

FinTech continues as one of the Competition Bureau's key priorities for 2018-2019

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On May 3, 2018, the Competition Bureau (the Bureau) released its draft 2018-19 Annual Plan: *Building trust to advance competition in the marketplace* for public comment. The draft Plan provides details on the Bureau's priorities and objectives for the coming year and outlines how the Bureau will pursue its work to foster more competition and innovation in Canada. FinTech continues to be one of the Bureau's key priorities and objectives for the coming year with the Bureau committing to undertake another market study and targeting 10 FinTech-focused advocacy interventions.

FinTech has featured prominently in the Bureau's advocacy work over the past few years. Following extensive multi-year consultations with stakeholders about the way in which technology is and can be used to change the way Canadians access and consume financial products and services (refer to *Driving competition and innovation in the financial services sector - Competition Bureau's 2017 FinTech Market Study Portal*) in late December 2017, the Bureau published a comprehensive report entitled *Technology-led innovation in the Canadian financial services sector* (FinTech Report).

The FinTech Report focused on innovations that currently do or may be expected to impact the way that Canadian consumers and small and medium-sized enterprises commonly encounter financial products and services relating to payments (e.g., mobile wallets), lending (e.g., crowdfunding) and advice and investment dealing (e.g., robo-advisors). The Bureau advocates for the modernization of the regulation of financial services in Canada by reducing barriers to competition so as to encourage innovation and the growth of FinTech in Canada. To further pro-competitive financial services regulation, the FinTech Report made the following 11 broad recommendations for regulators and policymakers:

1. **Technology-neutral and device-agnostic:** Rules should accommodate and encourage new (and yet-to-be developed) technologies, so as to continue to encourage future innovation.
2. **Principles-based:** Regulation should be based on expected outcomes rather than strict rules of how to achieve those outcomes. This allows for flexibility in the development of new technologies and also in the application of the rules as technology changes.
3. **Function-based:** Regulation should be based on the function – rather than the identity – of an entity. This approach ensures that all entities have the same regulatory burden and consumers have the same protections when dealing with competing service providers.
4. **Proportional to risk:** Regulation should be proportional to the risks that it aims to mitigate. "This requires a tiered approach: functions whose failure poses lower risks to the

financial system should not necessarily face the same strict oversight as those whose failure poses higher risks.” Proportional regulation ensures that new entrants will compete on a level playing field with incumbents.

5. **Nationwide harmonization:** Best efforts should be made to harmonize regulation across Canada so as to limit the cost and difficulties associated with non-uniform compliance obligations. Consistency, on the other hand, can facilitate entry and expansion of FinTech across Canada and abroad.
6. **Collaboration:** Promote increased collaboration among regulators, between the public and private sector, and among industry participants through regulatory sandboxes, innovation hubs and the like (while protecting against the potential for anti-competitive collaborations).
7. **Policy leadership:** Identify a clear and unified FinTech policy lead for Canada with federal, provincial and territorial expertise to facilitate FinTech development. Such a lead could act as a gateway to other agencies and a one-stop resource for FinTech firms, and encourage public and private investment in innovative businesses and technologies.
8. **Accessible core services and infrastructure:** Promote greater access to core infrastructure and services (including the payments system under the appropriate risk-management framework) to facilitate the development of innovative FinTech services.
9. **Open banking systems:** Embrace “open” access to systems and data through application programming interfaces. With more open access to data (and the appropriate safeguards in place), FinTech can help consumers overcome their inability or unwillingness to engage in comparison shopping for financial services by enabling the development of bespoke price-comparison tools and other applications that facilitate competitive switching. By allowing more financial processes to be conducted outside of a “bricks-and-mortar” branch network, customers in regions that currently have limited competition may see an increase in choices.
10. **Digital identification verification:** Increased reliance on digital identification could help reduce the cost of customer acquisition for both new entrants and incumbent service providers, reduce consumers’ switching costs and facilitate regulatory compliance where identity verification is necessary.
11. **Continuous review:** Regular reviews of regulatory frameworks ensure they remain relevant in the context of future innovation and continue to achieve their objectives in a manner that does not unnecessarily hinder competition.

Many of these recommendations were initially made by the Bureau in an October 2017 submission to the Department of Finance Canada *Potential Policy Measures to Support a Strong and Growing Economy: Positioning Canada’s Financial Sector for the Future*.

Accordingly, it is not unexpected that FinTech will continue to be on the Bureau’s advocacy radar screen for its 2018-2019 fiscal year. But, it is surprising that the draft Annual Plan indicates that the Bureau is committed to commence another FinTech market study notice in May 2018 and undertake 10 FinTech-focused advocacy interventions.

So stay tuned. These commitments may change in the final version of the draft Plan as there will be a new Commissioner at the helm of the Competition Bureau as of June 1, 2018.

