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Mr. L.R. Wilson, O.C.
Chair
Competition Policy Review Panel
280 Albert Street, 10th Floor
Ottawa, ON K1A 0H5

January 11, 2008

Dear Mr. Wilson:

I am writing to you on behalf of Canadian Booksellers Association (CBA) to make an official submission to your panel's ongoing review of Canada's competition policy. While your consultation document focuses on many issues with regards to how the Canadian economy fits within the world, as a cultural industry we are most interested in ensuring that existing protections for our industrial sector, such as foreign ownership restrictions, are maintained and enhanced.

It is important, however, to first outline what CBA does and some of the pressures that Canada's booksellers face. CBA is the national trade association representing almost 1,000 booksellers from coast to coast. CBA's active members include trade, campus, chain, specialty and used and antiquarian booksellers. CBA booksellers are located in all provinces and territories, in communities large and small, from Victoria to St. John's; Yellowknife to Halifax.

Of note, the bookselling industry is mostly comprised of small businesses. According to a profitability survey conducted by CBA and published last year, over 70% of respondents reported annual sales of less than \$1,000,000, almost a quarter of total respondents reported annual sales of less than \$200,000.

Small business bookstores are advantageous for the communities in which they operate, as they are able to carry more local and regional titles and more Canadian titles as a percentage of total offerings. The availability of such unique inventory, CBA believes, is key to promoting culture, heritage and innovation in our country.

However, small businesses are usually hit hardest when economic circumstances change, be it when big industry players merge, or when our currency rises rapidly. Bookstores are no different. According to the aforementioned profitability study, the median net income of bookstores with less than \$200,000 in annual sales showed a net profit of just over 1%. This leaves a group which contributes to our heritage in an important way especially vulnerable.

And vulnerable they are. During the period 1998 to 2006, more than 365 independent bookstores closed their doors. Furthering the problem, with the rapid rise of the Canadian



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dollar late last year, many members reported a substantial reduction in sales, at a time—the Christmas shopping season—when sales should have been at their highest.

While Canadian Booksellers have faced challenges, they have largely been able to remain competitive because of the protection from foreign competition afforded to them under the Investment Canada Act. The Act prohibits existing Canadian booksellers from being acquired by foreign interests, and also conditions new foreign-owned booksellers must follow before setting up in Canada. Such restrictions have meant that virtually all of Canada's booksellers are domestically owned.

This is important: in a time when booksellers are already facing narrow profit margins and declining sales, the entrance of a large foreign competitor capable of leveraging larger buying power and American market share to drive the price of books down further would be a death blow to countless more independent booksellers. And as Canada's bookstore's suffer, so too does Canada's cultural sovereignty.

Bookstores are the pivotal link between Canadians and Canadian culture. They highlight regional literature and Canadian voices in ways no other establishment can. Each local bookstore can boast a local title that sells well based on local interest, something that does not happen in large nationally-run stores. In spring 2003, a study done by the Literary Press Group demonstrated that a national chain purchases only 50% of the books published by their literary presses. In contrast, independent bookstores purchased 98%.

The presence of this extensive network has led to a thriving Canadian literary community, with many Canadian authors such as Margaret Atwood or Gabrielle Roy enjoying a high rate of success both domestically and abroad. As this panel considers ways of making Canada more competitive and innovative, it must be underlined that an innovative country is a creative country—a country that fosters arts and culture, and which recognizes that it has a benefit to the economy that cannot be quantified easily under existing measures.

Canada's booksellers are at the frontlines of culture and it is through them that Canada's literary heritage is fostered and distributed, much in the same way that television and radio disseminate much of Canada's audio and visual identity. Canada protects these other mediums because there is value in protecting Canada's ability to enhance its own culture, and so it is important to protect independent booksellers, for it is they that more often than not carry a greater proportion of titles by Canadian authors. It is important that this protection be maintained.

This protection is not absolute, and loopholes allow foreign competitors to circumvent it. With the rise of online-shopping, non-licensed booksellers, such as amazon.com, have used such loopholes to establish a presence in Canada. This represents a great concern for booksellers across the country.



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As the panel is no doubt aware, U.S. Internet retailer Amazon.com has been operating in Canada since the summer of 2002. The entry of this American retail giant into the Canadian market flies in the face of the Investment Canada Act, and Canadian Book policy that prohibits a non-Canadian from acquiring control of a Canadian book distribution business.

Amazon has been allowed to circumvent the intention of these rules because the rules were designed before the introduction of the Internet. The Act defines a bookseller as meeting two key criteria: one, physical store location and two, employees. Since Amazon operates with contract services and no physical Canadian presence, it has danced around these rules. Indeed, the Department of Canadian Heritage concluded, wrongly in the view of CBA, that Amazon's Canadian site is exempt from provisions of the Investment Canada Act that would have required Amazon to seek permission before selling books in the country.

The agency said it determined that the law does not apply to Amazon because the “e-tailer” neither established a new Canada-based business nor bought an existing one. The Act seeks to monitor foreign impact on businesses thought to influence cultural heritage, including the publishing industry. Because Amazon operates without these physical elements they are not subject to the Canadian ownership requirements other booksellers must meet.

This panel’s review of Canadian competitiveness marks an excellent opportunity to bring the intentions of the Investment Canada Act in line with the technological changes that have occurred since it was passed. Protections for cultural industries are of little value if they are not updated to reflect changing ways in which culture is consumed.

Thank you for giving CBA the opportunity to take part in this important look at fine-tuning Canada’s economy. Should you have any questions about this submission, CBA, or any other issues that affect and relate to Canada’s booksellers, please feel free to contact me at (416) 467-7883 ext. 225 or by email at sdayus@cbabook.org.

Sincerely,

Susan Dayus
Executive Director