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SPEAKING NOTES

for

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COMPETITION BUREAU

Competition and Innovation in a Flat World

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(Check against delivery)

I want to begin by saying how much I appreciate the opportunity to speak with you today. And I am particularly pleased to join such a distinguished group of speakers, including my colleagues, Mr. Eduardo Perez Motta, Chairman of the Mexican Federal Competition Commission, and Mr. Thomas Barnett, Assistant Attorney General of the US Department of Justice.

Our presence on this agenda reflects, I hope, the close working relationships which have emerged amongst competition authorities. These relationships are important elements in our efforts to improve the

global effectiveness and efficiency of competition policy. We are actively seeking to increase our cooperation, coordination, and communication to achieve better results for all.

Now as I reviewed the agenda, I realized that you were likely to hear a great deal about international developments, the work of the International Competition Network, and a great number of other topics that I might cover in my comments. So rather than talking on these issues, I decided to focus on how international developments are shaping our thinking about competition policy in Canada. And I will look at one of the areas where we will be focussing our efforts as a result.

The title of my presentation, *Competition and Innovation in a Flat World*, of course derives from the book by Thomas Friedman, *The World is Flat*, which explores the impact of globalization on business. In particular, it explores how the world we once knew, composed of distant and distinct economies, has been shrunk by technology, emerging global competitors, transportation developments and international commercial frameworks. Mr. Friedman has aptly described this transformation as a triple convergence: “new players, on a new playing field, developing new processes and habits for horizontal collaboration.”

This is a transformation which has had profound implications for businesses, governments and society. And as international borders are shrinking in importance, our efforts in fora such as the International Competition Network are increasingly important and urgent.

But oddly enough, as I considered these global changes, my thoughts also turned to more local matters.

My neighbourhood in Ottawa, like many others throughout Canada, benefits from measures known as “traffic calming devices”. You know what these are - the most evident are speed bumps which range from gentle mounds in the road to suspension rattling mountains. Others include traffic islands, road narrowings, reduced speed limits, and proliferating multi-directional stop signs.

Neighbourhood groups like these devices because they are believed to increase safety, reduce through traffic, and perhaps even raise property values.

Of course, not everyone feels the same way. Some believe that they are unnecessary, occasionally hazardous intrusions into the free flow of traffic. Others emphasize the costs in terms of increased travel time, lower fuel efficiency, accelerated vehicle wear and tear, slower emergency access times, and so on. While certain neighbourhoods may benefit, others may suffer from traffic being diverted to their streets.

So what has this to do with the flat world and competition? Well, these traffic calming devices have an

interesting parallel in our economy, one which is relevant to the role of the Competition Bureau as an advocate for competitive markets.

As you may know, we are specifically charged by our Act to advise on, and speak for and about competition in Canada. We take this role very seriously, from our interventions in regulatory fora such as the Canadian Radio Television and Telecommunications Commission and the Canadian Transportation Agency, to providing advice to governments of all levels on policies affecting the marketplace. Occasionally, government departments seek our advice on legislation.

While we are pro-competition, we are not competition zealots; we do not argue blindly for competition at the expense of all other goals. We do, however, advocate that these goals be achieved in concert with competitive forces and with the least impact on the marketplace.

This is vitally important work because the competitive marketplace is a powerful spur to innovation. The *Institute for Competitiveness and Prosperity* summed it up this way:

"...company strategies and operations are only as good as they need to be. If the environment in which companies operate is not providing the specialized support and the intense pressure for innovations and upgrading, then the companies will have uninspired strategies and mediocre operations."

In our 'flat world', we cannot afford mediocre operations or non-competitive markets, especially for the key ingredient in a knowledge-based economy: talented and educated people. We can no longer count on keeping talented Canadians in Canada. Nor can we take for granted that we will be the choice location for talented people coming from other countries.

This question has been extensively considered by Richard Florida in his recent book, Flight of the Creative Class, and in his various writings on the important role played by highly educated individuals. His thoughts are well captured in the following quote: *"Today, the terms of competition revolve around a central axis: a nation's ability to mobilize, attract and retain human creative talent."* I suspect that the same holds true for individual businesses - I know it does in the world of competition enforcement. Ireland and New Zealand, for example, have both staffed their authorities with international experts. In fact, Glenn Macdonald of our Bureau accepted a post in New Zealand just last year. And we have not ignored the benefits that can come from international linkages -- the current TD MacDonald Chair in economics at the Bureau is Professor Tim Brennan from the United States, the first foreign appointee to that position.

Attracting and retaining the creative class will be a particularly challenging issue for Canada as a whole.

We face a greying and culturally diverse population. And our ability to serve foreign markets depends to some extent on language skills and personal connections that come with the many people who move here each year.

If we fail to afford them the best opportunity to fully utilize their skills and qualifications, then not only they, but Canada as a whole loses.

Richard Florida summed up the challenge in a recent article:

If they wish to succeed in the growing global competition for talent, economic capitals the world over must act now. Aggressively recruiting foreign students and highly skilled workers must be coupled with increased investment in education to develop and harness creative talent.¹

I should note in passing that last week, Quebec introduced legislation intended to ensure that professionals with foreign credentials have a better opportunity to put their training to use. It will be interesting to watch the impact of this legislation on the 45 professional groups in Quebec which will be affected.

But accreditation is only part of the challenge. To get the most out of our creative people, we must ensure that their skills are deployed in marketplaces which are competitive - which are unburdened by ineffective, inefficient and unnecessary regulations which may even impede professionals from making full use of their qualifications.

Advocating for removal of such barriers is a natural part of our mandate at the Bureau and we willingly participate in discussions of issues which have major long term implications for Canada's ability to respond to the threats and great opportunities inherent in the 'flat world.

And as Thomas Friedman shows, these threats and opportunities are clear and present to all Canadian businesses. They are no longer distant in terms of geography or time.

Which, oddly enough, brings me back to the subject of speed bumps and other traffic calming measures. You see, many of our Canadian economic "neighbourhoods" - both business sectors and regions - have

¹July 20 , 2005, *A dire global imbalance in creativity*, Richard Florida , http://www.creativeclass.org/_flight_article_FT072005.shtml

also sought, or had imposed on them the equivalent of traffic calming rules - rules that reduce or even preclude certain forms of competition.

Not all of these are necessarily bad. Just as we limit speeds in school zones, we can certainly value restrictions on certain kinds of commerce, from outright prohibitions on certain drugs, for example, to limitations imposed on the sales of certain products to minors. We know that appropriate quality and other standards can make markets more efficient and effective for all participants. And there are other socio-economic objectives that may be pursued through economic regulation.

But we must continually question whether all of our current restrictions are effective? Which ones no longer serve the real purpose for which they were created? Which are having undue costs? Which could be better achieved through market forces alone or via less intrusive approaches? And which are crippling our chances for success in the Flat World?

These are some of the questions we at the Competition Bureau ask when we examine new or existing policies in our advocacy role. For example, we are examining a number of sectors of great importance for Canada.

For today, I am going to focus on one of our priority areas - professional services. Professional services epitomize the heart of the knowledge based economy, including engineering, computer sciences, architecture, accounting, medical services, laboratory and testing services, various consulting professions, and so on.

And yes, legal services are part of this grouping. They typify the rapid changes which have occurred in professional services. Some of you may recall when law firms were largely local, tradition bound operations. Now, legal services are going global with alliances and partnerships spanning the world using modern technology and practices to keep up with their dynamic and demanding clients.

This is a very different world. In fact, there was a time, not that long ago, when Service Industries were considered second class economic citizens, ranking in importance below our primary and manufacturing sectors. They were not even covered by the Competition Act until 1976. They were viewed as largely non-tradeable, with the exception of those like transport that served the other sectors of the economy. Pundits fretted that Canada, in fact, North America was de-industrializing as the percentage of output attributable to service industries rose. This was a sign of economic Armageddon in some eyes.

These and other myths were bandied about. And they were all wrong. We now know that service

industries are integral to the success of the economy. We know that they can and are traded. In fact, services account for almost 35% of UK exports and 29% of exports from the US, which is tied with India in this regard. We know that a growing service sector is part of the maturing of all modern industrial economies - it is a sign of progress not weakness.

Reflecting this changed perception, the Conference Board recently issued a full report on the export of Canadian commercial services as part of its three year research program on Canada's future - the so-called Canada Project.

In a nutshell, the report notes that Canada gains just 12.5% of its exports from services - remember the almost 35% achievement of the UK - and concludes that: "...Canada appears to be underachieving with respect to its potential to export sophisticated, high value services."² They go on to note that, "...other countries are taking greater advantage of high value added services in international trade. Many have explicit strategies to grow services exports, or have addressed domestic barriers constraining services exports."

As an advocate for competition, I was particularly interested in the latter comment. Other countries have indeed acted. And they are going beyond addressing restrictions that hit directly at exports, such as travel limitations, recognition of accreditation, and so on. They are targeting the broad range of rules that inhibit domestic competition. And by doing so, they will create a competitive domestic marketplace which will prepare their service suppliers to tackle international challenges.

²*Opportunity Begins at Home: Enhancing Canadian Commercial Services Exports*, Conference Board of Canada, 2006, page i.

This is broad ranging work. For example, the European Commission competition authority published a Report on Competition in the Professions in February 2004. This report looked at six professions -- lawyers, notaries, engineers, architects, pharmacists and accountancy - including tax advisers. The Report suggested that a test be used to assess to what extent anti-competitive professional regulations and rules truly serve the public interest and can be objectively justified. The Report also recommended that each rule have an explicitly stated objective and an explanation of how the chosen regulatory measure was the least restrictive mechanism to effectively attain the stated objective.

The Commission then invited all to work in partnership - regulatory authorities in the Member States and professional bodies - to review existing rules taking into consideration whether those rules are necessary for the public interest, whether they are proportionate and whether they are justified.

In 2005, the Commission published a working document entitled "Progress by Member States in reviewing and eliminating restrictions to Competition in the area of Professional Services". This Report provides a detailed outline of progress made during 2004/05 by Member States in the review and removal of "unjustified restrictions" on competition in these six professions. For example, five Member States report substantive change to advertising restrictions (France, Ireland, Italy, Lithuania and Portugal). The majority of these changes relate to provisions being relaxed in ethical codes and reflects the fact that a significant number of advertising restrictions are contained in such codes.

The Irish Competition Authority has also carried out a study to assess the methods and practices affecting competition in the provision of certain professional services in Ireland and to evaluate and identify which, if any, of the restrictions are proportionate in terms of meeting any benefits claimed for them. The Study focuses on professions in the medical, legal and construction sectors, specifically: medical practitioners, dentists, veterinarians, optometrists, solicitors, barristers, engineers and architects.

As a result of the information and understanding gained from undertaking this research, the Competition Authority may seek or recommend various amendments to existing regulatory practices in the professions in order to enhance competition therein.

For example, in its Optometrist Preliminary Report, dated December 2005, the Authority recommended that the Minister for Health and Children should bring forward legislation to amend the Opticians Act 1956 to limit the powers of the Opticians Board in relation to advertising. The powers of the Board would be limited to ensuring that advertising by optometrists is not false or misleading. The Authority also recommended that the Association of Optometrists of Ireland should remove restrictions on canvassing and comparative advertising.

Now Canada is unlikely to get our services exports to the same percentage of trade as the UK -- our resource riches and thriving auto trade would make that very unlikely. So do we have the same interest in addressing competition issues in these markets? Absolutely. Individual consumers and business clients depend on competitive professional services for low costs, quality and variety. And as I noted earlier, services are part of the heart of a knowledge based economy. If we are to thrive in the flat world economy, we must have access to the most advanced, innovative and competitive professional services.

And this is driving our interests in professional services. Many professional services are subject to rules, regulations and oversight that have emerged over decades in response to varying domestic agendas. Often, the agendas were intended to protect consumers of the services and to ensure standards of service delivery. You need only reflect on the framework in which legal services are controlled in Canada to understand this situation. The question is whether the various frameworks for the different professional services are still relevant? Could we get similar results with less cost to competition? Are there areas where we are making less than full use of our resources?

The early evidence, and it is just that, early evidence, is that there are some areas where we may need to look for action. For example, are there too many barriers to the movement and accreditation of service providers across Canada? In Europe, the EU has created a vast system of mutual recognition and acceptance of professional qualifications. This has greatly improved trade in professional services and enhanced competition within the market. In some cases, this is true of Canada, but it is not true across the board.

And this is important to the objective I discussed earlier - attracting and retaining the 'creative class' global citizens. Our work on professional services will, I believe, make a difference and ensure that Canada not only mobilizes, attracts, and retains creative people, but allows their skills to be developed and exploited in the most effective way possible, free of unnecessary barriers and obstacles.

We are currently in the preliminary stages of examining the types of potentially anti-competitive restrictions used by self regulating professions. These may include:

- ▶ mandatory or "suggested" fee schedules;
- ▶ advertising restrictions;
- ▶ restrictions on entry, including barriers to accreditation and movement of employees;
- ▶ restrictions on scope, and;
- ▶ restrictions on type of practice such as limits on office location, size minimum services and equipment and so on.

We also intend to study the economic effects on competition of the various types of restrictions.

We will publish the results to inform the public and policy makers regarding the widespread use of these practices and the costs to consumers and the economy in terms of reduced competition. This information will inform our advocacy efforts and may be a factor in contested Competition Act cases.

This is not easy work, and it will take some time for two reasons:

First, each of the service areas has unique characteristics which we will have to consider. And there are a number of sectors to deal with.

Second, we are going to proceed carefully and with the high quality of analysis, unbiased research and consultation that we apply to all of our work. Consistent with my earlier comments regarding our approach to advocacy, we will carefully consider the ongoing need for regulation given the broad policy frameworks in play, and seek to identify opportunities for less intrusive, more effective approaches.

But for those of you who are impatient for results, our recent work on the role of dental hygienists illustrates how we may deal with other sectors.

On March 7, 2006, the Bureau published on its web site letters it had sent to the governments of Alberta, Nova Scotia and New Brunswick in which we supported provincial initiatives to create independent colleges of dental hygiene. We also made recommendations regarding the rules which might govern an effective and efficient college. And we encouraged the provinces to use the opportunity to establish meaningful competition in the market for dental hygiene services to promote the efficient, low cost and innovative provision of dental hygiene services.

The Bureau also suggested that if the provinces felt that further measures were required to ensure public safety, then they should establish those safeguards at as low a cost to consumer welfare as possible. For example, we noted that a legislative scheme that allowed dentists to control patient access to hygienists could be inefficient and detrimental to the consumers of each province.

I know I have covered a lot of territory, and I want to let you get on with the interesting sessions scheduled for this afternoon.

But before I do, let me revert to my earlier musings on speed bumps, the Flat World, and competitive marketplaces.

We are indeed living in a world that has been “flattened” as Friedman describes. Within this changing scene, some may well want to cling to the economic traffic calming rules and regulations of the past - in fact, I can confidently predict that many will want to continue to seek shelter in the limited protection these rules provide for their special interests.

But the world won't let us. The vitality of our economic neighbourhood depends on our openness and ability to seize change, to innovate in our businesses and our governments, to ensure that Canadians are served by modern marketplaces which respect their broad interests, including their interests in long term economic prosperity.

Our goal at the Competition Bureau is to ensure that our markets deliver the benefits of competition, including the low costs, high quality and variety of choice to Canadian consumers and businesses. And we need to ensure that we have in Canadian markets the competitive pressures that spark and guide the innovation that will guarantee our prosperity into the coming decades.

We at the Bureau cannot do this alone, and I am hoping that we can count on your support.

Thank you.