

Competition Commissioner's Statement on the Innovation Superclusters Initiative

Collaboration and competition

The Innovation Superclusters Initiative will incent large-scale collaboration of Canadian-based private-sector enterprises, supported by other innovation ecosystem players, to work together more strategically to address key challenges, deliver innovative solutions, and build a shared competitive advantage.

Multi-sector collaboration, open innovation, and partnerships with other innovators can accelerate the pace of innovation, as well as bring new products and processes to market faster and cheaper. It can also enable organizations to combine technologies and resources, leading to the development of new and better products for the benefit of Canadians and the economy.

At the same time, industry collaboration involving actual or potential competitors can sometimes raise concerns under the law. Therefore, industry participants supporting an application to the ISI are strongly encouraged to review their proposed activities for compliance with the *Competition Act* (Act).

Guidance

In the vast majority of cases, collaborative projects and initiatives that will be undertaken by the awarded superclusters to fulfill the objectives of the ISI will not raise legal concerns under the Act. However, these collaborative activities must not be used to engage in cartel activity or anti-competitive agreements.

The following types of agreements among competitors are prohibited:

- Agreements to fix prices, allocate markets or restrict output (*section 45 criminal cartel provision*); and
- Agreements that are likely to substantially lessen or prevent competition (*section 90.1 civil anti-competitive agreement provision*).

The Competition Bureau (Bureau) is generally **not** concerned with collaborations that:

- Involve firms that are not actual or potential competitors, or firms that do not have market power because collaboration occurs in highly competitive markets;
- Are limited to R&D, and do not contemplate the joint sale or commercialization of products developed through the collaboration; or
- Allow firms to develop products they would not otherwise be able to develop independently.

Compliance safeguards

There are some best practices that can help organisations stay within the rules:

- Be cautious when collecting and sharing commercially sensitive information (for example: costs or marketing strategies), particularly with competitors;
- Do not exclude firms from participating in the collaboration based on arbitrary membership criteria (for example: limiting participation to businesses of a certain size or with a minimum number of years of experience);
- Ensure that the collaboration does not result in the setting of standards that artificially provide certain firms with a competitive advantage over others (for example: where only firms that have licenses to certain essential patents can participate);
- Create and implement a compliance program, using the Bureau's [Corporate Compliance Programs](#) bulletin; and
- Consult the list of “Dos and Don’ts” in the Bureau’s Bulletin on [Trade Associations and the Competition Act](#).