



Competition Bureau statement on competitor collaborations during the COVID-19 pandemic

From: [Competition Bureau Canada](#)

Statement

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As Canada grapples with the impacts of COVID-19, Canadian businesses face a number of unprecedented challenges.

The Competition Bureau recognizes that the exceptional circumstances surrounding the COVID-19 pandemic may call for rapid establishment of business collaborations of limited duration and scope to ensure the supply of products and services that are critical to Canadians. For example, firms may need to form collaborative buying groups or share supply chain resources such as distribution facilities to ensure access to the necessities of life for all Canadians. In such circumstances where firms are acting in good faith, and motivated by a desire to contribute to the crisis response rather than achieve competitive advantage, the Bureau does not wish to see specific elements of competition law enforcement potentially called upon what may be required to help Canadians.

The Bureau therefore wishes to signal that in circumstances where there is a clear imperative for companies to be collaborating in the short-term to respond to the crisis, where those collaborations are undertaken and executed in good faith and do not go further than what is needed, it will generally refrain from exercising scrutiny.

At the same time, the Bureau wishes to underline that it has zero tolerance for any attempts to abuse this flexibility or the guidance offered herein as cover for unnecessary conduct that would violate the *Competition Act*.

Notwithstanding the general approach noted, the Bureau understands that some firms may wish to obtain even greater certainty and more specific guidance on whether the Commissioner of Competition would take enforcement action related to proposed business collaborations necessary to meet the urgent needs of Canadians during the crisis. In response, the Bureau has created a team to assess the proposed collaborations and advise the Commissioner on what informal guidance the Commissioner might provide. The aim of this team will be to facilitate rapid decisions to enable business to support crisis response efforts.

In those cases where a firm feels greater certainty is needed, in order for the Bureau's team to render a rapid assessment, careful consideration of the facts will be required. Companies seeking guidance are asked to provide, at the time of the request, the following information on any proposed collaboration:

- The firms involved and the parameters of the collaboration including its proposed scope and duration;
- A detailed description of how the collaboration is intended to achieve a clearly identified COVID-19 related objective in the public interest;
- An explanation of why the collaboration is necessary to meet this objective; and
- A description of any guidance sought from relevant authorities on whether the collaboration contemplated will act to further Canada's response to COVID-19.

Further, the following operational considerations would be applicable:

- The Bureau may seek input on the proposed collaboration from other parts of government at all levels, stakeholder and market contacts;
- The Commissioner may require conditions to ensure the impact on competition is limited only to the extent necessary to meet the critical needs in this emergency period;

- Any informal guidance would be time limited and would be reviewed after the initial time period should the parties request that the guidance be extended;
- The guidance provided would not insulate conduct from the possibility of private action;
- It would be within the Commissioner's purview to make the guidance public to support transparency; and
- At the conclusion of the time period (if not extended by the Commissioner), each of the parties would be expected to provide written confirmation to the Commissioner that the collaboration has been terminated.

Requests for informal guidance should be emailed to CB-COVID19-BC@canada.ca.

Competition law enforcement remains vital in a period when the availability and affordability of critical goods and services are vital to the wellbeing of Canadians. Competition will also be critical to driving Canada's economic recovery and future competitiveness as the country emerges from the impact of COVID-19.

As always, the Bureau encourages individuals and companies to report anticompetitive conduct, such as deceptive marketing, price-fixing or bid-rigging, through the Bureau's [complaint form](#) and [immunity and leniency programs](#).

Related products

- [Statement from the Commissioner of Competition regarding enforcement during the COVID-19 coronavirus situation](#)
- [Open letter from the Commissioner of Competition to the Canadian Bar Association regarding impacts of the COVID situation](#)

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