

The logo for Magazines Canada, featuring the words "Magazines" and "Canada" in white, stacked vertically, on a red background. The background is a large red rectangle with a white curved shape at the bottom right corner.

# Magazines Canada

## SUBMISSION TO THE FEDERAL COMPETITION POLICY REVIEW PANEL

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A smaller version of the Magazines Canada logo, consisting of the words "Magazines" and "Canada" in white on a red background.

Magazines  
Canada

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## **Executive Summary**

Magazines Canada recommends that the Government of Canada maintain existing sectoral investment policies in the magazine sector which were recently updated and are helping to achieve important cultural policy goals.

Canada's magazines sector is competitive and productive. It offers a huge choice of Canadian and international titles to Canadian readers at highly competitive prices. The sector is open to magazines from around the world while encouraging the development and distribution of Canadian content.

After years of uncertainty from international trade disputes, Canada negotiated a framework in 1999, consistent with the WTO and supported by the United States, in which foreign investment review plays a key role in promoting Canadian culture. Canadian publishing businesses, magazine readers and the creative community are benefiting from a business environment free of international trade disputes.

Lack of enforcement of some existing policies provide competitive advantages to non-Canadian magazines and would appear to undermine enforcement of Canadian standards. These areas should be addressed to ensure equal business opportunities.

## **Introduction**

Magazines Canada welcomes the opportunity to review issues relating to the competitiveness of the Canadian magazine sector. The issues being studied by the Competition Policy Review Panel are vitally important to Canada's magazine industry. The current legal and policy framework, dating from only 1999, has created a relatively stable business environment after years of uncertainty related to trade disputes. During this period, consumer choice has grown, prices to the consumer are very competitive and Canadian readers have access to a seemingly endless number of magazines from around the world. At the same time, the Government of Canada's policy goals of ensuring healthy levels of Canadian magazine content and making it available to readers across the country are being met.

The recommendations of the Competition Policy Review Panel could have enormous implications for Canada's magazines sector. We therefore invite the Panel to contact Magazines Canada if additional information is required, or if panel members would benefit from a consultative session with Canadian publishers.

Magazines Canada is a national, non-profit association representing Canadian consumer magazines across Canada—about 90 percent of all Canadian magazines' paid circulation in both official languages. Member magazines span a wide range of topics including business, news, politics, sports, arts and culture, leisure, lifestyles, and the environment, among others.

Canada has a vibrant and culturally rich magazine industry with more than 2,300 titles and more than 750 million copies in circulation. The industry employs over 14,400 people through full- and part-time work, including 5,000 freelance writers, editors, photographers, designers and illustrators. The industry generates more than \$1.5 billion in revenue, making a significant contribution to Canada's economic growth.

## **The Federal Magazine Policy Environment**

Foreign investment review in Canada's magazine sector is one component of a relatively sophisticated mix of policy instruments the federal government employs to encourage the development and distribution of Canadian cultural content while maintaining a competitive, open and dynamic sector.

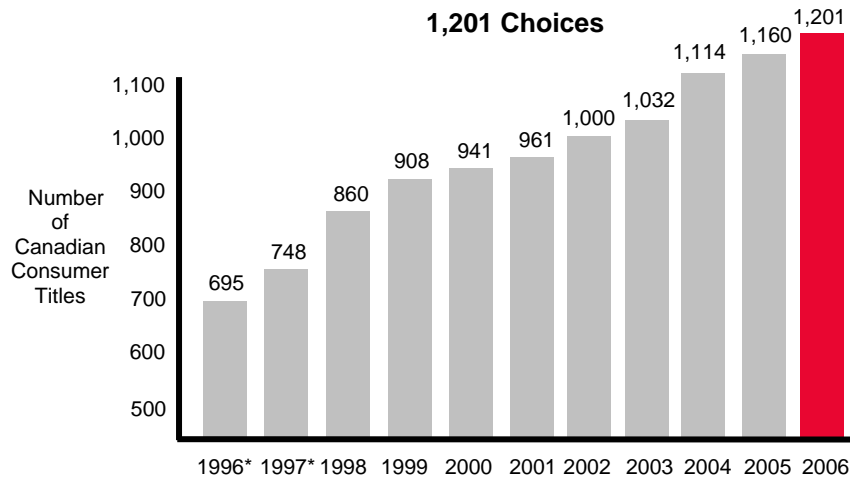
The foreign investment review of indirect investments and the government policy to disallow the sale of Canadian magazine businesses to foreign interests continues to play a valuable and positive public policy role.

### **1. Investment Policy - Magazines**

#### An open market

Canadians enjoy a very open and competitive magazines sector. Competition is wide open when it comes to consumer choice. Statistics Canada reports that over 2,300 Canadian magazines were in business in 2003. At least as many foreign magazines

circulate in Canada. The International Federation of the Periodical Press (FIPP) reports that 3,400 ‘consumer’ magazines alone are distributed in Canada (both Canadian and foreign titles). Magazines Canada estimates that Canadian magazines make up approximately 41% of magazine sales in Canada. Therefore, in addition to reading a very large number of Canadian titles, readers in Canada spend the majority of the magazine spending on foreign titles.



Source: Statistics Canada; Masthead Magazine  
 \* Estimate: Statistics Canada broadens sample base in 1998 to include titles previously unmeasured

Consumers enjoy an ever-expanding number of magazine choices. The number of Canadian consumer magazines continues to expand. At the same time, the circulation of foreign magazines continues to be very healthy with over 7.6 million U.S. magazines distributed in Canada in 2006 (ABC measured).

### A Highly Competitive Marketplace

Both foreign and Canadian titles exist in virtually all subject areas in both the consumer and business to business markets. Foreign magazines can enter the Canadian marketplace using several business models. Firstly, foreign titles can simply extend their sales to the Canadian market without restriction on either subscription or newsstand sales. Secondly, foreign titles can partner with Canadian companies to extend their brand to the Canadian marketplace using a combination of foreign content from the sponsoring magazine, and Canadian content and Canadian distribution and promotion support supplied by the Canadian partner. Finally, U.S. publishers can establish a magazine business in Canada and sell advertising as long as their magazines contain 50% or more Canadian or original content on average.

<b>Consumer Magazines per Capita (2005)</b>			
Country	# of Titles	Population (millions)	Magazines/Capita (index)
Canada**	3,400	33	100
France	4,525	61	72
United Kingdom	3,364	60	54
Poland	1,640	39	41
Italy	1,840	58	30
Germany	2,400	82	28
United States	6,234	298	20
Brazil	3,651	188	19
Japan	2,524	127	19

\*\*includes foreign magazines distributed in Canada

Source: FIPP World Magazine Trends

The large number of publishing companies and titles available to Canadian readers creates a highly competitive market where cover prices are held in check by competitors and aggressive price discounting is used to attract consumers to longer-term subscription sales.

#### Industry productivity

Canada has a productive magazine sector. Magazines in Canada and the United States are primarily focused on their own domestic consumer markets. Editorial costs are supported by subscription and advertising revenues. In the U.S., with 300 million consumers, editorial costs are supported by a much larger readership. In Canada, the costs of unique Canadian editorial are supported by a potential readership of 33 million across a vast geography. As a result, in the U.S. approximately 11% of advertising revenues go to editorial development. In Canada, editorial content creation uses up 25% of available advertising revenues.

Canadian magazines are investing in technologies to meet the demands of competition from other Canadian and foreign publishers and to maintain consumer engagement in a rapidly changing technological environment. Over the past five years, publishers have invested very substantially in digital publishing technology, which is generating greater efficiencies in pre-press activities.

With rapidly increasing consumer interest in online information and entertainment, magazine publishers have moved swiftly to develop an Internet presence and engage new and existing readers with interactive tools and content.

#### **Canada's New Investment Regime for Magazines**

Canada's eight-year-old investment regime for magazines is significantly reformed from earlier versions. Prior to 1999, Canada's investment policies were rooted primarily in nationality of ownership. The new framework, while maintaining minimum thresholds for ownership, focuses greater attention on the development and distribution of Canadian content rather than on blocking competition.

Canada's cultural policy focuses on the development and distribution of Canadian content in periodicals. In an entirely open, unrestricted marketplace in which foreign split-run magazines can take advertising revenue from the Canadian market without investing in Canadian content, it would be extremely difficult for Canadian publishers to create high-quality publications. The same is true in other Canadian cultural industries.

Canada's new framework is a balance, ensuring an open and competitive market while promoting Canadian content development.

Foreign publishers may create magazine businesses in Canada and may deduct advertising expenses as long as they meet the standards for Canadian content development.

### **Building on New Successes in Cultural Trade**

Canada's investment review guidelines for periodicals are a key component of relatively new and hard-fought trade policy environment.

#### The 1999 Canada – U.S. Agreement on Periodicals

Canada concluded a bilateral trade agreement with the United States focused specifically on the magazine sector in 1999 after years of difficult negotiation. The agreement assures an open and accessible market in Canada for foreign magazines. It guarantees to a U.S. publisher the right to establish a business in Canada and to sell advertising in the Canadian market as long as the magazine produces a majority of Canadian or original content. This is a balanced agreement which provides open access but restricts the ability of foreign magazines to take advertising revenues out of the Canadian market without an investment in supporting Canada's cultural policy goals. The agreement put an end to decades of cultural trade battles with U.S. magazine publishers and cemented a long-standing Government of Canada objective of restricting advertising sales in Canada to publications that invest in Canadian culture.

Canada's foreign investment review legislation is central to the enforcement of the 1999 bilateral agreement. By signing on, the U.S. implicitly recognized that split-run magazines represent a competitive disadvantage for Canadian publishers and explicitly agreed that Canada's foreign investment guidelines are important and legitimate instruments to achieve our cultural policy goals.

#### The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

The extended and difficult trade negotiations over magazines which resulted in the 1999 agreement with the U.S. also lead directly to the Government of Canada's leadership in establishing the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Canada believed that countries had a basic right and obligation to protect and preserve their culture, and that a broad international agreement in this regard would be far superior to the constant bilateral skirmishes which dominated

cultural trade discussions and which had most recently been fought in the magazine sector.

The Convention has now been ratified by over 75 countries and came into force in March, 2007. As Canada's Minister of Canadian Heritage, the Honourable Josée Verner, recently noted, "the Convention is of vital importance for Canada. It recognizes the specific nature of the cultural activities, goods, and services through which our artists and creators express their ideas, make their voices heard, and celebrate their differences. The Convention recognizes the immense value of that contribution."

### International Agreements

The consultation paper *Sharpening Canada's Competitive Edge* refers to the key international trade agreements to which Canada is a signatory. The sectoral investment framework pertaining to magazines grows directly out of a WTO dispute in the 1990s and the resulting regime—including investment review and Section 19 advertising expense deductions—are consistent with Canada's trade obligations.

In addition to the specific bilateral agreement on periodicals between Canada and the U.S., a 2007 NAFTA panel dealing with a Chapter 11 challenge also confirmed that Canada maintains a 'cultural exemption' under NAFTA.

### Impact on Canadian businesses that use Canadian Magazines to Reach their Readers

In addition to producing Canadian content, Canadian magazines are also a vehicle linking buyers and sellers in sectors showcased by the magazine's editorial. For example, woodworkers can identify suppliers of woodworking equipment, professionals in the field and services through advertising in a Canadian magazine with an editorial focus in this area. The same is true for fashion, gardening, the environment and other areas. In each case, there are foreign magazines with similarly-focused editorial, but with no Canadian content. Consumers can access stories and information in these fields but not advertising and links to Canadian suppliers and businesses. In this way, magazines help Canadian businesses reach their marketplace.

### **Conclusions and Recommendations – Magazine Investment Policy**

As outlined above, Magazines Canada is of the view that our magazine sector is both competitive and productive. The consultative paper, *Sharpening Canada's Competitive Edge*, asks three questions with respect to the investment rules for periodicals. The following responses are grounded in the observations and data presented above.

1. *What changes, if any, are required to minimize or eliminate negative impacts on Canada's competitiveness?*

Magazines Canada recommends no change to the current investment review law and policy. The current regime is very new and has created a predictable business environment for a competitive sector. The new regime has been accepted by Canada's major trading partners.

*2. What have been the impacts of investment regimes on productivity and competitiveness?*

Canada has a highly competitive and productive magazine sector. There is no evidence that competitiveness is compromised by the foreign investment regime.

*3. Are there alternative mechanisms that would achieve the non-economic policy objectives while also ensuring maximum competitiveness?*

The new investment regime for magazines places emphasis on the creation and distribution of Canadian content, as opposed to restrictions based on nationality. As such, it takes a new approach—one directly focused on Canadian cultural objectives.

Canada's 'non-economic' policy objectives (ensuring the availability of Canadian content in magazines) could be severely compromised if foreign investment review guidelines were altered.

## **2. Competition Law and Policies**

Competition law and related policies are meant to provide a reasonably stable and equitable business environment where market participants can compete on a 'level playing field,' and where policies apply to all participants.

In Canada's magazine sector, there are examples of inequities in the competitive environment that give foreign businesses huge advantages over Canadian firms. Here are three examples of advantages foreign publishers benefit from in the Canadian marketplace which should be addressed to ensure equitable competitive opportunity and to make sure Canada's environmental and health policy goals are being met:

1. In Canada, 'direct to consumer' advertising of pharmaceutical products is forbidden pursuant to the Canada Health Act. In the United States, pharmaceutical companies are permitted to advertise the benefits of their products directly to consumers through magazines, the Internet, television and all other media. Pharmaceutical advertising is one of the largest and most lucrative advertising categories for magazines.

While Canadian companies cannot carry these ads in Canada, U.S. magazines face no restriction in distributing their magazines in Canada, magazines which contain direct to consumer pharmaceutical advertising in Canada. These U.S. magazines are direct competitors to Canadian titles and have access to a lucrative source of advertising revenue not available to Canadian publishers.

Since 59% of Canadian magazine sales are of foreign titles, the objectives of the Canada Health Act are being seriously undermined with a very significant number of Canadian readers regularly viewing these ads. Additionally, U.S. publishers use these advertising revenues to enhance their editorial products in direct competition with Canadian magazines.

2. A similar situation occurs in the case of municipal recycling programs. Most municipal paper recycling programs (the Blue Box) are supported by provincial laws which provide a framework for recovering the costs of recycling from the industries that produce the material—publishers of newspapers, magazines, etc., in the case of paper products. However, in most cases, provincial laws cannot or do not apply to foreign products distributed in Canada. So, while over half of the recycling from the magazine sector is due to magazines imported by foreign publishers, the full amount of the cost of recycling these magazines is borne exclusively by Canadian publishers.

3. The 'abuse of dominant position' component of the Competition Act is being investigated in the case of provincial monopoly liquor marketing agencies that have established magazine publishing ventures which compete with private sector magazines for limited advertising revenues. Publishers are concerned that these provincial liquor agencies utilize their monopoly status, and the revenues from liquor sales, to enhance their position in the marketplace and effectively eliminate competition through aggressive market practices that private sector competitors cannot possibly replicate.

In conclusion, Canada's competition policy and laws—the Competition Act and the Competition Tribunal Act—appear to serve the Canadian publishing industry adequately. Competition law has not been a major element in international business relations in Canadian publishing.

Magazines Canada believes that, when it comes to Canadian competitiveness, we should be working to ensure that Canadian competition policies, enacted for whatever reason, are applied to all market participants and not just domestic companies.

## **Conclusion**

Magazines Canada believes that the new investment regime for magazines, updated in 1999, is working well and playing a key role in securing the Government of Canada's cultural policy goal of creating and making accessible Canadian content.

Canadian publishing businesses and the creative workforce they employ and engage are benefiting from a business environment free of international trade disputes.

Our magazine sector is very competitive and offers a huge choice of Canadian and international titles to Canadian readers at highly competitive prices. The continued evolution of online publishing and digital technologies in magazine production ensures that investment in new technologies is central to publishers' business planning.

Lack of enforcement of some existing policies provide competitive advantages to non-Canadian magazines and would appear to undermine enforcement of Canadian standards. These inequities must be resolved.

We recommend that Canada maintain the current sectoral investment policies in the magazine sector.

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