

JAMES B. MUSGROVE



Categories: [People](#), [Lawyers](#)

James Musgrove is a competition and antitrust lawyer who has been involved in numerous high-profile national and international antitrust matters. With a practice focused on foreign investment and mergers and acquisitions, he assists clients in a range of industries, including banking and finance, marketing and advertising, and oil and gas.

James advises on cartels, investment reviews, foreign corrupt practices and distribution and makes regular presentations and submissions to the Competition Bureau. He is also a leading expert in marketing regulations and in advising on matters concerning misleading advertising and abuse of dominance.

Chambers Canada 2021 and *Best Lawyers in Canada 2021* recognize James as a leading lawyer in both advertising and marketing law and competition / antitrust law. He is also recognized in the *Legal500 Canada 2021* as a leading competition and antitrust lawyer, and as one of Canada's leading finance and M&A lawyers in

the 2021 *Lexpert Special Edition on Finance and M&A*. He is included in the 2021 edition of the *Lexpert / American Lawyer Guide to the Leading 500 Lawyers in Canada: Competition Law*. The author of numerous texts on the subject, and a member of various international competition law working groups, James is widely considered a leading authority on competition law.

James is a national leader of the firm's Competition, Antitrust & Foreign Investment Group.

Email: james.musgrove@mcmillan.ca

Expertise: Banking & Finance, Competition, Antitrust & Foreign Investment, Marketing & Advertising, Mergers & Acquisitions, Oil & Gas

Location: Toronto

Phone: 416.307.4078

Position/Title: Partner, Competition, Antitrust & Foreign Investment

Community Involvement:

- Competition Tribunal / Bar Liaison Committee - Member
- Canadian Bar Association (Chair, National Competition Law Section 2006-2007)
- American Bar Association, Section of Antitrust Law Leadership - Long Range Planning Committee (Past Member of Council, Past Chair, Section of Antitrust Law, Unilateral Conduct Committee)
- Toronto Lawyers Association (President 2005-2006)
- The County and District Law Presidents' Association Executive Member (2003 - 2007)

Directorships & Affiliations:

- Director of Various Private Corporations
- Member of the Editorial Board, Federated Press, Competition Law Journal
- Practical Law Canada Advisory Board Member – Competition Law
- Chief Justice of Ontario's Advisory Committee on Professionalism, Member (2004-2007)
- National Advertising Benevolent Society, Past Board Member and Secretary
- Rosedale United Church – Past Board Member and Chair of Outreach Committee
- Toronto Board of Trade, Past Chair, Business Affairs Committee, Past Member, Policy Committee

Publications:

- [“Blurred Lines: How Dow Chemical and Royal J & M May Confuse Remedies Under the Competition Act,”](#) Canadian Competition Law Review (CCLR), Vol. 35, No. 1 (September 13, 2022)
- [“Effectively Remediating Abusive Behaviour: The Canadian Experience,”](#) ICN 2022 Annual Conference, (May 2022)
- [“Drip Pricing Amendments to the Competition Act,”](#) Co-authored with Joshua Krane, Intelligence Memo C.D. Howe Institute (May 3, 2022)
- “Competitors at the Gate: The Evolution of Canada’s Abuse of Dominance Regime and its Application to Digital Players” The University of Memphis Law Review, coauthored with Neil Campbell and Joshua Chad (April 2022)
- [“Structural Remedies for Abuse of Dominance: The Canadian Landscape,”](#) Monopolization: Where Are the Structural Remedies Panel, ABA 2022 Spring Meeting, (February 22, 2022)
- [“Competition Act Changes: Proceed with Caution,”](#) C.D. Howe Institute, (May 10, 2021)
- [“Merger regulators don't have crystal balls, but we have backstops if they get it wrong,”](#) The Globe and Mail, December 29, 2020
- [“Opinion: New Competition Bureau guidelines deliver chilling message to businesses already feeling the heat,”](#) The Globe and Mail, November 1, 2020
- [“Advertising Compliance: What Can Work?”](#) Canadian Institute’s 26th Annual Marketing and Advertising Law Conference, January 21-22, 2020
- [“Competition Class Action Certification Made \(Even\) Easier,”](#) ABA Section of Antitrust Law, Class Action Committee Newsletter, October 2019
- [“Are Cartels the Supreme Evil of Antitrust?,”](#) ABA Section of Antitrust Law Annual Spring Meeting, March 27-29, 2019, Washington, DC (with J. Chad and B. Pan (Student)), February 12, 2019
- [“Commissioner of Competition – A Modest Proposal or Two”](#), Canadian Bar Association Fall Competition Law Conference, September 27, 2018
- [“The Price is Right: How to Know, Loyalty Programs – The View from Canada,”](#) ABA Section of Antitrust Law, 2018 Annual Spring Meeting, April 12, 2018
- [“Getting Religion on Compliance Programs: The Canadian Regime,”](#) Canadian Bar Association Fall Competition Law Conference, October 26, 2017 (with F. Chan)
- “Astroturfing, Flogging, Endorsements and the Evolving Law in Canada,” OBA Advertising and Marketing Law: Social, Digital, Online Compliance Conference (October 21, 2016)
- [“Merger control in Canada,”](#) Lexology Navigator Q&A (July 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

(Spring 2016)

- "[The Fundamentals of Canadian Competition Law, Third Edition](#)," Jointly published with the Canadian Bar Association's Competition Law Section, Authors of Chapter 1: Introduction and Overview: The Purpose of Canadian Competition Law (August 2015)
- "[Merger control in Canada](#)," Lexology Navigator Q&A (July 2015)
- "[Lexology Navigator Merger Control](#)," Lexology (June 2015)
- "[Tervita Corp v Canada – The Supreme Court of Canada's First Merger Decision in 17 Years: An Efficient Outcome](#)," Competition Bulletin (January 2015)
- "Discounts for Antitrust Compliance Programs: A Worthwhile Canadian Initiative," TerraLex Connections Newsletter (November 2014)
- "Country Specific Pricing as an Antitrust Offence – A Bad Idea that May Come to Canada," TerraLex Connections Newsletter (October 3, 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 (September 2014)
- "[Foreign Corrupt Practices Laws: Implications for the Canadian Natural Resources Sector](#)," Musgrove & M. Podgorny, Asper Review of International Business and Trade Law (Fall 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 (August 2014)
- "Competition Bureau May Challenge "Product Hopping" as Abuse of Dominance," Toronto Law Journal (July 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 (June 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 (May 2014)
- "New Guidance on Canadian Abuse of Dominance Law," TerraLex Connections Newsletter (April 4, 2014)
- "Report from Canada," ABA Section of Antitrust Law, Unilateral Conduct Committee, Monopoly Matters Newsletter (Winter 2014)
- "The Canadian Competition Tribunal as the Champion of Certainty," Lexpert (January 2014)
- "[Group Buying - A Canadian Case Study](#)," The Antitrust Source (December 2013)
- "Group Buying - A Canadian Case Study," The Antitrust Source, Volume 13, Issue 2 (December 2013)
- "[Report from Canada](#)," ABA Section of Antitrust Law, Unilateral Conduct Committee, Monopoly Matters

Newsletter (Fall 2013)

- "Where's It Made: A Comment on the Product of Canada Guidelines," Toronto Law Journal (July 2013)
- "Competition Tribunal Confirms that Abuse of Dominant Market Conduct requires Acts directed at Injuring or Excluding Competitors," Toronto Law Journal (June 2013)
- "Both Sides Now: A Brief Reflection on the Two Sided Market Debate," Competition Policy International, CPI Antitrust Chronicle Article (June 2013)
- "Competition Bureau Shares Its Thinking on Mergers," Toronto Law Journal (May 2013)

Education & Admissions:

Degree: Competent Boards Global Certificate and Designation

Year: 2022

Degree: Called to the Ontario bar

Year: 1986

Degree: Institute of Corporate Directors

Year: 2013

Degree: LLB

University: University of Toronto

Year: 1984

Degree: BA (Early Modern History & Economics)

University: University of Toronto, Trinity College

Year: 1984

Media Mentions:

- "[Ruling may make Competition Bureau more likely to pre-emptively challenge mergers in court](#)", by Julius Melnitzer, *Financial Post* (March 1, 2022)
- "[Terence Corcoran: A key debate opens over the Competition Act](#)", by Terence Corcoran, *Financial post* (Sep 10, 2021)
- "The Danger of Precautionary Principle Challenges to Nascent Mergers", *CD Howe Institute* (February 24, 2021)
- "Merger Regulators Don't Have Crystal Balls, But We Have Backstops If They Get It Wrong", *The Globe &*

Mail Op-Ed (December 29, 2020)

- "Competition Bureau's New Guidelines – Not So Cooperative on Collaboration", *The Globe & Mail Op-Ed* (November 1, 2020)
- "Getting the Deal Through – Merger Control 2021", *Lexology* (November 2020)
- "Rethinking the Competition Bureau", by Doug Beazley, *CBA National Magazine* (December 2019)
- "Empty docket", by Brent Dowdall, *CBA National Magazine* (December 2019)
- "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 Theophilos Argitis, *Financial Post* (January 16, 2015)
- "Ottawa to introduce U.S.-Canada price gap legislation: report" by Brenda Bouw, *Balance Sheet - A Yahoo! Finance Blog* (August 14, 2014)

Rankings & Recognition:

- Recognized in the *2023 Lexpert / American Lawyer Guide to the Leading 500 Lawyers in Canada: Competition Law*
- Listed in *Who's Who Legal: Global 2022* as a leader in Competition
- Listed in *Who's Who Legal: Canada 2022* as a leader in Competition
- Recognized in the *2022 Lexpert Special Edition on Canada's Leading Litigation Lawyers* as a Leading Litigation Lawyer
- Recognized by *Chambers Canada (2023)* as a leading lawyer in the area of Competition / Antitrust Law
- Recognized by *Best Lawyers in Canada (2023)* as a leading lawyer in the areas of Advertising and Marketing Law and Competition / Antitrust Law
- Recognized in the *2022 Canadian Legal Lexpert Directory* as a Most Frequently Recommended Lawyer in

the areas of Advertising & Marketing Law and Competition Law

- Recognized by Chambers Global (2022) as a leading lawyer in the area of Competition / Antitrust
- Recognized in the 2022 *Lexpert / American Lawyer Guide to the Leading 500 Lawyers in Canada*: Advertising Law and Competition Law
- Listed in the *Legal500 Canada 2022* as a Leading Lawyer – Competition and Antitrust
- Recognized by Chambers Canada (2022) as a leading lawyer in the area of Competition / Antitrust Law
- Recognized by *Best Lawyers in Canada (2022)* as a leading lawyer in the areas of Advertising and Marketing Law and Competition / Antitrust Law
- Listed in *Who's Who Legal: Global 2022* as a leader in Competition
- Listed in *Who's Who Legal: Canada 2021* as a leader in Competition
- Recognized in the 2021 *Lexpert Special Edition on Canada's Leading Litigation Lawyers* as a Leading Litigation Lawyer
- Recognized in the 2021 *Canadian Legal Lexpert Directory* as a Most Frequently Recommended Lawyer in the areas of Advertising & Marketing Law and Competition Law
- Recognized in the 2021 *Lexpert Special Edition on Finance and M&A* as one of Canada's Leading Finance and M&A Lawyers
- Recognized in the 2021 *Lexpert Special Edition on Canada's Leading Finance and M&A Lawyers*
- Recognized in the 2021 *Lexpert / American Lawyer Guide to the Leading 500 Lawyers in Canada*: Competition Law
- Recognized by Chambers Global (2021) as a leading lawyer in the area of Competition / Antitrust
- Listed in the 2021 *Legal500 Canada Guide* as a Leading Lawyer in Competition / Antitrust
- Recognized by *Best Lawyers in Canada (2021)* as a leading lawyer in the areas of Advertising & Marketing and Competition / Antitrust
- Listed in *Who's Who Legal: Canada 2020* as a leader in Competition
- Recognized by Chambers Canada (2021) as a leading lawyer in the areas of Advertising & Marketing and Competition / Antitrust Law
- Recognized in the 2020 *Canadian Legal Lexpert Directory* as a Most Frequently Recommended lawyer in the area of Competition Law and a Consistently Recommended in the area of Advertising & Marketing Law
- Recognized in the 2020 *Lexpert Special Edition on Finance and M&A* as one of Canada's Leading Finance and M&A Lawyers
- Recognized by Chambers Global (2020) as a leading lawyer in the area of Competition / Antitrust
- Recognized in the 2020 *Lexpert / American Lawyer Guide to the Leading 500 Lawyers in Canada*: Competition Law

- Listed in Who's Who Legal: Canada 2019 as a leader in Competition
- Listed in the Legal500 Canada 2020 as a "Leading Lawyer" – Competition and Antitrust
- Recognized in the 2019 Lexpert/ROB Litigation – Special Edition as one of Canada's Leading Litigation Lawyers
- Recognized by Chambers Canada (2020) as a leading lawyer in the areas of Advertising & Marketing Law and Competition / Antitrust Law
- 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 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 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
- Winner of Global Competition Review Behavioural Matter of the Year - Americas (Defence of MasterCard)
- Nominated for Benchmark Canada Award 2014 - Impact Case of the Year - Competition Bureau v. Visa and MasterCard
- Awarded ICD.D Designation from Institute of Corporate Directors, Rotman School of Management, 2013
- National Advertising Benevolent Society - Builder Award, 2007
- Toronto Law Association Award 2010

Speaking Engagements:

- "Effectively Remediating Abusive Behaviour: The Canadian Experience", ICN 2022 Annual Conference, Berlin
- May 4-6, 2022
- <https://mcmillan.ca/insights/webinars/advertising-in-the-virtual-world/>

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- "Structural Remedies for Abuse of Dominance: The Canadian Landscape", Monopolization: Where Are the Structural Remedies Panel, ABA 2022 Spring Meeting, Washinton, DC
 - April 5, 2022
 - <https://www.americanbar.org/events-cle/mtg/teleconference/350872935/>

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- Speaker – "Litigation and Reviewable Practices", Forum on Competition Law

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- Conglomerate Mergers: The Canadian Perspective ICN, Merger Working Group Teleseminar
 - October 29, 2019

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- European Insider Update: Public, Private Enforcement and Current Issues in European Antitrust Moderator, ABA Teleseminar
 - January 15, 2019
 - <https://www.americanbar.org/events-cle/mtg/teleconference/350872935/>

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- Abuse of Dominance in the U.S. and Abroad ABA Section of Antitrust Law
 - July 17, 2018

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- Online Vertical Restraints – Issues in Digital Markets 2017 ICN Annual Conference, Porto, Portugal
 - May 10, 2017
 - Upload File

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- The Future of the ICN in its Second Decade Moderator, ICN Roundtable Discussion, Washington, DC
 - April 5, 2016
 - Upload File

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- Competition Law Compliance Programs: Meet the Commissioner and the Deputies McMillan Seminar, Toronto
 - June 3, 2015
 - Upload File

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- Maintaining Your Competitive Advantage: What's New in Competition Law McMillan Webinar
 - October 16, 2014

-
- Black Letter Competition Law: The Tribunal Confirms the Rules CBA 2013 Annual Fall Competition Law Conference

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- The Shifting General Impression of Disclaimers CBA, 2012 Competition Law Spring Forum: Best Practices in a Time of Active Enforcement
 - May 2, 2013
 - Upload File

-
- Speaker - "Abuse of Dominance 101: Legislation vs Jurisprudence", The CBA Competition Law Section's Reviewable Matters Committee Program
 - January 11, 2022

-
- Two Sided Markets in Canadian Competition Law – A Very Brief History American Bar Association, Section of Antitrust Law, 61st Antitrust Law Spring Meeting
 - April 10, 2013

-
- D & O Liability Under the Competition Act Current Trends in Director & Officer Liability under the Competition Act, Law Society of Upper Canada, Emerging Issues in Directors' and Officers' Liability 2013
 - March 4, 2013

-
- Legal and Economic Assessment of Exclusive Dealing ICN Unilateral Conduct Working Group Teleseminar
 - July 2012
 - Upload File

-
- The Complete Canadian Law of Disclaimers Presented at, The Canadian Institute's 18th Annual Advertising and Marketing Law Conference
 - January 25, 2012
 - Upload File

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- East & West: Monopolization Updates from Canada and China Moderator, ABA Unilateral Conduct Committee

Town Hall

- Recent Trends in Misleading Advertising Enforcement Marketing and the Law: Negotiating the Minefield Conference - Association of Canadian Advertisers

- December 2011

- Upload File

- Closed to Competition? When Do Proprietary Networks Give Rise to Anti-Competitive Outcomes; When Can They Promote Competition, How Can We Tell? Moderator, American Bar Association, Section of Antitrust Law's Unilateral Conduct Committee and Intellectual Property Committee, Program

- May 19, 2011

- Upload File

- Debate This! The Two Sides to the Top Ten Competition Law Developments Everyone Needs to Know About CBA Competition Law Spring Forum 2011

- May 2011

- ICN Roundtable on Inter-Agency Cooperation Washington, DC

- March 2011

- Upload File

- International Competition Network Unilateral Conduct Workshop, Brussels

- December 2010

- Upload File

- Speaker – “Failing Firm Doctrine”, TerraLex Virtual General Meeting Antitrust Program

- June 11, 2021

- Jointly Venturing into Uncharted Territory: The New Conspiracy Law and its Implications for Joint Venture Conduct Canadian Bar Association 17th Annual Competition Law Fall Conference

- September 30, 2010

- Upload File

- Speaker – “Risky Business: Merger, Joint Venture or Conspiracy?”, Canadian Bar Association Spring Online

Symposium

- April 30, 2021

- Speaker – Osgoode Hall Competition Law Professional Development Course

- April 9, 2021

- Moderator – “How Are Consumers Being Protected in the Wake of COVID 19 Travel Cancellations: Where Do We Stand Globally?” ABA Section of Antitrust Law, Consumer Protection Committee Teleseminar

- February 8, 2021

- Speaker – “What Happens When Institutional Memory Disappears, and the Same Mistakes are Repeated – How You Can Ensure that Doesn’t Happen to You!”, Canadian Institute 26th Annual Advertising & Marketing Law Conference

- January 21-22, 2020

- “Advertising Compliance: What Can Work?”, Canadian Institute’s 26th Annual Marketing and Advertising Law Conference

- January 21-22, 2020

- Moderator – “Leniency, Immunity and Other Alternatives to Prosecution for Antitrust and White Collar Offences”, TerraLex Global Meeting (Phoenix, Arizona)

- November 14, 2019

- <https://www.americanbar.org/events-cle/mtg/teleconference/350872935/>

Representative Matters: Mergers

- Counsel in numerous merger matters including: Rogers/Glentel, 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 & Class Actions

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

Contractors, Fine Paper and Compressed Gas

Litigation

- Leading non-class action 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

Teaching Engagements:

- Osgoode Professional Development, Osgoode Hall Law School, York University - Competition Law & Policy
- 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

Industries: Banking & Finance, Marketing & Advertising, Oil & Gas

The logo for mcmillan, featuring the word "mcmillan" in a lowercase, sans-serif font. The "m" and "c" are in a dark red color, while the "m", "i", "l", "l", "a", and "n" are in a light blue color. The logo is positioned in the upper left corner of a header image that shows a low-angle view of a modern glass skyscraper against a clear sky.

Practices: Competition, Antitrust & Foreign Investment, Mergers & Acquisitions