clients in major international and domestic cartel cases, including LIBOR, air cargo, automotive components, marine shipping, electronic components, retail gas, government contracting, LED traffic lights and polyurethane foam. Our involvement in matters of significant complexity means that we are familiar with the challenges that are unique to such cases, including multijurisdictional investigations and leniency applications. We are also among the very few Canadian counsel with experience in litigated cartel cases. Our team includes former federal prosecutors with the Canadian Department of Justice, who provide further support to clients in cartel cases.

We also provide comprehensive national defence of competition class actions, many of which follow cartel investigations in Canada or elsewhere. Significant matters include Canada-wide representation of clients in the Canadian air cargo, air passenger, optical disk drives, lithium batteries, smart card chips, automotive components, polyurethane foam, sheet metal and other cases. Our ability to defend clients in these cases is reinforced by the firm’s bench strength in class action work in its offices in Ontario, Québec, British Columbia and Alberta.

BLG routinely represents clients in litigation before the Competition Tribunal in abuse of dominance and merger cases, as well as private damages claims. We routinely assist domestic and foreign clients in responding to Competition Bureau inquiries, including section 11 orders, search warrants and other aspects of the agency’s investigative process.

Merger review

We have successfully cleared some of Canada’s largest and most complex transactions. Our group assists clients in merger notifications, supplementary information requests (SIRs),
negotiations of consent agreements with the Canadian Competition Bureau and, where
necessary, litigation before the Competition Tribunal. Our industry experience is comprehensive,
and includes mergers in the retail, technology, oil & gas, mining, financial services and
transportation sectors. Much of our work is multijurisdictional and we routinely work with some of
the world’s leading competition law practices in securing Canadian clearance of global
transactions.

Foreign investment review
Foreign investment review has become a critical consideration in transactions that involve
sensitive sectors, state owned/sovereign foreign investors or which are otherwise high profile.
Our lawyers have had experience in navigating the Investment Canada review process in some
of the most high profile and precedent setting foreign investments of recent times, including
acquisitions made by foreign state owned investors. We also have high level experience in
providing strategic representation and counsel with respect to related federal policies and
legislation in certain sectors such as telecommunications and cultural businesses.

Distribution, pricing and marketing and advertising
We advise clients on distribution, pricing, and consumer protection matters. Much of our work has
been in the retail area, where we act for some of Canada’s leading retailers. We also provide
marketing and advertising law representation in collaboration with our national advertising,
marketing and sponsorship law practice.

PUBLICATIONS

Publications
- “Supreme Court to hear hotly contested issues affecting competition class actions”, BLG
  The Exchange.
- “BLG’s Mergers and Acquisitions in Canada”.
- "Antitrust Review of the Americas 2018 – Canada: Private Antitrust Litigation”, Global
- "Share Safely: How to Avoid Gun-Jumping and Inadvertent Waiver of Privilege When
  Making a Deal in Canada", ACC Docket.

Recent Client Bulletins
- "Weeding Out Compliance Issues: The Dos and Don'ts of Marketing Cannabis and
- "Plaintiffs Permitted to Add Defendants to Foreign Exchange Class Action Based on
• "New Filing Fee for Competition Bureau Merger Reviews," April 2018.
• "Information Sharing in Canadian Competition and Foreign Investment Reviews," April 2018.
• "Regulated Conduct Doctrine Brews Defence for Competition Class Action Against the Beer Store," March 2018.
• "Federal government's 2017 budget bill will amend review thresholds and public reporting obligations under the Investment Canada Act," April 2017.
• "National Security Guidelines Seek to Provide Clarity to Foreign Investors, but Uncertainty Remains," December 2016.

REPRESENTATIVE WORK

Cartels, class actions and competition litigation (recent and ongoing)

• **Deutsche Bank AG** in the Canadian aspects of the global LIBOR investigation
• **A major global airline** in the Canadian aspects of the global air cargo investigation
• **Several major Japanese automotive components manufacturers** in the Canadian aspects of the global automotive components investigation and class proceedings
• **Reliance Comfort Limited Partnership** in Competition Tribunal proceedings brought by the Commissioner of Competition under the abuse of dominance provisions
• **Samsung Electronics Canada** in Canadian class proceedings relating to lithium ion batteries
• **Samsung Electronics Canada** in Canadian class proceedings relating to smart card chips
• **Samsung Electronics Company, Ltd.** in various competition matters
• **Samsung SDI** in connection with the Canadian aspects of the cathode ray tube litigation.
• **A major Canadian retailer** in a Competition Bureau investigation into certain pricing and distribution practices
• **Hitachi LG Data Systems** in Canadian class proceedings relating to optical disk drives
A major global airline in Canadian class proceedings relating to air passenger surcharges

BMW Canada in Canadian class proceedings relating to automotive importation

Club Coffee LP in a dispute with Keurig Green Mountain concerning alleged anti-competitive conduct with respect to single-serve coffee pod products

eBay Canada Limited and Marktplaats BV in private Competition Tribunal proceedings under the refusal to deal provision

KEMET Corporation and KEMET Electronics in Canadian class proceedings relating to electrolytic and film capacitors

Mergers (recent)

Loblaws in its $12.4 billion acquisition of Shoppers Drug Mart corporation (retail)

Health Care REIT in its $2.3 billion acquisition of HealthLease Properties REIT (health care)

Balfour Beatty plc in the Canadian aspects of its $1.24 billion sale of Parsons Brinkerhoff to WSP Global (professional services)

Idemitsu Kosan Co., Ltd. in its participation in the $880 million acquisition by AltaGas Idemitsu Joint Venture Limited Partnership of Petrogas (oil & gas)

Northern Property Real Estate Investment Trust in its acquisition of all of the assets and properties of True North Apartment REIT (real estate).

Globalive Capital in its acquisition of WIND Mobile (communications)

TransForce Inc. in its acquisition of Vitran Corporation Inc. (transportation)

Polynt Group/PCCR USA in its acquisition of CCP Composites (industrial).

Securian Financial Group in its $142 million acquisition of the Affinity business of ivari (insurance)

Hollyfrontier Corporation in its C$ 1.123 billion acquisition of Suncor Energy’s Petro-Canada Lubricants business (energy)

VCA Inc. in its US$9.1 billion acquisition by Mars, Incorporated (veterinary)

Stone Canyon Industries, LLC in its US$2.4 billion acquisition of BWAY Corp. from Platinum Equity (containers)

Stone Canyon Industries, LLC in its US$2.3 billion acquisition of Mauser Group N.V. (packaging products)

Cabela’s Inc. in its US$4.5 billion acquisition of Bass Pro Group (retail)

Husky Energy in its combination of its truck transport fuel network with Imperial Oil Limited (energy)

RANKINGS & RECOGNITIONS

The Competition, Antitrust and Foreign Investment Group or its members are recognized in:

The 2020 and previous editions of *Chambers Canada — Canada's Leading Lawyers for Business*.

The 2019 and previous editions of the *Best Lawyers in Canada*®.
• The 2018 and previous editions of the *Global Competition Review 100 — A Guide to the World's Leading Competition Law and Economics Practices*.

• The 2018 and previous editions of *The Legal 500 Canada*.

• The 2018 and previous editions of *Chambers Global — The World's Leading Lawyers for Business*.

• The 2018 edition of *Benchmark Canada — The Definitive Guide to Canada's Leading Litigation Firms & Attorneys*.


• The 2013 BTI Client Service MVP.