

Executive Summary

This report looks at the rules and legislation that govern mergers of large Canadian banks from the consumer point of view and assesses how large bank mergers would likely affect consumers in relation to issues of access, choice and price of banking services. Large bank mergers are permitted in Canada, subject to a series of reviews, with final approval by the Minister of Finance, but none have been approved in recent years.

This report was prompted by a public review, initiated in 2002 by the federal government, of some of the policies that govern bank mergers. The purpose of the review was to look at the public interest implications of large bank mergers and determine what public interest considerations should be taken into account by the Minister of Finance in making a decision concerning a bank merger proposal. Despite the subject matter of this consultation there was minimal representation from the general public or consumers to the legislative committees that were tasked with this matter in contrast to significant representation and input by banks.

The report outlines briefly the current rules and policies that govern large bank mergers. It then looks at why two large bank mergers were turned down in 1998 and whether the reasons given had changed by 2002. It looks briefly at bank merger experiences in other jurisdictions, outlines what the current financial services environment looks like for consumers, and then assesses how mergers might affect public interest issues of choice, access, and price in this context.

The report concludes that there is no persuasive evidence that consumer choice and access to banking services will be enhanced by large bank mergers and no evidence that the cost of banking services will be reduced under a bank merger. The dominance of Canada's major banks makes successful new entry of foreign banks or other domestic entities very difficult. The proposal that physical branches can be replaced by electronic banking does not begin to meet the range of banking needs of Canadians and small business. The reliance on electronic banking also exacerbates age and income divides. There is also no guarantee that banking costs will not increase with increased reliance on ATMs resulting from a bank merger.

The report also strongly supports the existence of public interest guidelines governing bank mergers and a public review process of individual merger applications by the legislative committees of the House of Commons and Senate.

Recommendations

With respect to the Finance Department Merger Review Guidelines:

- The reference in Bullet 3 of the Public Interest Impact Assessment to “the timing and socio-economic impact of branch closures” should be eliminated.
- Reference in Bullet 3 of the Public Interest Impact Assessment to alternative service delivery measures should be restated to require applicants to demonstrate how

alternative service delivery measures will be an acceptable replacement for branches and at no greater cost to consumers.

- Under Bullet 7 with reference to divestitures of bank branches, the provision should be amended to say that where federal consumer protection legislation is now applicable to Canadian deposit taking institutions, undertakings will be made with entities to which any branches have been divested to ensure that these provisions continue to apply as a condition of any contractual agreement.

With respect to the Competition Bureau's merger enforcement guidelines and the *Competition Act*:

- The sections of the *Competition Act* that govern the Competition Bureau's merger review process, specifically section 93, should be amended to make reference to the extent to which the proposed merger would 'provide consumers with competitive prices and product choices.'
- The interpretation given to the term "public interest" by the guidelines is misleading. The fourth paragraph of Annex I to *The Merger Enforcement Guidelines as Applied to a Bank Merger* implies that the public interest is concerned only with the interests of the financial system. This paragraph should be eliminated.

Recommendations concerning choice, access and price of banking services:

- Reverse the trend of bank branch closures
- Remove legislative impediments to allow for a federally regulated national cooperative banking structure
- Banks be required, as a condition of any divestiture of bank branches under a merger, to enter into negotiations with credit unions to be prospective buyers of divested branches.
- Banks should reduce hold periods on cheques and offer lines of credit and overdraft protection to more customers.
- The Federal Department of Finance needs to devote research to understand why a growing sector of bank customers are turning to alternative financial services
- Banks need to provide more transparency about service fees and charges and substantive analysis as to how they can be justified as banks move to less costly electronic platforms.