

THE COMPETITION TRIBUNAL

IN THE MATTER OF an Application by the Commissioner of Competition for an Interim Order pursuant to section 100 of the Competition Act, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an Inquiry pursuant to subsection 10(1)(b) of the Competition Act, R.S.C. 1985, c. C-34, as amended, into the proposed acquisition by Labatt Brewing Company Limited of all of the outstanding units of Lakeport Brewing Income Fund

B E T W E E N :

THE COMMISSIONER OF COMPETITION

Applicant

- and -

LABATT BREWING COMPANY LIMITED

LAKEPORT BREWING INCOME FUND

LAKEPORT BREWING LIMITED PARTNERSHIP

ROSETO INC.

TERESA CASCIOLI

Respondents

**AFFIDAVIT OF MARGARET SANDERSON
SWORN MARCH 23, 2007**

I, **MARGARET SANDERSON**, of the City of Toronto, Province of Ontario, MAKE OATH AND SAY:

A. INTRODUCTION AND QUALIFICATIONS

1. I am a Vice President and Head of the global Competition practice for the consulting firm CRA International Limited ("CRA"), a multinational firm that provides economic, financial and business strategy consulting, and as such I have knowledge of the matters to which I herein depose.

2. Prior to joining CRA, I was Assistant Deputy Director of Investigation and Research within the Economics and International Affairs Branch of the Competition Bureau. In that capacity, I managed the provision of expert economic advice on competition cases, regulatory interventions and enforcement policy within the Competition Bureau. I played an active analytical role in many competition cases at the Competition Bureau over the ten years that I worked there, and have continued to do so since joining CRA over eight years ago. I have worked on cases involving mergers, conspiracies, resale price maintenance, predatory pricing, abuse of dominance and misleading advertising. I have published a number of articles and made presentations concerning a variety of issues in the field of antitrust economics. Attached hereto as Exhibit "A" is a copy of my *curriculum vitae*.
3. I have been asked by counsel to Labatt Brewing Company Limited. ("Labatt") to assess the affidavit and certain conclusions reached by Dr. Philip B. Nelson in his sworn affidavit filed with the Competition Tribunal in relation to Labatt's proposed acquisition of the units of Lakeport Brewing Income Fund (together with its affiliates, "Lakeport").¹ In particular, counsel has asked me to assess the basis for Dr. Nelson's conclusions that there will be immediate and long-term irremediable anti-competitive effects if Labatt were to acquire the units of Lakeport Brewing Income Fund even if the proposed hold separate arrangement is in effect.
4. It is my opinion that Dr. Nelson's conclusions are not supported by the evidence that he presents in his affidavit. His conclusions are premised solely on the fact that certain Labatt brands compete against certain Lakeport brands. Most importantly, Dr. Nelson fails to consider the effectiveness of remaining rivals. In addition, Dr. Nelson does not take account of the fact that Labatt expects to keep (as opposed to divest) the Lakeport brands following the interim period of the hold separate, and as a result Labatt has no incentive to damage Lakeport during the interim period.

¹ Affidavit of Philip B. Nelson, *The Commissioner of Competition v. Labatt Brewing Company Limited et al.*, sworn March 20, 2007, hereafter referred to as the "Nelson Affidavit".

5. My opinion is based on my review of the numerous documents filed in this proceeding, the draft hold separate agreement [REDACTED] (the "Hold Separate Arrangement"), the Confidential Affidavit of Miguel Nuno Da Mata Patricio, my knowledge of general economic principles and analytical techniques, and my prior experience addressing competitive issues in the beer industry, including while at the Competition Bureau.

B. SUMMARY OF PHILIP NELSON'S OPINION

6. Dr. Nelson's opinion is that by allowing Labatt to close this transaction Labatt and Lakeport will take actions that would have "irremediable effects on competition", even if the Hold Separate Arrangement is implemented. This opinion is based on the following conclusions reached by Dr. Nelson:²
- i. Labatt's proposed acquisition of Lakeport raises significant competition law issues that deserve further investigation;
 - ii. Under the Hold Separate Arrangement, Labatt obtains substantial control over Lakeport;
 - iii. Allowing Labatt to buy the units of Lakeport Brewing Income Fund would be likely to lead to actions that undermine ongoing competition, and thus have immediate, irremediable interim anti-competitive effects, even if the Hold Separate Arrangement is put in place;
 - iv. Allowing Labatt to exercise control over Lakeport would be likely to lead to actions that will have long-term, irremediable anti-competitive structural effects, even under the Hold Separate Arrangement; and
 - v. The Hold Separate Arrangement has anti-competitive effects that do not depend on Labatt obtaining significant control over Lakeport's operations.

² Nelson Affidavit at paragraph 5.

C. ARE THERE IMMEDIATE, IRREDEMIABLE INTERIM ANTI-COMPETITIVE EFFECTS?

7. Dr. Nelson's conclusion that anti-competitive effects will arise is based on limited analysis. In support he cites the firm's post-merger share and selected sections from portions of internal, historical Labatt business documents that discuss Lakeport.

8. Dr. Nelson does not discuss documents referring to other competitors, or the effectiveness of any rival firms, not even Molson, [REDACTED]

[REDACTED] Dr. Nelson does not address possible brand repositioning or ease of entry. There are 10 rival brewers to Labatt and Lakeport in the discount segment, with most brewers selling multiple brands.⁴ A number of the current brands within the Ontario value segment are brands that were sold in other parts of the country as discount beers, such as Lucky by Labatt, James Ready by Moosehead, and Great West from Saskatchewan. Since the discount category was launched in 2002, there have been numerous line extensions by various brewers as consumers' taste preferences have been revealed. For example, there are 12 brands of light beer sold in the discount segment,⁵ and 10 brands of honey lager alone.⁶

9. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Of particular note, listing fees, [REDACTED] prices, sales and

³ Nelson Affidavit, paragraph 6.

⁴ Affidavit of Miguel Nuno Da Mata Patricio, sworn March 23, 2007, paragraph 19.

⁵ The light brands are Busch Light, Carling Light, James Ready Light, Lakeport Light, Laker Premium Light, Lucky Light, Old Milwaukee Light, Pabst Blue Ribbon Light, PC Light, PC Low Carb, Upper Canada Point Nine, and Wildcat Light.

⁶ The honey lager brands are Beehive Honey Lager, Brick Laker Honey, Dave's Honey Brown Lager, James Ready Honey, Labatt Genuine Honey, Lakeport Honey Lager, Muskoka Honey Brown Lager, Pabst Blue Ribbon Honey, PC Honey Red, and Tiverton Bear Honey Brown.

⁷ Affidavit of Gregory Lang [hereafter referred to as "Lang Affidavit"], Exhibit 6, GNUM 1640.

⁸ Lang Affidavit, Exhibit 20, GNUM 10755_00000024.

10. The fact that two merging firms produce some products that some consumers consider substitutes is not sufficient to give rise to anti-competitive harm. Rather, anti-competitive harm can only arise when the merging firms are able to exercise market power, which necessarily depends on rival firms' and customers' reactions to any potential price increase. Dr. Nelson addresses neither rivals' nor customers' reactions in his affidavit, instead focusing on selected excerpts from Labatt business documents referring to Lakeport.

[illegible]

¹² Lang Affidavit, Exhibit 12, GNUM 4547.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. Dr. Nelson claims that Labatt has an incentive to divert customers from Lakeport brands to Labatt brands when Labatt earns a higher margin on its brands (notably its premium beer brands). However, Dr. Nelson presents no evidence that indicates that Labatt has any ability to effect such a strategy. It is incorrect as a matter of economics to suggest that a price differential between two products in itself indicates that profits will be earned from such a diversion strategy.¹⁸

13. A firm's willingness to raise the prices of its products is constrained by the fact that if it does so some customers will decide to purchase competitors' products. The more willing customers are to substitute toward competitors' products (or forego consumption of the product category altogether), the greater the loss of sales volume to the firm raising its prices and hence the greater the constraint on its pricing.¹⁹ The magnitude of the

¹³ Lang Affidavit, Exhibit 12, GNUM 4561.

¹⁴ Lang Affidavit, Exhibit 12, GNUM 4565.

¹⁵ Lang Affidavit, Exhibit 12, GNUM 4569.

¹⁶ Lang Affidavit, Exhibit 12, GNUM 4574.

¹⁷ Lang Affidavit, Exhibit 12, GNUM 4583.

¹⁸ Nelson Affidavit, paragraph 43.

¹⁹ The extent to which customers are willing to substitute to other products is described by cross-price elasticities. A cross-price elasticity of demand measures how much the demand for one product changes when the price of another

expected price increase depends on how closely substitutable the merging firms' products are for each other relative to the remaining rivals' products. It does not merely depend on a price differential.

14. Even if one were to assume that Labatt could attempt to raise Lakeport's prices during the period when the Hold Separate Arrangement remains in effect (the "Interim Period"), customers who choose to no longer purchase Lakeport beer would not automatically turn to Labatt, particularly to Labatt premium brands. In fact, the share loss to rival brewers is likely to be twice as large as any potential loss internalized to Labatt.²⁰
15. The fact that there is some diversion to Labatt brands from Lakeport does not mean that prices will necessarily rise if Labatt acquires Lakeport. The magnitude of any potential price effect depends on more than the amount of diversion from one brand to another. It also depends on the elasticity of market demand, post-merger price-cost margins, and the ease of brand repositioning and further entry.
16. In summary, Dr. Nelson leaps to the conclusion that price increases "would result from reduced competition" during the Interim Period. He has not established that any price increases are likely, even if one accepts that the Hold Separate Arrangement would give Labatt "substantial control over a close competitor" as he asserts.²¹

is increased. If product A has a high and positive cross-price elasticity with product B then this indicates that a customer will increase the consumption of product B significantly if the price of product A rises. The cross-price elasticity alone, however, does not tell us what will happen to the demand for product A if the firm producing product A raises its price. This information is captured by the own-price elasticity of demand. A large and negative own-price elasticity indicates that a price increase for product A will cause customers to substitute substantially away from product A. The extent to which competition between existing firms constrains pricing depends on a matrix of own- and cross-price elasticities.

²⁰ As is common when econometric estimates of individual brand own-price and cross-price elasticity of demand estimates are not available, I assume the diversion ratios are proportional to market shares (based on units). Using the same share data cited by Dr. Nelson for YTD 2005 only 37% of any lost Lakeport customers would divert to Labatt. This is consistent with Labatt internal documents, which indicate that 30% of Lakeport share gains come from Labatt (Lang Affidavit, Exhibit 20, GNUM10755_00000011).

²¹ Nelson Affidavit, paragraph 44.

D. ARE THERE LONG-TERM, IRREMIEDIABLE STRUCTURAL ANTI-COMPETITIVE EFFECTS WITH THE PROPOSED HOLD SEPARATE IN PLACE?

17. Dr. Nelson finds that allowing Labatt to take up the Lakeport units will have “long-term, irremediable anti-competitive structural effects”.²² Thus, Dr. Nelson is claiming that even if hypothetically Labatt were to be ordered to divest Lakeport at a later stage and such divestiture removed the substantial lessening of competition that the Tribunal would have found in order to require divestiture, Labatt’s ownership of the Lakeport units during the interim period would have “irremediable anti-competitive structural effects”. The magnitude of such effects is not defined.
18. Dr. Nelson does not conclude that a divestiture remedy is not feasible. Nor does he claim that a divestiture would not be effective or enforceable in removing any “substantial” lessening of competition that might be hypothetically found.
19. Dr. Nelson refers to several U.S. economic papers (some very dated)²³ relating to U.S. divestiture experience as evidence that purchasers often alter acquired assets in ways that undermine the effectiveness of any subsequent divestiture relief. Most, if not all, of these articles deal with situations where partial divestitures are required following larger transactions, and the merged firm has no reasonable prospect for maintaining control over the assets to be divested. The fact that the firm undertaking the divestiture knows that it cannot keep the assets in the long run, fundamentally alters the firm’s interests in maintaining the assets in good competitive condition during the hold separate period. This is not the situation here.
20. In many of the U.S. cases cited in these papers, problems with divestiture were the result of the destruction of physical assets, firing of employees who could not be re-hired, or the

²² Nelson Affidavit, paragraph 5.

²³ For example, the Elzinga study is based on mergers that occurred prior to 1960, before the implementation of the Hart-Scott-Rodino (“HSR”) Act. In fact, the HSR Act was implemented in part to deal with problems such as those identified by Elzinga.

destruction of the ‘organic nature’ of an ongoing business.²⁴ These problems are not likely in the current case because Lakeport is a viable, stand-alone business and will in any event be subject to the Hold Separate Arrangement. In any case, as discussed above, Dr. Nelson provides no evidence that the Labatt acquisition provides Labatt with the incentive or ability to cause harm to Lakeport.

21. In the current case, Labatt fully expects to retain the Lakeport business, not divest it. Therefore, unlike many of the U.S. cases cited by Dr. Nelson where assets are held separate pending divestiture, Labatt has no incentive to degrade the Lakeport operations under the Hold Separate Arrangement.
22. Furthermore, Dr. Nelson has made no attempt to identify the factors that make it more likely that a divestiture would be successful. All of the U.S. papers suggest that successful divestitures do occur. For example, the FTC Divestiture Study produced three general findings, including “first, most divestitures appear to have created viable competitors in the market of concern to the Commission”.²⁵
23. Dr. Nelson claims that there is a serious threat that Labatt would make structural changes in Lakeport’s operations which would undermine the Competition Tribunal’s ability to remedy any anti-competitive effects of the merger. This again ignores the fact that Labatt expects to keep the Lakeport assets (not divest them), and has every incentive to capitalize on the brand equity embodied in these brands to compete more effectively against rival firms like Molson, Brick, Sleeman, Moosehead and others. It also ignores the fact that Labatt would be prohibited from doing this under the Hold Separate Arrangement.
24. When discussing possible actions that Labatt might take assuming that it has the ability to control Lakeport during the Interim Period, Dr. Nelson speculates that because Labatt has not specified a clear post-acquisition plan at this early stage, there is a “possibility” that

²⁴ Dr. Nelson gives examples of grocery stores in St. Louis that were disabled prior to being sold, as well as several examples of pharmacies that were disadvantaged prior to being sold. In all of these examples, the merged firm knew that it would have to sell of the assets and had no incentive to maintain the asset value prior to their sale.

²⁵ *A Study of the Commission’s Divestiture Process*, Prepared by the Staff of the Bureau of Competition of the Federal Trade Commission, William J. Baer Director, 1999, at 8.

Labatt will rationalize Lakeport's operations in a way that "scrambles the eggs" or that Labatt might dismantle Lakeport's operations because this possibility cannot be "ruled out".²⁶ Such claims are wholly speculative.

25.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Hence,
this cannot be used as support for Dr. Nelson's speculation that a diversion strategy is profit maximizing.²⁸

E. ARE THERE ANTI-COMPETITIVE EFFECTS THAT DO NOT DEPEND ON LABATT GAINING SUBSTANTIAL CONTROL OVER LAKEPORT?

26. Dr. Nelson concludes that the proposed hold separate may permit Labatt to acquire information and data that would facilitate anti-competitive coordination between Labatt and Lakeport. [REDACTED]

[REDACTED]. Dr. Nelson provides no specific analysis of how this information will increase the likelihood of coordination, nor does he discuss the likelihood of effective coordination in this industry. He simply refers to the U.S. Merger Guidelines that indicate that 'the extent of information available to firms in a market' is a key coordinated effects indicator. However, in my experience both at the Competition Bureau and in the private sector, the information flows that would be of key concern to enforcement authorities in respect of this industry, notably pricing plans, marketing plans, and other competitively sensitive operational information will not be revealed under the Hold Separate Arrangement.

27.

[REDACTED]
[REDACTED]

26

[REDACTED]

²⁷ Lang Affidavit, Exhibit 31.

²⁸ Nelson Affidavit, paragraph 56.

[REDACTED]

28. [REDACTED]

29. [REDACTED]

30. [REDACTED]

²⁹ Lang Affidavit, Exhibit 31, referring to the December 2005, TNS Canadian Facts study entitled "Ontario Discount Initiatives Research: Final Report".

³⁰ Lang Affidavit, Exhibit 31, GKPK 399.

³¹ Lang Affidavit, Exhibit 31, GKPK 399.

³² Lang Affidavit, Exhibit 31, GKPK 400.

³³ Lang Affidavit, Exhibit 31, GKPK 400.

³⁴ Lang Affidavit, Exhibit 31, GKPK 411.

31.

[REDACTED]

32.

[REDACTED]

33.

[REDACTED]

34.

[REDACTED]

³⁵ Lang Affidavit, Exhibit 31, GKPK 413.

36.

[REDACTED]

37.

[REDACTED]

³⁸ Lang Affidavit, Exhibit 31, GKPK 404.

- [REDACTED]
- [REDACTED]
35. In summary, despite the documents and evidence available to the Bureau to date, Dr. Nelson has used either selective or unreliable information to conclude that the transaction will lead to anti-competitive effects.
36. I swear this affidavit for the purposes of the application brought by the Commissioner of Competition under section 100 of the *Competition Act* and for no other purpose.

SWORN BEFORE ME at the City of
 Toronto, in the Province of Ontario,
 this 23rd day of March, 2007

Rebecca Katzin

A Commissioner for taking affidavits


 MARGARET SANDERSON

This is Exhibit "A" referred to in the Affidavit of Margaret Sanderson
sworn before me this 23rd day of March, 2007.

Rebecca Katzin



INTERNATIONAL

MARGARET F. SANDERSON

Vice President, Head of CRA Global Competition Practice

M.A. Economics,
University of Toronto

B.S. Economics and
Quantitative Methods
(with distinction),
University of Toronto

Margaret Sanderson is a vice president in CRA's Litigation and Regulation Group, head of CRA's Toronto office, and head of CRA's global Competition Practice. She has experience analysing the competitive effects of a wide range of business conduct (mergers, horizontal restraints, predatory pricing, abuse of dominance and vertical restraints) and government regulatory policy. Ms. Sanderson has worked on competition and regulatory cases in a number of industries, including communications (broadcasting, telecom, satellite, wireless), media (newspapers, magazines), transportation (airlines, automotive, rail), consumer products (alcohol, books, retailing), finance (banking, securities), industrial (chemicals, forest products, petroleum, waste) and health care. She has testified before Canadian courts and regulatory authorities and has appeared before the U.S. Federal Trade Commission.

PROFESSIONAL EXPERIENCE

1998–Present *Vice President, CRA International*

Analyze the economic effects of mergers and acquisitions in a wide variety of industries, including conducting econometric studies and merger simulations. Examine the competitive effects of alleged price-fixing conspiracies and various business contracting practices, including loyalty programs, exclusive contracts, and pricing behaviour. Prepare economic affidavits for testimony in a variety of civil litigation matters, including class certification motions, private and class actions alleging competition infractions, and damages. Advise governments on regulatory policy matters in respect of competition law, climate change policy, communications policy, regulation of securities markets, and investment activity.

1996–1998 *Assistant Deputy Director of Investigation and Research, Competition Bureau, Economics and International Affairs Branch*

Directed the Enforcement Economics and Economic Policy Division, which provided economic expertise on enforcement cases, regulatory interventions, enforcement policy, and competition policy advocacy.

Provided advice to the director of investigation and research on enforcement policy, such as merger enforcement guidelines as applied to a bank merger, sentencing principles, and use of economic experts. Promoted competition policy principles to other government departments in areas such as spectrum auctions, electricity deregulation, and transportation regulation review.

1992–1996 *Chief, Competition Bureau, Enforcement Economics Division*

Modeled the Enforcement Economics Division after the Economic Analysis Group of the Antitrust Division at the U.S. Department of Justice. Staffed the division with Ph.D.-trained economists, provided economic expertise to the enforcement branches of the Competition Bureau through the analysis and resolution of cases, and conducted independent research.

*Conducted economic analysis and provided written reports and recommendations to the Director of Investigation and Research and other senior executives on resolution of enforcement cases, including preparation for litigation. Provided technical assistance to former Soviet countries through the OECD and the World Bank. Principal author of the *Strategic Alliances Bulletin*.*

1990–1992 *Executive Assistant to the Senior Deputy Director of Investigation Research
Competition Bureau, Mergers Branch*

Critically reviewed all assessment documents, litigation material, and correspondence that involved merger transactions. Analysed the potential anticompetitive effects and claimed efficiency gains in several key cases. Assisted in the development and release of the Merger Enforcement Guidelines, including presentation of the technical aspects of this policy to Canadian and foreign government officials, antitrust practitioners, and businesspeople.

1990 *Commerce Officer, Competition Bureau, Mergers Branch*

Conducted merger investigations in several industries, including industrial and commercial insulation and newspapers.

1988–1989 *Economist, Competition Bureau, Economics and International Affairs Branch*

Analysed the role played by import competition in several merger cases and prepared a discussion paper on the assessment of foreign competition in a merger.

1987–1988 *Tax Policy Officer, Department of Finance, Business and Resource Tax Analysis Division*

Examined the influence played by tax measures commonly regarded as having a non-neutral impact on mergers and acquisitions, the competitive position of Canadian trucking firms engaged in trans-border activity with the United States, and the tax positions of small and large real estate companies.

TESTIMONY AND AFFIDAVITS

- Canadian Radio-television and Telecommunications Commission
 - Telecom Public Notice CRTC 2005-2, Forbearance from Regulation of Local Exchange Services, on behalf of Aliant, addressing competitive conditions within certain exchanges for local service in Nova Scotia and Prince Edward Island to determine if sufficient competition exists for the CRTC to forbear from regulation.
 - Telecom Public Notice CRTC 2005-8-1, Framework for Forbearance from Regulation of High-speed Intra-exchange Digital Services, on behalf of Bell Canada, addressing competitive conditions within certain exchanges for high-speed digital services to determine if sufficient competition exists for the CRTC to forbear from regulation.
- Federal Court—Trial Division
 - In the matter of Always Travel Inc. et al. v. Air Canada, American Airlines Inc., United Airlines Inc., Delta Air Lines Inc., Continental Airlines Inc., Northwest Airlines Inc., and the International Air Transport Association (IATA) for a motion to certify a proposed class action amongst travel agents further to an alleged agreement among Defendants to fix commissions, Court File No. T-757-02. Affidavit sworn November 28, 2003.
- Ontario Superior Court of Justice
 - In the matter of Axiom Plastics Inc. v. E.I. Du Pont Canada Company for a motion to certify a class proceeding related to purchases of engineering resins used to manufacture parts for automotive supply, Court File No. 05-CV-302358 CP. Affidavit sworn October 3, 2006.
 - In the matter of North York Branson Hospital et al. v. Praxair, Canadian Liquid Air, Liquid Carbonic, Canadian Oxygen, Air Products Canada et al. for a motion to determine common damages amongst a set of hospitals further to a price-fixing conspiracy in compressed gases, Court File No. 93-CQ-42118. Affidavit sworn October 17, 2001.
 - In the matter of Minnema v. ADM, Ajinomoto, Heartland Lysine and Sewon America for a motion to certify a class of indirect purchasers alleged to have suffered damages further to a price-fixing conspiracy in lysine, Court File No. G23495-99-CP. Affidavit sworn September 13, 2000.

- Ontario Court (General Division)
 - In the matter of Chadha v. Bayer for a motion to certify a class that alleged it suffered damages further to an alleged price-fixing conspiracy in iron oxide, Court File No. 98-CV-142211. Affidavit sworn November 25, 1998.
- Supreme Court of British Columbia
 - In the matter of Pro-Sys Consultants Ltd. v. Infineon Technologies AG et. Al. for a motion to certify a class of purchases of dynamic random access memory (DRAM) and products containing DRAM, Court File No. L043141. Affidavit sworn December 22, 2006.
- Court of Queen's Bench of New Brunswick (Trial Division)
 - In the matter of Rombaut v. Province of New Brunswick for a motion to declare unconstitutional certain features of the New Brunswick's Physician Resource Management Plan, Court File No. S/C/751/94. Report sworn January 4, 1999; Discovery on April 27, 1999; Testimony on February 29, 2000.

PUBLICATIONS AND SELECTED PAPERS

"Competition Class Actions: An Evaluation of Deterrence, Accountability and Corrective Justice." With M.J. Trebilcock. University of Western Ontario Press, 2007.

"Going Mobile – Slowly: How Wireline Telephone Regulation Slows Cellular Network Development." With N. Quigley. *C.D. Howe Institute Commentary*, December 2005.

"Merger Review in Regulated Industries." With M.J. Trebilcock. *Canadian Business Law Journal*, September 2005.

"Profits versus Rents in Antitrust Analysis: An Application to the Canadian Waste Services Merger." With R.A. Winter. *Antitrust Law Journal*, November 2002.

"Competition Tribunal's Redetermination Decision in *Superior Propane*: Continued Lessons on the Value of the Total Surplus Standard." *Canadian Competition Record*, spring/summer 2002.

"Geographic Market Definition in *Canadian Waste Services*." With R.A. Winter. *Canadian Competition Record*, spring/summer 2002.

"Bad Policy, Bad Law: Bill C-26 Amendments to the *Competition Act* on Airline Predation." With M. J. Trebilcock. *Canadian Competition Record*, spring/summer 2000.

"Conspiracy Law in Canada: Towards an Economic Approach." *Review of Industrial Organization*, 13:1-2, 1998.

"Treatment of Mergers." With R. Pittman. Chapter in the *Technical Assistance Manual*, World Bank, 1998.

"Efficiency Analysis in Canadian Merger Cases." *Antitrust Law Journal* 65, 1997.

"Commentary: Antitrust and Health Care: A Canadian's Perspective." *Antitrust Bulletin* 39:2, 1994.

"Divestiture Relief in Merger Cases: An Assessment of Canadian Experience." With A. Wallwork. *McGill Law Journal* 38:3, 1993.

"The Perfect is Not the Enemy of the Good: A Response to Roy Davidson." With A. Kleit. *Canadian Competition Policy Record*, 1992.

"Competition Policy in Canada: The First Hundred Years." With W.T. Stanbury. *Competition Bureau*, 1989. (Released in connection with the centenary proceedings of Canadian competition policy.)

SELECTED PRESENTATIONS

"Year in Review." Panel discussant at the Canadian Bar Association Competition Law Section meetings, 2005.

"Industrial Economics and Performance in Canada." Panel discussant at the Industry Canada Workshop, 2004.

"Selected Comments on Revisions to the Canadian Merger Enforcement Guidelines." Panel discussant at the Canadian Bar Association Competition Law Section meetings, 2003.

"Economics of Loyalty Discounts." Panel discussant at the Conference Board Antitrust Conference, New York, 2002.

"Establishing Efficiencies: Successful Approaches to Using Economic Evidence." Panel discussant at the Conference Board Antitrust Conference, New York, 2001.

"Economic Issues Arising from the Air Canada/CAIL Merger." Panel discussant at the Canadian Bar Association Competition Law Section meetings, 2000.

"Process and Politics in Canadian Merger Review." With M.J. Trebilcock. Panel discussant at the Law and Economics Programme University of Toronto Roundtable, 2000.

"Differentiated Products Mergers: Recent Experience in Canada and the United States" With L. Csorgo. Panel discussant at the Canadian Bar Association Competition Law Section meetings, 1998.

"Treatment of Joint Ventures." Panel discussant at the U.S. Federal Trade Commission's Roundtables on Joint Ventures, 1998.

"Treatment of Efficiencies." Panel discussant at the U.S. Federal Trade Commission's Global Hearings on Competition and Innovation, 1996.

"Emerging Issues in Competition Policy." Panel discussant at the Canadian Bar Association Competition Law Section meetings, 1996.

"Facilitating Practices: Canadian and U.S. Experience." With J. Langenfeld. University of Toronto Law and Economics Programme, 1994.

"Antitrust and Health Care." Panel discussant at the Western Economic Association meetings, 1993.