



June 27, 2024

Matthew Boswell
Commissioner of Competition
Digital Enforcement and Intelligence Branch
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Dear Commissioner Boswell:

On behalf of Chamber of Progress – a tech industry association supporting public policies to build a more inclusive country in which all people benefit from technological progress – I write today in response to your recent discussion paper *Artificial Intelligence and competition*.

We commend the Competition Bureau for its thoughtful analysis of artificial intelligence (AI) regulation. Notably, the Bureau correctly emphasizes technology-neutral regulation. Below, we note a few areas where there is room for elaboration. Among them:

- The AI supply chain is advanced and highly competitive throughout,
- Vertical combinations deliver many consumer benefits, including lowered costs, increased scale and scope, driving innovation, and
- Many of the concerns about anti-competitive or anti-consumer behavior are covered by existing law.

We encourage policymakers to maintain the current policy mix and avoid the temptation to introduce new AI-specific policies. **In short, the current competition framework promotes innovation and benefits Canadian consumers.** New AI-specific competition policies are not necessary at this time.

Competition in AI is vibrant

The Bureau writes that “AI can enhance competition by fostering innovation, lowering barriers to entry, and improving efficiency” but that “there are concerns about the

concentration of AI capabilities in a few dominant companies.¹” These issues merit further contextualization.

The authors do a good job of breaking down the nuances of the AI supply chain: developers creating Frontier Models (FM), companies serving other businesses via API integration, and end-user applications. A key question for policymakers is whether the supply chain is healthy and whether inputs are “locked up” at one level.

Fortunately, there is competition at each level of this chain. Developers currently have many choices among cloud providers - including Amazon Web Services, Microsoft Azure, Google Cloud, and Oracle Cloud Infrastructure. Additionally, there are multiple, widely available public datasets that developers can use at no cost. Taken together, the AI development supply chain is competitive and thriving.

This competition is evident in Canada today. Toronto-based startup Cohere competes directly with AI products from the largest American tech companies. Similarly, the unprecedented amount of venture capital invested in AI startups has generated a vibrant ecosystem at the API and application levels. Such a dynamic marketplace shows that the current policy mix is fostering competition. Accordingly, more interventionist policy is not warranted.

Vertical integration benefits consumers

Highly competitive supply chains often give rise to vertical integration, which happens when producers and consumers of inputs combine. Economists have long noted that this eliminates so-called double marginalization, which in turn lowers costs and advances consumer welfare. However, vertical combinations may be problematic in some situations, such as denying competitors access to critical inputs like training data.

However, as the report documents, “public data suitable for AI purposes (e.g. training an AI model) is highly prevalent and currently comprises a majority of the data used to develop recent high-profile AI technologies. This indicates new entrants may be able to readily access most of their required data inputs for market participation.²”

Accordingly, policymakers should not view vertical combinations skeptically by default, and only intervene when there is evidence of a significant consumer impact. One key determinant would be whether consumers would still have latitude to change suppliers post-merger. At present, Canadian consumers can easily switch between competitive

¹ See *Artificial Intelligence and competition* at <https://competition-bureau.canada.ca/sites/default/files/documents/AICompetition-Discussion-Paper-2403-20-ver3-e.pdf>, p 6.

² See above, p 14.

alternatives - for instance, moving between cloud providers or from one AI API provider to another. Absent clear evidence that a combination would significantly increase consumer costs, they should assume the vertical efficiencies are consumer welfare enhancing.

Enforce existing law

The discussion paper suggests that “the automated nature of AI, and recent developments in generative AI, could be exploited to engage in certain types of marketing conduct.”³ Although generative AI tools can be misused, it is important to note that it is already illegal to deceive customers in Canada. Moreover, to the extent that the Bureau is concerned about that “tying and bundling strategies may constitute an abuse of market power⁴,” there is nothing “AI-specific” about these issues.

Moreover, such forms of self-preferencing may make bundled products more usable to consumers. Indeed, evidence from Europe shows that aggressive policymaking to curb bundling and self-preferencing harms consumers. Notably, Apple has announced that it will not be deploying Apple Intelligence in the EU, due to Digital Market Act’s onerous requirements⁵. As a result, the market for AI tools will be less competitive there and consumers will lose out.

Finally, we encourage Canadian policymakers to enforce existing consumer protection laws rather than attempt to craft new AI-specific policies. It may be the case that consumer protection enforcers need additional resources to fully execute their mission - a potentially viable avenue of policymaking.

Hasty policymaking hinders innovation and ultimately harms the public

The tremendous consumer and press interest in the latest technological advance has understandably attracted policymaker attention worldwide. However, we urge Canadian policymakers to avoid the temptation to make hasty policy decisions that could stifle this promising innovation.

To take one example, the report suggests that “Markets for foundation models or generative AI, where downstream applications are broad, may generate indirect network effects where the value of these technologies increases with the number of downstream applications they are used for or integrated into.”⁶ The proposed harm of “indirect

³ See above, p 21.

⁴ See above, p 18.


⁵ See Apple Intelligence won’t launch in EU in 2024 due to antitrust regulation, company says <https://www.cnbc.com/2024/06/21/apple-ai-europe-dma-macos.html>.

⁶ See above, p 17.

network effects” is theoretical, but any new policy would have a real and consequential impact on innovation - slowing the equitable diffusion of the next great AI-powered educational tool, medical breakthrough, or opportunity for entrepreneurship.

In conclusion, we reiterate that the AI landscape is dynamic, innovative, and competitive. We encourage the Bureau to promote competition through market forces and eschew innovation-restraining regulations such as mandated disclosure of sensitive business information. Technologically-neutral policy is essential to promote consumer welfare and avoid harming innovation and competition in the AI market.

Sincerely,

A handwritten signature in black ink, appearing to read "T. O'Boyle", is centered below the word "Sincerely,". The signature is fluid and cursive.

Todd O'Boyle
Senior Director, Technology Policy
Chamber of Progress