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## **SUBMISSION TO COMPETITION POLICY REVIEW PANEL**

We are pleased on behalf of the 93 members of Food and Consumer Products Canada (“FCPC”) to respond to the Panel’s call for comments on “Sharpening Canada’s Competitive Edge” (Oct. 30, 2007). FCPC is the national industry association in Canada for the food, beverage and consumer products industry, with membership ranging from small and independent privately owned companies to large, global multinationals. A list of FCPC’s membership is attached as Appendix “A” to these comments.

FCPC works with government, retailers and other stakeholder groups to advance the food, beverage and consumer products industry and to find solutions to issues of importance to our members and to Canadians. FCPC’s over-arching objective is to enhance our members’ ability to innovate and compete in the face of increasingly complex domestic and global markets. To that end, we strongly support the Panel’s efforts to “provide recommendations to the government on how to enhance Canadian productivity and competitiveness”. FCPC’s comments on the issues to be studied by the Panel will be limited to its consideration of Canadian competition law and policy, notably the question of what changes would enhance the competitiveness of Canadian firms in the global economy.

FCPC supports a measured approach to competition law reform which recognizes the need for laws that deter hard core cartel activity but preserve the ability

of industry members to work alone or together to address issues of concern to Canadians, including issues related to innovation, quality and choice so important to Canadian consumers. FCPC believes that government should be concerned not only with the exercise of market power through agreements amongst parties but through the exercise of market power by individual parties that dominate an industry (or segment). Competition law must also recognize that actions by buyers also have the effect of limiting or reducing investment and innovation by suppliers, especially in cases where buyers are selling the products they are purchasing in competition with their own suppliers. The law must accommodate the ability of the competition authorities as well as private actors to address this exercise of buyer-side power.

In the food, beverage and consumer products segments, the principal buyers of FCPC members' products are not – nor do they generally aspire to be – global champions for Canada nor do they typically, pursue or introduce product - as compared to marketing - innovations. Conversely, Canadian suppliers of food, beverage and consumer products tackle, or aspire to tackle, “global markets that span borders”, like the multinationals already present in Canada, and all suppliers (regardless of origin) of food, beverage and consumer products invest in, and undertake, product innovation; indeed, they must innovate to survive. Conduct which limits or reduces these suppliers' ability, or incentive, to invest and innovate to break into, or expand in, foreign markets or, simply, to offer Canadians better quality and greater choice has important, long-term, consequences for the Canadian economy and, more generally, for the prosperity of Canadians.

Consequently, in considering reform of Canada's competition law, FCPC asks that the Panel bear in mind the interests of all participants in the supply chain by recognizing the need of suppliers of products to, individually or jointly, respond to the exercise or abuse of market power at any level of the supply chain. Laws which unnecessarily deter concerted responses to such conduct are undesirable. Laws which provide more effective – more expeditious and consequential – recourse for those most affected by such conduct are desirable. A balanced approach to any reform of Canadian competition law will understand well that productivity and prosperity for Canadians only comes with innovation and investment, and innovation and investment must not be hampered whether by the conduct of many acting together or the conduct of one acting alone, whether by the conduct of suppliers or by the conduct of parties who buy the products supplied for resale.

FCPC appreciates the opportunity to provide the Panel with their comments and wishes the Panel well in its upcoming deliberations and recommendations.

Yours truly,

A handwritten signature in black ink, appearing to read "Nancy Croitoru", written in a cursive style.

Nancy Croitoru  
President & CEO

Encl:

Appendix A

**FCPC Member Companies**

3M Canada Company  
A. Lassonde Inc.  
ACH Food Companies, Inc.  
Agropur Coopérative  
Alberto-Culver Canada Inc.  
Bayer Consumer Care Division  
Bernardin Ltd. (Jarden Branded Consumables)  
Billy Bee Honey Products Ltd.  
Burnbrae Farms Limited  
C.B. Powell Ltd.  
Cadbury Adams Canada Inc.  
Cadbury Schweppes Americas Beverages  
Campbell Company of Canada  
Cara Operations Limited  
Cascades Tissue Group  
Church & Dwight Canada  
CKF Inc.  
Clover Leaf Seafoods L.P.  
Coca-Cola Bottling Company  
Coca-Cola Ltd.  
Colgate-Palmolive Canada Inc.  
ConAgra Foods Canada  
Concord Sales Ltd.  
Conseil de la Transformation Agroalimentaire et des Produits de Consommation  
DANONE Inc.  
Dare Foods Limited  
Dial Canada, A Subsidiary of Henkel Consumer Goods Canada Inc.  
Dole Foods of Canada Ltd.  
Dr. Oetker Ltd  
E.D. Smith & Sons, Limited  
Energizer Canada Inc.  
Europe's Best Inc.  
Ferrero Canada Ltd.  
Fishery Products International  
Frito Lay Canada  
Gay Lea Foods Co-operative Limited  
General Mills Canada Corporation  
GlaxoSmithKline Consumer Healthcare  
H.J. Heinz Company of Canada Ltd  
Hain Celestial Canada  
Hershey Canada Inc.  
High Liner Foods Incorporated  
Irving Consumer Products  
Janes Family Foods Ltd.  
Kao Brands Canada Inc.  
Kellogg Canada Inc.  
Kimberly-Clark Inc.

Appendix A

<b>FCPC Member Companies</b>
Kingsmill Foods Co. Ltd.
Kraft Canada Inc.
Kruger Products
Lindt & Sprüngli (Canada), Inc.
Mars Canada Inc.
McCain Foods (Canada) A Division of McCain Foods Limited
McCormick Canada
Mead Johnson Nutritionals
Melitta Canada Inc.
Morrison Lamothe Inc.
Mother Parker's Tea & Coffee Inc.
Nalley's Canada Limited
Nestlé Canada Inc.
Nestlé Purina PetCare
Novelis Foil Products, Novelis Inc.
Ocean Nutrition Canada Limited
Ocean Spray International Services, Inc.
Old Dutch Foods Ltd.
Parmalat Dairy & Bakery Inc.
Pepsi-QTG Canada
Pinnacle Foods Canada Corporation
Playtex Limited
Procter & Gamble Inc.
Reckitt Benckiser (Canada) Inc.
Reinhart Foods Limited
Rogers Publishing Limited
Ronzoni Foods Canada Corporation
S.C. Johnson and Son, Limited
Sara Lee Foodservice Ltd.
SCA Personal Care Products
Scotsburn Dairy Group
Select Brand Distributors Inc.
Smucker Foods of Canada Co.
Starbucks Coffee Canada Inc.
Sun-Rype Products Ltd.
Tetley Canada Inc.
The Canadian Salt Company Limited
The Clorox Company of Canada, Ltd.
The Pepsi Bottling Group (Canada), Co.
The Reader's Digest Association (Canada) Ltd.
Ultima Foods Inc.
Unico Inc.
Unilever Canada Inc.
W.T. Hawkins Ltd.
Weston Foods (Canada) Inc.
Wrigley Canada