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CROSS-BORDER CANADA/U.S. COOPERATION IN INVESTIGATIONS AND ENFORCEMENT ACTIONS

*Debra A. Valentine**

Today I look forward to discussing cooperation between the United States and Canadian enforcement agencies in both competition and consumer protection matters. The agency I represent has a unique combined jurisdiction over both consumer protection and competition issues that enables us to promote consumer welfare throughout the economy. We protect consumers and enhance competition in two primary ways – by eliminating unfair or deceptive acts or practices in the marketing of goods and services and by ensuring that markets function competitively. Today we can do so successfully only by working cooperatively with our foreign counterparts.

I. THE BACKDROP:

A. A GLOBAL ECONOMY MAKES COOPERATION CRITICAL

U.S.-Canadian cooperation in antitrust and consumer protection enforcement is best understood in the context of four striking trends that have emerged during the last decade. First is the dramatic increase in cross-border trade and investment as tariff and non-tariff barriers have fallen, industries have deregulated, technologies have converged and, fueled largely by innovation, transportation and communication networks have improved. In the United States alone, exports have doubled as a percentage of gross domestic products to approximately twelve percent of GDP. Similarly, our imports have increased by fifty percent to over fifteen percent of GDP.

Second, and directly connected to that increased global trade, is the unprecedented level of merger activity, which rose to \$4.3 trillion worldwide in 1999. In the United States, the number of mergers reported to the antitrust agencies more than tripled over the past decade, from 1,529 transactions in 1991 to 4,642 in 1999. Even more striking is the eleven-fold increase in value of these transactions, from \$164 billion in 1991 to \$1.85 trillion in 1999.

* Valentine bio. The views expressed here are those of the author, and not necessarily of the Federal Trade Commission or any Commissioner.

Third is the advent of the Internet as a boundary-less space for transacting business. Use of the Internet has grown exponentially since commercial browsers first became available in 1994 - 123 million Americans now have access to the Net. Internet purchasing also is skyrocketing, forecasted to rise from twenty billion dollars in 1999 to 184 billion dollars in 2004.

Fourth is the proliferation of national competition and, to a lesser degree, consumer protection regimes. A decade ago, approximately twenty countries were enforcing competition laws. Today, over eighty countries have an antitrust law, and at least twenty more are considering draft legislation. Approximately sixty of these laws contain merger control provisions. On the consumer protection front, central and eastern European countries are adopting consumer protection laws as they seek to join the European Union.

The convergence of this extraordinary growth in cross-border trade and investment with growing numbers of national competition and consumer protection laws designed to keep markets open and to insure that consumers receive accurate information means that more and more sovereign jurisdictions have the authority to review more and more transnational business activity. For legitimate businesses, there is a clear potential for heightened uncertainty and increased transaction costs when confronted with multiple authorities reviewing their acquisitions and conduct. Today, fully one-half of the mergers that the FTC decides to further investigate through our so-called second request process involve a foreign dimension - such as a foreign-based party, important evidence located abroad, or a foreign asset critical to the remedy. Indeed, we notified foreign governments in thirteen of the twenty-eight merger cases in which we took enforcement action last year. I firmly believe that the best way to address the reality that business today is global in scope, whereas laws are national, is for the enforcers to cooperate so as to ensure, when competitive or deceptive practices problems do arise, that enforcement is effective, outcomes are consistent, and remedies are compatible to the extent possible.

Unfortunately for consumers, illegitimate business and consumer fraud also have an increasing international component. Scammers are an inventive lot - quick to try to avoid an authority's jurisdiction by targeting consumers in countries other than where they locate themselves; quick to tailor their scams to the differing interests of consumers in different countries; and quick to move on to new scams according to what works. Here too, my prescription is the same - at the center of an effective law enforcement strategy in the international arena is the interplay between information sharing, enforcement coordination, and the convergence of national laws. Effective information sharing informs law enforcement coordination and makes it better. What information can be shared depends on the relevant national laws, and

national laws that limit information sharing necessarily limit cooperation and the benefits that flow from it. All three elements warrant careful consideration. The experiences of the United States and Canada respecting these elements are informative of what works and what needs to be done.

II. THE U.S.-CANADA COOPERATION AGREEMENT

What are the United States and the Canadians doing to cooperate in antitrust and consumer protection matters? Our cooperation is founded on a 1995 bilateral agreement that is similar to antitrust cooperation agreements that we have with six other countries – Australia, Brazil, the E.C., Germany, Israel, and Japan. It is unique in that the agreement also covers deceptive marketing practices.¹ Interestingly, virtually all the basic obligations (which are common to our other existing bilateral competition cooperation agreements as well), apply in both the competition and consumer protection spheres.

The first obligation is notification. Each party must notify the other about enforcement activities that affect the other's important interests. Thus, the FTC would notify Canada when we are investigating activities that are: (1) relevant to its enforcement activities; (2) involve anticompetitive activities or deceptive practices originating or carried out in its territory; (3) involve a merger in which a party is incorporated or organized under the laws of Canada; (4) involve conduct that Canada required, encouraged, or approved; or (5) involve remedies that would require or prohibit conduct in Canada.

The next obligation is enforcement cooperation. The parties recognize their common interest in cooperating: (1) to detect anticompetitive activities or deceptive marketing practices; (2) to enforce their competition laws; and (3) to share information and locate evidence, to the extent legally possible and compatible with each country's interests.

The third obligation is coordination. The parties commit to consider coordinating their enforcement activities when both are investigating either related potentially anticompetitive activities or deceptive marketing practices that have a transborder dimension. In deciding whether to coordinate investigations, the officials consider various factors – such as each country's ability to obtain needed information, to secure effective relief, to reduce costs by coordinating, and to achieve its enforcement objectives.

Fourth is the avoidance of conflicts. Each party commits to give careful consideration to the other's important interests and to minimize any adverse

¹ Agreement Between The Government of The United States of America and The Government of Canada Regarding The Application of Their Competition and Deceptive Marketing Practices Laws, signed August 3, 1995.

effects that its enforcement activities might have on the other's important interests.

The fifth obligation is to consult. The agreement gives each party the right to request consultations to resolve mutual or unilateral concerns about any matter relating to the cooperation agreement. We also commit to semi-annual meetings. It is easy to forget the personal element in creating a culture of cooperation, but to some extent trust and respect are only achieved through personal interaction. Annual or semi-annual consultations provide this opportunity and make subsequent telephone, telefax, and e-mail communications more informed and efficient.

The sixth obligation is confidentiality. The parties commit to maintain the confidentiality of any information that they communicate in confidence. In addition, no one is required to communicate information when domestic law prohibits doing so, or if doing so is incompatible with that country's important interests.

The seventh aspect of the agreement is its positive comity provision for competition matters. Positive comity allows one country's competition officials to request the other country's authorities to investigate suspected anticompetitive activities occurring in whole or in part in the latter's territory. Such requests may take place when certain conditions are met: the requesting country, for example the United States, believes that its interests are adversely affected and that the activities occurring in Canada are illegal under Canadian law. The beauty of these arrangements is that, when more than one country has authority to investigate, a positive comity referral puts the officials who are closest to the conduct of concern in charge of obtaining evidence and remedying any anticompetitive conduct. Positive comity referrals are thus efficient; they eliminate duplicative enforcement efforts, and decrease concerns about extraterritorial enforcement. The asking country does not, however, relinquish the right to act if the other country is unwilling or unable to do so.

III. THE REALITIES OF COOPERATING IN MERGER ENFORCEMENT

Next, I would like to discuss how this cooperation works in practice, first, on the competition side. It may well be true that unless a merger is of the size or economic import of a Boeing-McDonnell Douglas,² Exxon-Mobil,³ or

² See Thomas L. Boeder & Gary J. Dorman, *The Boeing/McDonnell Douglas Merger: The Economics, Antitrust Law, and Politics of the Aerospace Industry*, 45 ANTITRUST BUL. 119 (2000).

³ See Thaddeus Haddock, *Exxon Mobil Raises Estimate of Deal Savings*, WALL ST. J., Aug. 2, 2000, at A4.

AOL-Time Warner,⁴ these transactions may not command the same headlines as cartel prosecutions. But I am going to focus on mergers with cross-border effects because for each cartel case on which the United States and Canada cooperate, we likely have parallel proceedings in half a dozen mergers. Indeed, at the FTC, the merger wave today means that almost seventy percent of our professional staff works routinely on mergers, many of which involve firms, assets, or evidence in Canada.

First, the agencies' staffs may well begin talking to one another as soon as they see reports about a potential merger in the media. No formal notification or premerger filing is needed for the agencies to begin sorting out who has jurisdiction over a transaction. Sometimes, companies' counselors call to inform us that a deal is in the works. In any event, you should not expect that your transaction is going to slip by unnoticed.

Increasingly during these initial contacts between the merging parties and agency staff, the agency will ask whether the parties are notifying other jurisdictions of the proposed merger. If so, we encourage parties to consider two things: coordinating the timing of those different reviews and waiving confidentiality to speed the multiple agency review process and to enhance the possibility of complementary rather than inconsistent remedies.

Interesting from the U.S. perspective is that, on the one hand, the confidentiality provisions of our premerger review statute – the Hart-Scott-Rodino Act (HSR) – prevent disclosure of the fact that parties have made an HSR filing or the fact that we have issued a second request for additional information. Thus, we tend not to notify Canada or other foreign authorities that we are looking at a transaction that affects their important interests at the time of those particular events, since the notification could be construed as disclosing that event. On the other hand, our agreement with Canada requires us to notify it no later than the time when we seek information under the HSR Act, usually through a second request. Consequently, we tend to notify the Canadians before issuing the second request in order to improve our ability to cooperate and, where appropriate, coordinate our investigations.

The information that we share is most accurately defined negatively – anything that our laws do not prevent us from sharing. First, we share information about our respective investigational processes, such as what sort of documentary or testimonial evidence we will be seeking and from what sorts of entities, as well as information about our timetables and deadlines. Second, we share publicly available information about the relevant markets, applicable legal principles and precedents, and other factors relevant to the

⁴ See Heather Fleming Phillips, *AOL, Time Warner Dismiss Critics: Rivals Say Merger Would Limit Consumer Choices*, NAT'L POST, July 28, 2000, at C7.

analysis, such as the likelihood of entry in particular types of markets and possible entry barriers.

Third, we share how staffs are analyzing the relevant product and geographic markets, based on an aggregation of evidence and relevant legal principles, or discuss tentative theories about competitive effects or efficiencies. In doing so, we do not share confidential business information or specific pieces of evidence; that is, we do not disclose nonpublic commercial information that merging firms or third parties submit to us in the course of an investigation. Rather, we share what I call agency-generated confidential information, which is our analytic thinking or attorney work product, stripped of nonpublic commercial information or trade secrets. Generally, this type of information is protected from public disclosure under the Freedom of Information Act and privileged from discovery in litigation. Sharing it with fellow enforcers can be quite helpful, however, and does not compromise our deliberative or work product privileges. Finally, if aspects of the merger appear problematic, we exchange information on remedies, such as whether divestitures, licensing, or behavioral controls will adequately address competitive concerns.

Given the reality of this cooperation between our competition agencies, I offer the following advice: In mergers with U.S.-Canadian dimensions, the merging firms should seriously consider the desirability of voluntarily providing us the confidential information that they are giving the Canadian authorities. Indeed, if we know that Canada is reviewing the same matter, we will routinely ask the parties to provide a copy of the short or long filing forms that they submitted to the Competition Bureau. While the parties need not do so, we can always obtain the information in a second request. But if parties agree to provide both the United States and Canadian authorities with information to facilitate our communications, investigations can proceed more efficiently and expeditiously. In some cases, sharing additional information early obviated the need for a second request for information from the FTC.

Even when parties have not initially granted general waivers, if both the United States and Canada find that a matter has problematic aspects, the firms involved should seriously consider granting waivers of confidentiality at least with respect to particular documents or information to help resolve identified anticompetitive concerns efficiently. This is particularly true once it is recognized that remedial measures are necessary in both our jurisdictions. Parties should have no illusion that they can cut a deal with one jurisdiction that limits the ability of the other reviewing jurisdiction to fulfill its competition responsibilities. Consequently, cooperating with different

enforcement authorities is far preferable to ending up with conflicting orders that place the merged firm on the horns of a compliance dilemma.

In several pending cases our staff is in regular contact with the Competition Bureau to coordinate our parallel investigations. In some of these cases, the parties granted waivers, which enabled not only the sharing of confidential information and documents, but a more efficient and focused discussion of common issues raised by the acquisition in both countries. Indeed, parties who allow such sharing may well find that an identifiable portion of the information that they produced for the U.S. authorities fully meets the needs of the Canadian reviewers, and that duplicative or differing document searches and productions can largely be avoided.

In two major recent cases, the cooperative process revealed either a shared U.S.-Canada (or North American) antitrust market or competitive overlaps of the merging parties' businesses that raised similar anticompetitive concern in each country's national market. In such cases, one remedy may cure the problems in both the United States and Canada. Thus, in both *Guinness/Grand Met* and *Ciba-Geigy/Sandoz*, the remedies that the FTC adopted eliminated the need for Canada's Competition Bureau to impose a separate, arguably duplicative, remedy.

The situation in *Holnam/Lafarge* was somewhat different – it required different remedies in the United States and Canada, but cooperation helped to insure that the remedies were compatible. In that case, Lafarge Corporation, one of the largest producers of cement, with fourteen plants in the United States and Canada, sought to acquire a cement plant and related assets of Holnam, the number one supplier of cement in the United States. As originally structured the transaction likely would have driven up cement prices in a geographic market that ranged from Vancouver, British Columbia to Portland, Oregon. The parties waived confidentiality, thus enabling Canada's Competition Bureau to send us documents from an earlier investigation of Lafarge. We also briefed each other on information gathered from interviews with industry witnesses. With the parties' consent, Canadian Bureau staff visited our Seattle regional office and reviewed the parties' responses to our second requests. At the end of this process, the parties entered a consent with the Commission that eliminated a contract provision that provided an incentive for Lafarge to limit its cement production at the Seattle plant it was buying from Holnam. The parties also entered a consent with Canada's Bureau that called for the divestiture of a cement distribution terminal in Canada.

IV. COOPERATION IN COMBATING INTERNET AND TELEMARKETING FRAUD

I would now like to turn to the FTC's consumer protection mission, which is broad. It addresses a variety of unfair or deceptive acts and practices, such as deceptive advertising and credit practices, as well as telemarketing and Internet fraud. I am going to focus on telemarketing and Internet fraud, because they illustrate well how U.S. and Canadian enforcers have used both informal and formal cooperation arrangements to combat cross-border fraud successfully.

As noted before, scammers are ingenious and often are the first to take advantage of new technologies that expand the potential victim pool and make detection and apprehension harder. This occurred both in the areas of telemarketing and the Internet. In telemarketing, the technological event was a rapid decrease in long distance phone charges; in Internet fraud, the Net is the technology. The Internet, in particular, allows a scammer to reach millions of potential victims worldwide at little or no incremental cost and to locate itself almost anywhere. Because Internet use is predicted to grow almost everywhere, the experience Canadian and American law enforcers have had with fraud on the Net is what most countries likely will face as millions of their citizens come online in the coming years.

In addition to the basic cooperation agreement I described earlier, President Clinton and Prime Minister Chrétien established a U.S.-Canada Working Group on Telemarketing Fraud in April 1997 and directed it to report on ways to counter the serious and growing problem of deceptive cross-border telemarketing. The Working Group's Report, released in November 1997, recommended expanded cooperation and information sharing precisely because they allow law enforcement agencies to avoid duplication of effort and more quickly identify and prosecute ongoing fraud.⁵ The Report also recognized that different legal standards might interfere with effective cross-border law enforcement. For example, Canada's legal standard for extradition was higher than that of the United States, and the Report accordingly recommended examination and possible modification of those standards. Since then, Canada has modified its extradition standard to bring it closer to that of the United States.

⁵ See *Report of the United States-Canada Working Group on Telemarketing Fraud*, (visited July 19,2000) <<http://www.usdoj.gov/criminal/uscwgrtf/index.html>>.

A. Collecting and Sharing Information

As the Report was being drafted, law enforcement agencies in Canada and the United States were already working to improve their domestic consumer complaint databases. In Canada, provincial consumer ministries and Industry Canada were developing a national consumer complaint database called CANSHARE, which Canadian agencies could use. In the United States, the FTC and National Association of Attorneys General (NAAG) were developing the Consumer Sentinel database for use by U.S. and Canadian agencies, subject to confidentiality agreements. The 1997 Report recommended going forward with cross-border shared access databases.

Today, the Consumer Sentinel database is a joint project of the FTC and NAAG in cooperation with our Canadian partners, CANSHARE and Project PhoneBusters. More than 230 law enforcement agencies, including eleven Canadian agencies, have access to it. The Consumer Sentinel database provides these law enforcement agencies with secure access via the Net to about a quarter of a million consumer complaints about telemarketing, direct mail, and Internet fraud. It can be searched on many fields, including the name and address of the firm complained about, the names, addresses, and telephone numbers of consumers complaining about that firm, the type of fraud complained of, and claimed monetary loss.

To give you a sense about what law enforcers can learn from the database, I am going to share with you some Consumer Sentinel data:

- **Source of Complaints for Calendar 1999.** The data show that about 72,000 complaints were collected in 1999 by six different sources. About sixteen percent of them came from PhoneBusters, a Canadian partner. About twenty-one percent of all complaints were collected by an Internet complaint form. Each source accepts complaints from consumers wherever located.
- **Claimed Consumer Injury.** Consumer Sentinel also captures data about injury to complaining consumers – the amounts they claim to have paid to scammers. The data show that the amount of claimed injury increased substantially between 1995, when total claimed injury was about twenty-three million dollars, and 1999, when it was over fifty-two million dollars. These claimed losses certainly understate total injury, because only a small fraction of injured consumers actually complain and not all complaining consumers provide information about how much money they lost.
- **Complaint Distribution by Company Location for Calendar 1999.** The data relate the number of complaints to the locations of the complained-about company and complaining consumers. Most

complaints (about seventy-seven percent) are from U.S. consumers about U.S. firms. However, a significant proportion of complaints (about fifteen percent) are about scammers reaching across national borders. When looked at for a period of years, these data indicate that scams are becoming increasingly international.

- **Internet-Related Complaints as a Percentage of All Complaints.** Internet-related complaints range from ones where the Net was used only for the initial contact with the consumer to ones where the entire transaction took place online. Internet-related complaints increased from about one percent of all complaints in 1996, to about eleven percent in 1998, to about twenty-two percent in 1999. In 1999, there were 18,622 Internet-related complaints. Clearly, the Internet is an increasingly important vehicle for fraud.
- **Internet Auction Complaints.** These data show that a specific type of Internet-related complaint - Internet auctions - has increased massively in the last few years. Complaints about Internet auctions skyrocketed from only about 106 for the last two months of 1997, to 4,407 in 1998, to 10,687 in 1999.

B. Prosecuting Cases Jointly

While more than twenty recent cases involve cross-border fraud, I am going to talk briefly about two telemarketing cases that particularly illustrate fraud's international nature as well as the benefits of cooperation among Canadian and American law enforcers.

The first is an advance fee loan case, *Allied Credit Referral Service/Gary Walton*, involving one of many telemarketers operating from British Columbia that targeted U.S. citizens. Allied Credit in Canada advertised advance fee loans in newspapers and tabloids in the United States. Consumers who responded to the ads by calling telemarketers were told they were certain to be approved for a loan and were asked for an upfront fee. After receiving the fee, Allied referred the consumers to a "turn-down room" run by Walton in Arizona, and paid Walton for each referral. Walton then told each consumer that an unidentified private lender had turned down the consumer's loan application. Consumers in more than twenty-five states lost their upfront fees.

Allied, Walton, and thirty-five other advance fee loan scammers were targeted as part of Project Loan Shark II, a joint operation by U.S. and Canadian law enforcement agencies. In January, 1998, the British Columbia Ministry of Attorney General filed against Allied, and the Commission filed in Arizona against Walton, alleging violations of the FTC Act and the Telemarketing Sales Rule. The Ministry of Attorney General issued a Cease

and Desist Order, halting Allied's operations. It also obtained an order requiring United Parcel Service Canada and Federal Express Canada Ltd. to hold any packages sent to Allied and to turn the packages over to the Ministry. This action stopped the flow of consumer upfront fees to Allied. The Supreme Court of British Columbia later authorized the Ministry to return these seized checks – totaling about \$50,000 – to 140 identified victims. Walton settled with the Commission in June, 1998. As part of this settlement, Walton agreed to post a \$75,000 performance bond before entering into services related to the marketing of a credit-related good or service.

The second case, *Win USA*, is a lottery case that involved a Canadian-based telemarketing company selling lottery tickets to U.S. residents, targeting largely senior citizens. It was part of a broader investigation of cross-border lottery telemarketers organized by the Royal Canadian Mounted Police, the British Columbia Ministry of Attorney General, the FTC, and the Washington State Attorney General's Office. The states of Arizona and Washington joined the Commission as co-plaintiffs in a federal court case alleging that the Vancouver telemarketer, *Win USA*, violated the FTC Act and Telemarketing Sales Rule, as well as state law. The British Columbia Ministry of Attorney General filed an action in BC Provincial Court. It obtained search warrants and an asset freeze as part of the filing; the Royal Canadian Mounted Police executed the warrants, while the Vancouver Commercial Crimes Section helped to investigate. In the U.S. case, the court entered an *ex parte* TRO, which remains pending.

C. Encouraging Voluntary Compliance

As cross-border fraud is increasingly played out over the Net, the Commission and its law enforcement partners such as Canada have developed correspondingly creative ways to address fraud. A prime example is what we call "Internet surf days" or Internet sweep days. During surf days, participating agencies surf the Net worldwide for a particular type of scam, such as false claims about health care products or business opportunities. Over the last three years, the Commission has led twenty-one international surf days with more than 250 partners around the world. The Commission uses surf days to reach new entrepreneurs and alert those who may be unwittingly violating the law. The results vary by surf day: anywhere from twenty to seventy percent of the website operators who receive a warning come into compliance with the law, either by taking down their sites or modifying their claims or solicitations. Sites that continue to make unlawful claims are targeted for possible law enforcement action.

An interesting example is the “International Health Claims Surf Day,” conducted in late 1998. Participants from eighty agencies in twenty-five countries, including Canada, found about 1,200 sites with potentially false or deceptive claims about the treatment, cure, or prevention of six major diseases – arthritis, cancer, diabetes, heart disease, HIV/AIDS, and multiple sclerosis. These websites were sent e-mail messages warning them that they must have reliable scientific evidence backing up their claims. The Commission also informed the sites that website designers might be liable for making or disseminating false claims. Based on the surf, the Commission brought cases alleging lack of substantiation for various health claims against several marketers – one promoting a beef tallow derivative claiming to cure arthritis; another promoting shark cartilage and Cat’s Claw, a plant derivative, each of which were claimed to effectively treat cancer, HIV/AIDS, and arthritis; and two selling magnetic therapy devices, claiming to treat certain cancers, high blood pressure, liver disease, and other illnesses. All the defendants settled.

The most recent surf day, “GetRichQuick.Com,” focused on Net-based get-rich-quick scams, including pyramid schemes, business opportunity and investment schemes, work-at-home schemes, and deceptive day-trading schemes. This largest-ever international law enforcement project to fight Internet fraud involved 150 organizations, including Canadian authorities, from twenty-eight countries on five continents. The Commission recruited participants via e-mail from the International Marketing Supervision Network, composed of member countries from the Organization for Economic Cooperation and Development, and Consumers International. In addition to seven federal and forty-nine state agencies, there were partners from the U.K. and Norway to Uruguay, Chile, and Korea. As part of Get.Rich.Quick.Com, surfers from around the world identified about 2,300 suspicious sites, of which about 1,600 received warning e-mails signed by most of the surf participants.

While information sharing among enforcers is making vast progress and sharing in particular between CANSHARE, PhoneBusters, and Consumer Sentinel has greatly increased, there is still much room for improvement. In both the competition and consumer protection areas, information sharing can only occur consistent with national laws, which continue, even for very close neighbors, to limit information sharing. In the United States, for example, the Commission is prohibited from sharing information obtained by compulsory process and, to encourage voluntary compliance, the Commission is prohibited from sharing information obtained voluntarily in lieu of such process. Similarly, in Canada, Article 29 has at times been cited as barring the sharing of information with American law enforcement agencies,

including the Commission. In both circumstances, changing the law or seeking to harmonize interpretations of the law could increase the extent of information sharing with obvious law enforcement benefits and no loss of protection for legitimately confidential business or consumer information.

My real hope is that someday soon Canada will pass a law similar to our International Antitrust Enforcement Assistance Act and that both countries will pass laws to enable meaningful information sharing in the consumer protection area. These laws would allow the United States and Canada to enter agreements pursuant to which we could each share confidential information with our foreign partner and use subpoenas and CIDs to gather evidence for the partner to use in its antitrust or consumer protection cases. Because our two countries have largely comparable competition, consumer protection, and confidentiality laws, I cannot think of a more appropriate, safe, and useful environment in which such sharing could occur.

CONCLUSION

During the past decade as commercial activities have increasingly crossed borders, we have met the challenge of ensuring that our markets are open and competitive and that consumers receive accurate, nondeceptive information by working cooperatively, both formally and informally, with other enforcers. We could do even more to preserve competitive markets and protect consumers if law enforcers - with similar laws, similar social and economic values, and similar concerns for protecting information held by government - were authorized to share otherwise confidential information among themselves. I hope that the United States and Canada will set an example in that effort.

