



James B. Musgrove

Co-Chair, Competition and Antitrust Practice
Toronto

416.307.4078

james.musgrove@mcmillan.ca

education and year of call

- Called to the Ontario bar - 1986
- Institute of Corporate Directors - 2013
- University of Toronto, LLB - 1984
- University of Toronto, Trinity College, BA (Early Modern History & Economics) - 1984

practice areas

competition and antitrust
cartels
mergers
class actions
anti-corruption and fraud
foreign investment review
unilateral conduct and distribution
practices
marketing and advertising

industries

automotive
food, beverage and agribusiness
energy
telecommunications
retail

profile

James Musgrove is winner of the GCR award for Behavioural Matter of the Year - Americas for his successful defence of MasterCard, in 2014, and was named 2015 Advertising and Marketing Lawyer of the year, Toronto, by Best Lawyers. He is recognized as a leading competition and advertising lawyer by various rating organizations, including Chamber Global, GCR, Lexpert, Best Lawyers and Who's Who Legal, amongst others. He is active in various national and international antitrust organizations.

Leading cases include representation of Mastercard, the NutraSweet Company, Rogers Communications, Volkswagen, Capital One, Suncor, Polaroid, West Fraser and Kraft, amongst others.

- Co-Chair of the Competition and Antitrust Practice Group
- ABA Antitrust Law Section, Member of Leadership, Past Chair Unilateral Conduct Committee/Past Council Member
- Member, Competition Tribunal/Bar Liaison Committee
- Non-Governmental Advisor to the International Competition Network
- Chair, National Competition Law Section, Canadian Bar Association (CBA) (2007-2008)
- President, Toronto Lawyers' Association (2005 – 2006)

James practices in the areas of competition, antitrust, foreign investment and marketing law. He advises on antitrust, distribution, and competition law matters, mergers, cartels, investment review, foreign corrupt practices and misleading

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advertising amongst other issues. He makes regular representations and submissions to the Competition Bureau. He has experience in a wide variety of industries, including financial institutions, oil and gas, electricity, telecommunications, broadcasting, consumer products, retail, automotive, amongst others.

Major Publications

- Contributor, *Merger Control in Canada*, Lexology, 2015/2016
- General Editor, *Fundamentals of Canadian Competition Law*, CBA/Carswell, (1st, 2nd and 3rd editions) 2007/2010/2015
- Contributor, "*Canadian Advertising and Marketing Law*", Thomson Carswell Canada Limited
- Author, "Competition Law Tab, Volume 1," *Canada Corporations Law Reporter* ("DCOR"), CCH Canada Limited
- Editor, *Competition Law for the 21st Century*, Juris Publishing Inc., 1998
- Founding Editor/Competition & Trade Contributor, *Toronto Law Journal*
- Member of the Editorial Board, *Canadian Competition Record* (2001-2010)
- Founding Editor & Author, *Canada Chapter, Terralex Pre-Merger Notification Manual*
- PLC Advisory Board Member - Competition and Antitrust
- Editorial Board, *TerraLex Connections*
- Co-Author, Canada Chapter GCR "*Getting the Deal Through, Merger Control*"

International Competition Network

- NGA advisor to Unilateral Conduct, Cartel, Advocacy and Mergers Working Groups of the ICN
- Canadian Bar Association Competition Law Section delegate to ICN Kyoto, Japan (2005) Annual Meeting) and Lisbon Portugal (2009 Cartel Workshop), Marrakesh Morocco (2014 Annual Meeting), Sydney Australia (2015 Annual Meeting), and Singapore (2016 Annual Meeting)
- American Bar Association Section of Antitrust Law/FTC delegate to ICN (Istanbul, Turkey (2010 Annual Meeting), Rio de Janeiro, Brazil (2012 Annual Meeting), Washington, DC (2009), Brussels, Belgium (2010) (Unilateral Conduct Workshops) and Washington, DC (2011) (Co-operation Workshop))
- Contributor to various Unilateral Conduct Working Group Reports and Workbooks, speaker and facilitator at ICN

conferences and teleconferences

directorships and professional associations

- Member of the Editorial Board, Federated Press, *Competition Law Journal*
- Appointed to Practical Law Canada Advisory Board Member – Competition Law
- Awarded ICDD Designation from Institute of Corporate Directors, Rotman School of Management, 2013
- Serves on the Board of various Professional Corporations
- American Bar Association, Section of Antitrust Law (Member of Council, Liaison to CBA National Competition Law Section, Past Chair, Section of Antitrust Law, Unilateral Conduct Committee)
- Canadian Bar Association (Past Chair, National Competition Law Section)
- Toronto Lawyers Association (Past President)
- Competition Tribunal / Bar Liaison Committee
- Chief Justice of Ontario's Advisory Committee on Professionalism, Member (2004-2007)
- The County and District Law Presidents' Association Executive Member (2003 - 2007)
- International Bar Association (IBA), Competition & Trade Law
- Toronto Board of Trade, Past Chair, Business Affairs Committee, Past Member, Policy Committee

representative matters

Mergers

- Counsel in numerous merger matters including: Rogers/Glntel, Kraft/Cadbury, Philip Morris/Nabisco, Shell/Himont, AXA/Intact, Procter & Gamble/Tambrands, Rogers/Quebecor, Shell/Payless, BBM Canada/Nielsen, West Fraser/Weldwood, Teck/Cominco, Kraft/Nestle, Teck Cominco/Aur Resources, Teck Cominco/Inco, Teck Cominco/Fording, Davis + Henderson/Resolve, Poscor/Triple M, Johnson Controls/Yanfeng, amongst others

Cartels

- Counsel in various cartel cases, including Liquid Crystal Display, Cathode Ray Tubes, Marine Hoses, Retail Gasoline, Auto Parts, Parcel Tanker Services, Copper Concentrates, Credit Cards, Electrical Contractors, Fine Paper and Compressed Gas

Litigation

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- Leading competition law litigation includes: NutraSweet, West Fraser, MasterCard and Interac before Competition Tribunal, and Polaroid, Air Canada Jazz, MasterCard/VISA and Toronto Port Authority before Ontario/BC/Quebec/Alberta Courts

Advertising

- Counsel in numerous advertising hearings conducted before Advertising Standards Canada's Trade Dispute Panels, and Chair of Hearing Panel. Negotiation of various alternate case resolutions with Competition Bureau. Counsel to Volkswagen with respect to Diesel Emissions issue.

Counseling

- Advises on anti-trust, distribution and competition law matters, mergers, agreements amongst competitors, foreign investment, foreign corrupt practices and misleading advertising. Makes regular representations and submissions to the Competition Bureau with respect to mergers, and pricing and distribution of goods and services

awards and rankings

- Recognized by *Chambers Canada (2020)* as a leading lawyer in the areas of Advertising & Marketing Law and Competition / Antitrust Law
The "*very highly respected*" James Musgrove co-chairs the firm's competition and antitrust practice. Sources acknowledge him as "*one of the brightest people there is in advertising matters relating to the Competition Bureau.*"
Practice group co-chair James Musgrove provides advice on the competition law aspects of cross-border transactions and is also adept at representing clients in antitrust investigations and class actions. Interviewees comment: "*James knows antitrust law inside out and backwards, and even more importantly, he can explain his conclusions in a clear and understandable manner, is practical and a pleasure to deal with.*"
- Recognized by *Best Lawyers in Canada (2020)* as a leading lawyer in the areas of Advertising & Marketing Law and Competition / Antitrust Law
- Recognized by the *2019 Lexpert Guide to the US/Canada Cross-Border Lawyers* in Canada as a leading Canadian lawyer in cross-border practices
- Recognized in the *2019 Canadian Legal Lexpert Directory* as a Most Frequently Recommended lawyer in the area of Competition Law and a Consistently Recommended lawyer in the area of Advertising & Marketing Law
- Recognized by *Chambers Global (2019)* as a leading lawyer

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in the area of Competition / Antitrust

- Recognized in the *2019 Lexpert / American Lawyer Guide to the Leading 500 Lawyers in Canada*: Competition Law
- Recognized in the *Lexpert Report on Business on Litigation 2018 – Special Edition*, as one of Canada’s leading litigation lawyers
- Listed in *Who’s Who Legal Canada: 2018* as a leader in Competition
- Recognized by *Chambers Canada 2019* as a leader in Advertising & Marketing and Competition/Antitrust
- *The Best Lawyers in Canada 2019* - A leading lawyer in the areas of Advertising & Marketing Law and Competition/Antitrust Law
- Recognized in the 2018 Canadian Legal Lexpert Directory as a Most Frequently Recommended lawyer in the area of Competition Law and a Consistently Recommended lawyer in the area of Advertising & Marketing Law
- *The International Who’s Who of Competition Lawyers & Economists 2018*
- *Ranked by Lexpert Guide (2018)* - a leading US/Canada Cross-Border Lawyer in Canada
- *Global Chambers 2018* - Competition/Antitrust
- *Canada Chambers 2018* - Advertising & Marketing, Competition/Antitrust
- *2018 Lexpert/American Lawyer Guide* - To the Leading 500 Lawyers in Canada
- *The Best Lawyers in Canada 2018* - Leader in Advertising & Marketing Law and Competition/Antitrust Law
- *Ranked by Lexpert Guide (2017)* - A leading US/Canada Cross-Border Litigation Lawyer in Canada
- *2017 Canadian Legal Lexpert® Directory* - consistently recommended: Advertising & Marketing Law and Competition Law
- *Who’s Who Legal: Canada 2017* – Competition
 - *“The “very smart and well-connected” James Musgrove impresses peers with his “encyclopaedic knowledge” of competition law.”*
- *Who’s Who Legal: Canada 2016* – Competition
 - *“James Musgrove is known as “one of the big names” in the area. He is active across industries such as oil and gas, retail and financial services.”*
 - *“Praised by interviewees from a range of industries for exceptional client-handling.”*

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- Honoree *Martindale-Hubbell*® 2017 Distinguished Attorney
- *Chambers Global: The World's Leading Business Lawyers* 2017, as a leader in the practice area of Competition/Antitrust
- *2017 Lexpert*® *US/Canada Cross-Border Guide* – Corporate
- *Lexpert*®'s *Special Edition Report on Canada's Leading Litigation Lawyers* 2016
- *The Best Lawyers in Canada* 2017 - leader in Advertising & Marketing Law and Competition/Antitrust Law
- *Chambers Canada* 2017 - leader in Advertising & Marketing and Competition/Antitrust
- *Who's Who Legal: Canada* 2016 - Competition
- *Chambers Global: The World's Leading Business Lawyers* 2016, as a leader in the practice area of Competition/Antitrust
- *Lexpert*® *Guide to Leading US/Canada Cross Border Corporate Lawyers* 2017 - Competition Law
- Winner of Global Competition Review Behavioural Matter of the Year - Americas (Defence of MasterCard)
- *Chambers Canada* 2017 - Advertising & Marketing - Canada, Competition/Antitrust
- *Euromoney's Expert Guide* 2016 - a world's leading practitioner in the field of Competition and Antitrust
- *Lexpert*® *Directory of Leading Lawyers* 2016 - Competition, Advertising and Marketing Law
- Named Among World's Leading Competition Lawyers by *Who's Who Legal* 2016
- *Lexpert*® *Guide to Leading US/Canada Cross-Border Litigation Lawyers in Canada* 2016
- *Best Lawyers*' 2015 - "Lawyer of the Year" Toronto - Advertising and Marketing Law
- *The Legal 500 Canada* 2015 - Competition and Antitrust
- Listed in *Lexpert's* 2014/15 *List of Leading Canadian Lawyers* in Canadian Mining
- Nominated for Benchmark Canada Award 2014 - Impact Case of the Year - *Competition Bureau v. Visa and MasterCard*
- National Advertising Benevolent Society - Builder Award, 2007
- Toronto Law Association Award 2010
- *Who's Who Legal* 2014, *Directory of Best Lawyers*
- *Practical Law Company's (PLC) Which Lawyer Canada*

Cross-Border Competition Handbook

teaching engagements

- Osgoode Professional Development, Osgoode Hall Law School, York University - Competition Law & Policy, November 2015
- Instructor, Law Society of Upper Canada Bar Admission Course
- Guest Lecturer, Competition Law Course, LL. B. Program, University of Western Ontario
- Guest Lecturer, LL. M. in Trade and Competition Law, Osgoode Hall Law School, York University (Numerous)
- Guest Lecturer, LL. M. in Competition and Economic Regulation, Osgoode Hall Law School, University of Toronto
- Guest Lecturer, Competition Law Course, LL. B. Program, Dalhousie University

community involvement

- National Advertising Benevolent Society, Past Board Member and Secretary
- Rosedale United Church – Past Board Member and Chair of Outreach Committee

media mentions

- "[The Godfrey Decision: Competition Class Action Certification Made \(Even\) Easier](#)", *Lexology*, October 3, 2019
- "[Competition Bureau's call for intel on anti-competitive conduct in digital economy raises eyebrows](#)" by Julius Melnitzer, *Financial Post*, September 17, 2019
- "[Supreme Court declines leave to appeal in TREB case](#)" by Dale Smith, *Law Times*, September 17, 2018
- "[John Pecman: the GCR exit interview](#)" by Pallavi Guniganti, *Global Competition Review*, June 8, 2018
- "[Class members not on hook in carriage dispute](#)" by Alex Robinson, *Law Times*, December 5, 2016
- "[Competition Tribunal continues to limit access to private 'refusal to deal' actions](#)" by Julius Melnitzer, *Legal Post*, February 9, 2016
- "[Korean bid for BlackBerry would face review](#)" by Sandra Rubin, *Lexpert*, February 11, 2015
- "[Why any foreign takeover of BlackBerry Ltd would need to pass muster with Canada's top spies](#)" by Theophilus Argitis, *Financial Post*, January 16, 2015
- "[Ottawa to introduce U.S.-Canada price gap legislation](#):"

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[report](#)" by Brenda Bouw, *Balance Sheet - A Yahoo! Finance Blog*, August 14, 2014

publications

November 2019

YVR Makes Safe Landing: Competition Bureau Abuse of Dominance Case against the Vancouver Airport Authority is Dismissed
Competition Law Bulletin

November 2019

FlightHub Experiences Some Turbulence Courtesy of the Competition Bureau
Marketing and Advertising Bulletin

October 2019

Canadian National Security Reviews: 10 Takeaways
Competition Law Bulletin

October 2019

The Godfrey Decision: Competition Class Action Certification Made (Even) Easier
Competition Law Bulletin

September 2019

Getting the Deal Through (Canada Chapter) – Merger Control 2020

February 2019

2019 Canadian Merger Notification Threshold Increases
Competition and Foreign Investment Bulletin

November 2018

Getting the Deal Through (Canada Chapter) – Merger Control 2019

February 2018

2018 Canadian Merger Notification Threshold Increases
Competition and International Trade Bulletin

January 2018

Proposed Changes to the Competition Bureau's Immunity Program Will Undermine Effective Cartel Enforcement in Canada - Comments of McMillan LLP on the Consultation Draft dated October 26, 2017

September 2017

CETA is Provisionally Implemented — the C\$1.5 Billion Threshold Arrives
Competition Bulletin

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September 2017

The *Investment Canada Act* 2016-17 Annual Report: What's New?

Competition Bulletin

June 2017

Investment Canada Act Threshold Increases to \$1 Billion (Cdn)

Competition Bulletin

April 2017

Investment Canada Act Threshold Increase - \$1 Billion (Cdn)

Competition Bulletin

March 2017

Can They Keep a Secret? Competition Bureau Issues Draft Bulletin on Information Requests from Third Parties

Competition Bulletin

March 2017

2017 Canadian Merger Notification Threshold Increases

Competition Bulletin

February 2017

Back to Basics: Acting Chairman Maureen K. Ohlhausen presents near-term FTC reforms

Competition Law Bulletin Lexology

January 2017

Government of Canada Provides Valuable Guidance on National Security Review of Foreign Investment in Canada

Foreign Investment Bulletin

January 2017

Getting the Deal Through – Merger Control 2018 (Canada Chapter)

October 21, 2016

Astroturfing, Flogging, Endorsements and the Evolving Law in Canada

OBA Advertising and Marketing Law: Social, Digital, Online Compliance Conference

September 2016

Competition Bureau Issues Consent Agreement Template

Competition and Antitrust Bulletin

July 2016

Merger control in Canada

Lexology Navigator Q&A

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Spring 2016

What is Substantial Effect? Canada's Unilateral Refusal to Deal Law and the Test for Leave
ABA Section of Antitrust Law, Unilateral Conduct Committee Newsletter, Monopoly Matters, Volume 14, Issue 1 (with J. MacNeil and D. Zhou (student))

February 2016

Public Interest Privilege: What Secrets Can the Competition Bureau Keep?
Competition Bulletin

February 2016

2016 Canadian Merger Notification Threshold Increases
Competition Bulletin

January 2016

Deal Me Out: Clarifying the Test for Leave in Competition Act Refusal to Deal Cases
Competition Bulletin

January 2016

Getting the Deal Through - Merger Control 2016, Canada Chapter
Global Competition Review

October 2015

Astroturfing: What's Real Online
Competition and Marketing & Advertising Bulletin

Fall 2015

Putting Compliance on the Agenda in the Aftermath of the Bureau's New Guidelines
Contributor, Practical Law Canada

August 2015

The Fundamentals of Canadian Competition Law, Third Edition
Jointly published with the Canadian Bar Association's Competition Law Section
Editor, James Musgrove with Assistant Editor, Janine MacNeil
Authors of Chapter 1: Introduction and Overview: The Purpose of Canadian Competition Law, James Musgrove and Janine MacNeil

July 2015

Merger control in Canada
Lexology Navigator Q&A

July 2015

Top 10 Tips for Introducing and Maintaining Effective Competition Law Compliance Programs
Competition Bulletin

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July 2015

Competition Bureau's Draft *Intellectual Property Enforcement Guidelines* Provide Welcome Clarity on Bureau Treatment of Intellectual Property
Competition Bulletin

June 2015

Commissioner of Competition Introduces Revised Compliance Programs Bulletin at McMillan Event
Competition Bulletin

June 2015

Lexology Navigator Merger Control
Lexology

April 2015

Stop the Presses: Post-Sun Merger Approved
Competition Bulletin

March 2015

Changes to *Investment Canada Act* Thresholds, Filing Requirements, and National Security Review Thresholds
Competition Bulletin

February 2015

Canadian Merger Notification Thresholds Increased
Competition Bulletin

January 2015

Tervita Corp v Canada – The Supreme Court of Canada's First Merger Decision in 17 Years: An Efficient Outcome
Competition Bulletin

January 2015

Canadian Cartel News
Volume 6
What Fresh Hell is This? The Canadian Cartel Class Action System

January 2015

Canadian Cartel News
Volume 5
One Place Where Possession is not Nine Tenths of the Law

January 2015

No More Misleading Advertising Class Actions?
Marketing and Advertising Bulletin

2015

Getting the Deal Through - Merger Control 2015, Canada chapter
Global Competition Review

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December 2014

Competition Act Amendments to Address "Unjustified" Canada-US Price Discrimination
Competition Bulletin

November 2014

Discounts for Antitrust Compliance Programs: A Worthwhile Canadian Initiative
TerraLex Connections Newsletter

October 2014

Canadian Cartel News
Volume 4
The Walls Have Ears – Lots of Them!

October 2014

Canadian Cartel News
Volume 3
The Immunity and Leniency System

October 2014

Canadian Cartel News
Volume 2
Tangible Benefits for Corporate Compliance Programs: Show Us the Money

October 2014

Canadian Cartel News
Volume 1
The Basics

October 3, 2014

Country Specific Pricing as an Antitrust Offence – A Bad Idea that May Come to Canada
TerraLex Connections Newsletter

September 2014

Canadian Competition Law Compliance: The Bureau Shows Us the Money
Competition Bulletin

September 2014

Canada Update – Can Patent Non-Use be an Abuse of Dominant Market Position
American Bar Association, Section of Antitrust Law, Unilateral Conduct Committee Newsletter, Monopoly Matters (with D. Anderson & P. Wells)

Fall 2014

Foreign Corrupt Practices Laws: Implications for the Canadian Natural Resources Sector
J. Musgrove & M. Podgorny, Asper Review of International Business and Trade Law

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August 2014

Country Specific Pricing as a Antitrust Offence – A Bad Idea that May Come to Canada
American Bar Association, Section of Antitrust Law, Pricing Conduct Committee Newsletter – The Price Point, Volume 13, Issue 2

July 2014

Competition Bureau May Challenge "Product Hopping" as Abuse of Dominance
Toronto Law Journal

June 2014

Competition Class Actions: Some Joy for the Defense
Toronto Law Journal

June 2014

Competition Class Actions in Canada: The Pendulum Swings to the Defense
American Bar Association, Section of Antitrust Law, Business Torts and Civil RICO Committee (with D. Kent)

May 2014

Use It Or..... Else: Patent Non-Use as Abuse of Dominant Market Position
Competition Bulletin

May 2014

Section 11: Good, Bad and Ambiguous
Canadian Competition Law Review

May 2014

Federal Court of Appeal Delivers Less Clarity on Abuse of Dominance
Toronto Law Journal

April 4, 2014

New Guidance on Canadian Abuse of Dominance Law
TerraLex Connections Newsletter

April 2014

Federal Government Proposes to Prohibit "Unjustified" Canada-US Price Discrimination
International Trade Bulletin

April 2014

Competition Class Actions: The Pendulum Swings Back
Competition Bulletin

March 2014

Behavioural Remedies: Not Dead, Just Resting
Competition Bulletin

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March 2014

In Advertising, Silence Can be Golden - or at least not Actionable
Competition Bulletin

Winter 2014

Report from Canada
ABA Section of Antitrust Law, Unilateral Conduct Committee,
Monopoly Matters Newsletter

February 2014

Federal Budget Suggests Competition Law Changes
Competition Bulletin

February 2014

Toronto Real Estate Board Abuse of Dominance Case
Overturned on Appeal
Competition Bulletin

January 2014

Canadian Merger Notification Thresholds Increased
Competition Bulletin

January 2014

The Canadian Competition Tribunal as the Champion of Certainty
Lexpert

December 2013

Group Buying - A Canadian Case Study
The Antitrust Source

December 2013

Group Buying - A Canadian Case Study
The Antitrust Source, Volume 13, Issue 2

presentations

January 15, 2019

European Insider Update: Public, Private Enforcement and Current Issues in European Antitrust
Moderator, ABA Teleseminar

July 17, 2018

Abuse of Dominance in the U.S. and Abroad
ABA Section of Antitrust Law

May 10, 2017

Online Vertical Restraints – Issues in Digital Markets
2017 ICN Annual Conference, Porto, Portugal

April 5, 2016

The Future of the ICN in its Second Decade
Moderator, ICN Roundtable Discussion, Washington, DC



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June 3, 2015

Competition Law Compliance Programs: Meet the
Commissioner and the Deputies
McMillan Seminar, Toronto

October 16, 2014

Maintaining Your Competitive Advantage: *What's New in
Competition Law*
McMillan Webinar