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Competitive Assessment of Disruptive Technologies

Canada's Experience

Canadian Competition Bureau

Presentation to the Global Forum on Competition

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The Bureau's Enforcement Framework

- Incumbents may react to challenges by disruptive rivals through conduct that artificially raises barriers to entry or expansion, or that removes vigorous and effective competitors
- Bureau's enforcement framework is focused on identifying and assessing effects of such anti-competitive practices
- In case of disruptive technologies, assessment may place greater emphasis on non-price effects, particularly innovation





Assessment of Harm to Innovation

- Identify characteristics of competitive outcome that would exist if disruptive technology is adopted in market
- Future competitive impact of disruptive technologies can be difficult to assess based on current conditions
- **Mergers**
 - Predictive in nature: how will merger impact ability and incentives of merged entity to innovate?
- **Conduct**
 - “But for” exercise: in absence of conduct, would innovation and dynamic competition be significantly higher?





Probative Evidence

- Use of natural experiments to assess competitive impact of the disruptive technology in other geographic areas
 - Assess views of market participants as well as factors, such as adoption rate, growth and how incumbents are responding to disruptive rivals
- When natural experiment not possible, views of market participants can still be informative





Example: Toronto Real Estate Board

- The Toronto Real Estate Board (TREB) is a trade association of real estate agents and brokers in the Greater Toronto Area (GTA)
- TREB operates a Multiple Listing Service (MLS), that:
 - Allows members to advertise listings to each other
 - Contains a comprehensive database of current and historical listing information
- Bureau has alleged:
 - Access to MLS is essential to effectively compete in markets for real estate brokerage services in GTA
 - TREB controls markets for real estate brokerage services in GTA through its control of MLS and its rule-making powers





Example: TREB (continued)

- In 2011, Bureau brought an application alleging that TREB prevents disruptive internet-based business models
 - Case initially dismissed in 2013 on technical grounds
 - Following successful appeal by Bureau, reconsideration currently underway and decision expected in coming months
- Evidence on effects focuses on non-price dimensions of competition, using natural experiments and views of market participants





Conclusions

- Emergence of disruptive technologies has potential to provide significant benefits to consumers
- Absent anti-competitive conduct, market forces are best positioned to determine whether products and services relying on disruptive technologies are adopted by consumers and result in potential displacement of incumbents by disruptive rivals
- In assessing competitive effects, important to consider both price and non-price dimensions as well as benefits that may arise in future



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