



Tuesday, December 3, 2019

# INDIVIDUAL PRODUCER RESPONSIBILITY 101

RPRA CIRCULAR ECONOMY LEARNING SERIES

Sheraton Centre Toronto Hotel



**Frank Denton**  
**CEO**

**Resource Productivity and Recovery Authority**





**Charles O'Hara**

Director

Resource Recovery Policy Branch, Ministry of the  
Environment, Conservation and Parks

Ministry of the Environment, Conservation, and Parks

# Ontario's Approach to Producer Responsibility

Charles O'Hara

Director, Resource Recovery Policy Branch

December 3, 2019

# Ontario's Commitment

Ontario recognizes the need to improve diversion, reduce plastic waste, and tackle litter

The Made-in-Ontario Environment Plan commits to transition Ontario's recycling programs to a new Extended Producer Responsibility (EPR) approach

Key elements include:

- Outcomes-based regulations to reduce burden
- Flexibility and innovation to meet requirements in the market
- Improved oversight to verify environmental outcomes
- Seamless transition for consumers and citizens

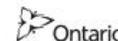


Preserving and Protecting  
our Environment for  
Future Generations

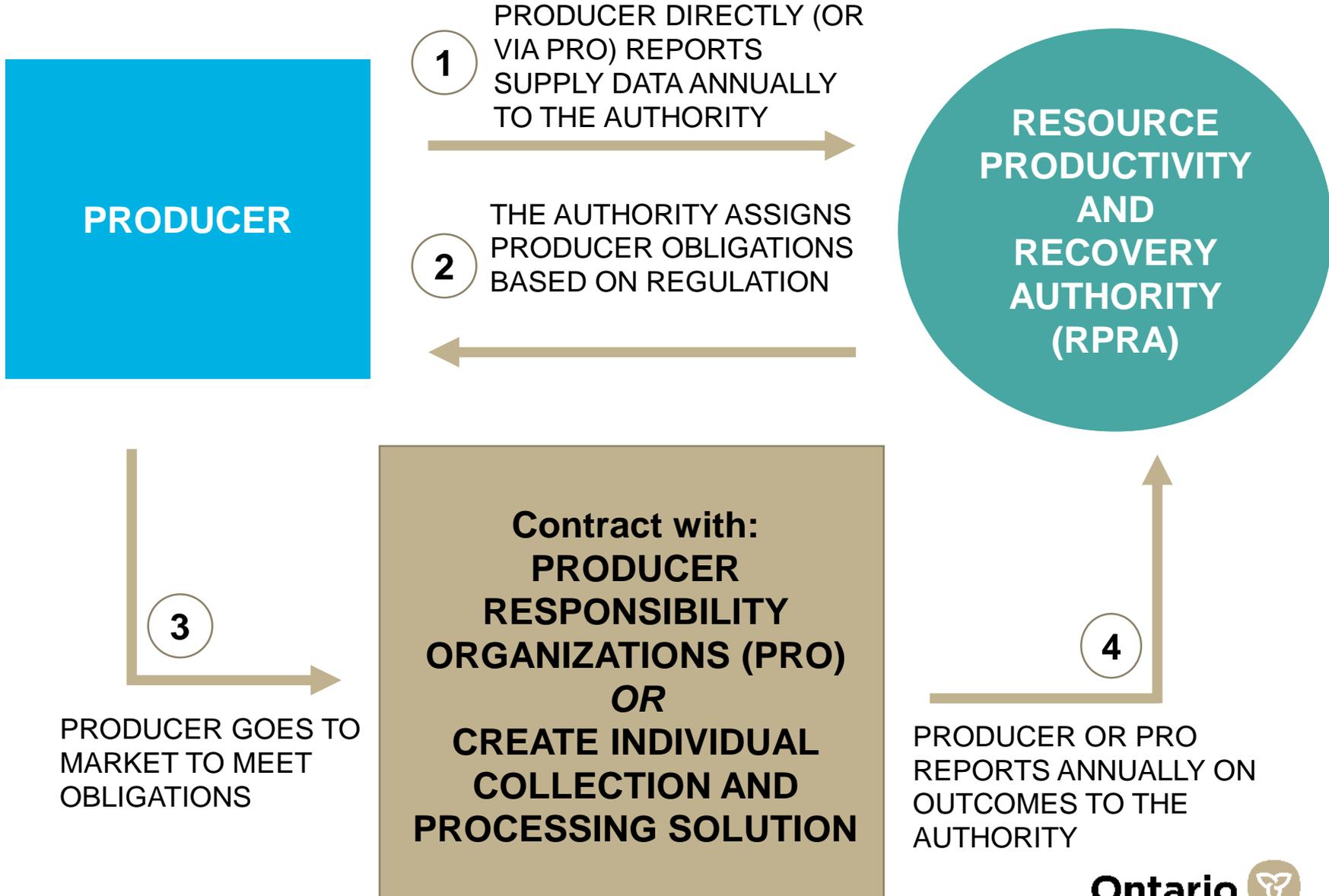
**A Made-in-Ontario  
Environment Plan**



Ministry of the Environment,  
Conservation and Parks



# Overview of Ontario's Approach



# Key Elements of an EPR Regulation in Ontario

- Regulations under the *Resource Recovery and Circular Economy Act (RRCEA)* replace government-approved stewardship plans
- Regulates outcomes in key areas:
  1. A hierarchy of producers that are responsible for meeting outcomes
  2. Materials to be collected
  3. Collection and management requirements
  4. Registration and reporting
- With EPR regulations, government no longer approves operational elements of recycling programs



- Authority provides oversight, compliance and enforcement
  - Scope of the Authority specified in regulation
  - Collects only data needed for compliance and oversight
  - Costs recovered through fees from regulated parties
- Service providers (e.g. processor, haulers) register with the Authority and have some reporting and record-keeping requirements
- Verified data support public confidence in diversion results

# Supporting Competition, Efficiency and Innovation

- Framework facilitates easy movement of producers between service providers (producers only need to demonstrate regulated outcomes)
- Producer Responsibility Organizations (PRO) are service providers (not Stewardship Organizations approved by government)
- Producers can choose among PROs or go straight to market
- Data collection and oversight by the Authority support a level playing field, making market entry and competition easier
- It is expected that producers can find significant cost savings over existing government-mandated stewardship plans



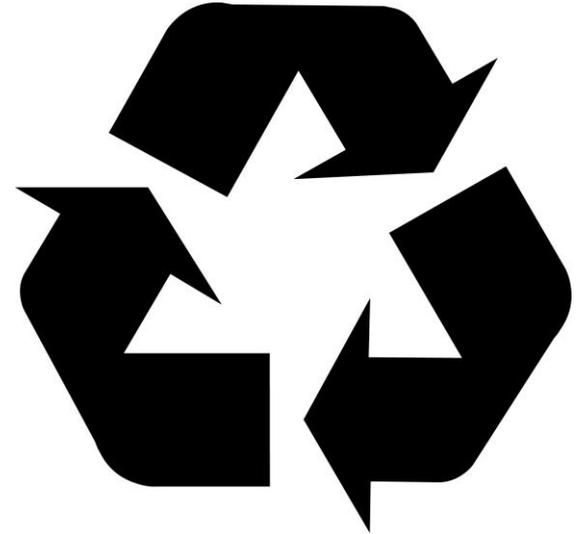
# Working Across Canada

- Large national Producer Responsibility Organizations (PROs) may continue to provide services to producers that sell across Canada
- PRO can run program and report on results
- Individual producer remains legally accountable for meeting their management target, not the PRO



# Improving Environmental Performance

- Extended Producer Responsibility is meant to provide incentives to producers to design for the environment
- When producers are individually accountable for results it is expected that they will take a more active role in ensuring diversion targets can be met
- Over time, producers may expect Producer Responsibility Organizations (PROs) to lower costs for those that produce products that are easier to recycle
- Ontario's regulations also include provisions that reduce management targets in recognition of sustainable design (e.g. recycled content) and re-use of materials



# Citizen and Consumer Experience

- The existing government-mandated stewardship organizations in Ontario will cease operations as new regulations come into effect
- Transition plans ensure seamless transition and disposition of all assets
- New regulations ensure that accessibility to recycling services and public awareness are maintained



# Next steps

Transition to new EPR frameworks in Ontario:

- Completed:
  - Used tires – transitioned at the end of 2018
- Proposing:
  - Batteries Regulation and Waste Electrical and Electronic Equipment Regulation – 2020
  - Municipal Hazardous and Special Wastes – 2021
  - Blue Box Program – regulation in 2021 and transition municipal programs to producers between 2023 and 2025

# THANK YOU



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For more information on Ontario's framework, visit:

<https://www.ontario.ca/page/waste-management>



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Pat Moran  
Registrar  
Resource Productivity and Recovery Authority

# Implementing Ontario's Approach to EPR

**Patrick Moran**  
**Registrar, RPRA**

December 3, 2019

# What is Extended Producer Responsibility (EPR)?

- EPR is a longstanding economic and environmental policy that has been implemented in numerous jurisdictions
- CCME: Extended producer responsibility is an environmental policy approach in which a producer's responsibility for a product is extended to the post-consumer stage of a product's life cycle
- With the first programs starting in the 1990s, there are now EPR programs in place throughout Europe, Japan, Korea, Taiwan, Australia, the United States and Canada
- There are currently around 400 EPR programs globally

# EPR in Canada

- In Canada, we have over 80 versions of EPR that come in various stripes and apply to different materials:
  - IFO model
  - PRO model
  - IPR model
  - Vendor takeback programs
  - Deposit return programs
  - Steward group plans
  - Individual producer closed loop systems

# EPR in Ontario

- Under the Ontario Waste Diversion Transition Act, there were four EPR programs under the WDTA:
  - Tires
  - WEEE
  - MHSW
  - Blue Box
- Tires transitioned to IPR on January 1, 2019
- Letters of direction have been issued by the Minister to transition the remaining three programs:
  - Batteries transitions on July 1, 2020, with the remainder of the MHSW program transitioning July 1, 2021
  - WEEE transitions January 1, 2021
  - Blue Box begins transition January 1, 2023

# What is Individual Producer Responsibility (IPR)?

- Under this EPR approach, a producer's responsibility for its own products and packaging is extended to the post-consumer stage of the lifecycle of those products and packaging
- This enables end-of-life costs to be fed back to each individual producer instead of being imposed on the general taxpayer and municipalities
- This creates an incentive for producers to manage those post-consumer costs by developing better designs that:
  - Make more efficient use of resources
  - Make those resources more easily recoverable
  - Allow producers to benefit from their investment in those innovations
- Without Individual Producer Responsibility these incentives for design improvements are lost.

# What does IPR look like in Ontario?

Key elements include:

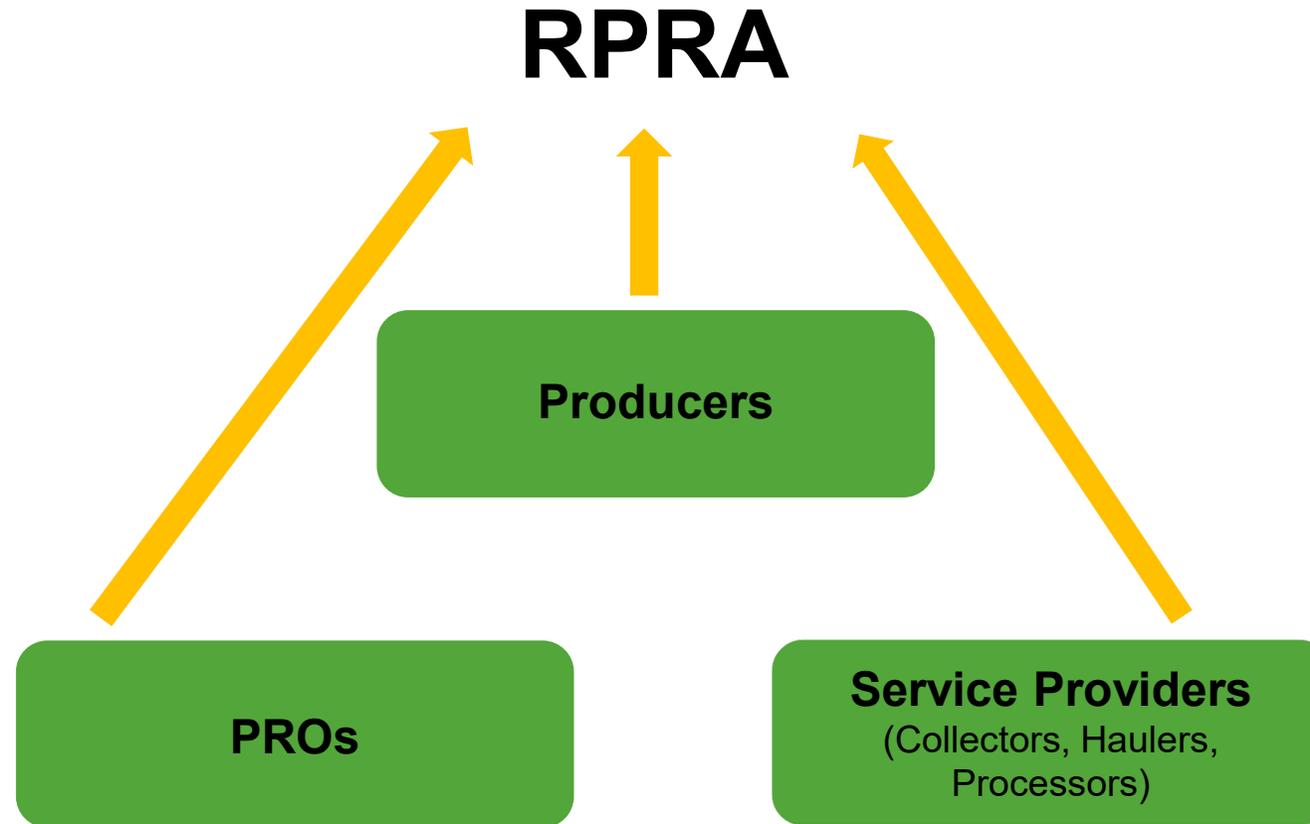
- **Outcome-based regulation**
- Freedom to meet requirements in the open market to achieve **cost efficiency** and foster **innovation**
- **Improved oversight** to verify environmental outcomes

# Outcome-based regulation

How does individual producer responsibility work under the Ontario Tires regulation?

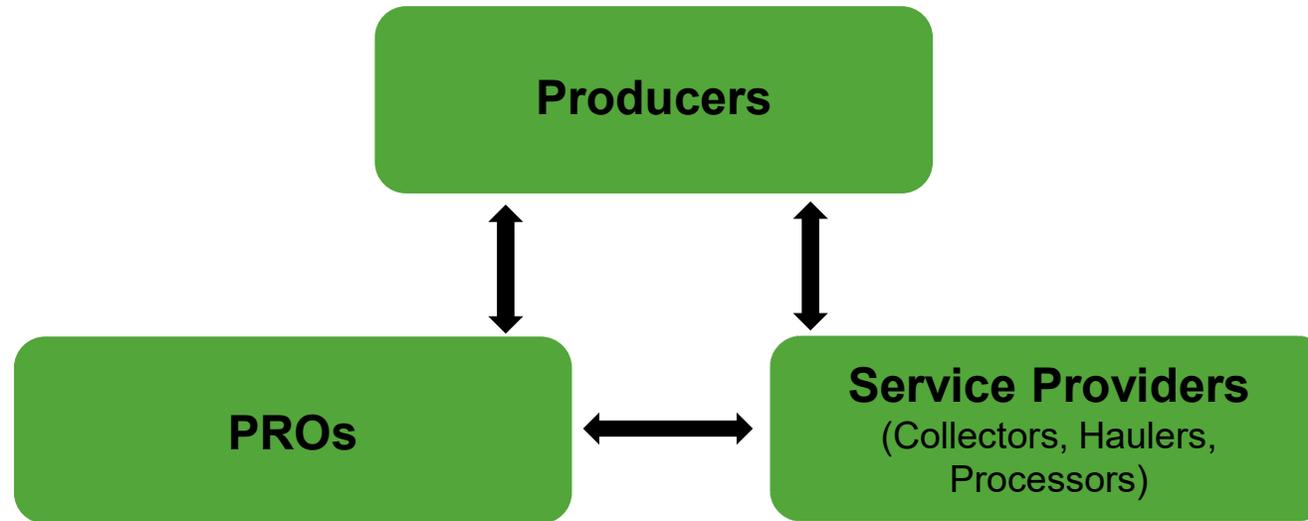
1. The producer reports what it supplies into the Ontario market
  - This supply data is used to establish the producer's individual resource recovery target
2. The producer meets its target by:
  - Contracting with a PRO
  - Contracting with other service providers; or
  - Creating its own solution
3. The producer or its service provider reports on performance outcomes

# New World – New Regulatory Relationships



# New World – New Market Relationships

## RPRA



# Achieving cost efficiency

The Registry is designed to accommodate the flexibility required in a competitive market

- A producer can:
  - Establish its own solution to meet its performance obligation
  - Contract directly with service providers
  - Contract with a PRO
  - Contract with multiple PROs
  - Change PROs

...and we can accommodate all of that in the Registry

- This means that producers are no longer locked in to a single service provider
- PROs and other service providers now have to compete for producer business
- Producers can reap the benefit of their investment in design improvements that lead to more efficient resource recovery
- Producers benefit from the cost efficiency delivered by a competitive market

# Fostering innovation

- The existence of a competitive market means that there is now an opportunity for new technologies and service providers to enter the Ontario resource recovery market
- New technologies pave the way toward creating better value out of recovered resources
- In the Tires program, we are already seeing this begin:
  - RubberJet Canada is setting up new tire processing technology in Windsor
  - CRM has a market-ready mobile plant for rubberized asphalt
  - Kal Tire is incorporating used tire-derived polymer into its retreads based on technology developed by the University of Waterloo
- In Batteries and EEE, we are seeing processors add additional capacity and processes to existing operations

# Improved oversight to verify environmental outcomes

Ontario now has enforceable performance requirements for Tires

- Our approach begins with the proposition that for the most part, businesses want to comply
  - **Communication for compliance** is the cornerstone of our approach:
    - We had one-on-one conversations with over 500 existing tire steward prior to the registration deadline – this was key to our success in achieving a high level of producer registration by the deadline
    - We worked with five PROs to ensure that the accessibility requirements for collection were met

# Improved oversight to verify environmental outcomes

- In the event that voluntary compliance does not work, we will use the compliance tools available to us:
  - Compliance orders
  - Administrative penalty orders
  - Prosecutions
- A level playing field is of top importance
  - We are pursuing a number of free rider cases
  - We consult regularly with the Competition Bureau on market place issues

**Questions?**



# Demonstrating our commitment to regulatory efficiency

## Implementing the Tires Regulation

- We designed the Registry for the users, bringing them into the development process
- We made numerous site visits to make sure we understood how used tires are managed on the ground and we used that as important context for registry design
- We consulted on the development of all major procedures
- We held numerous webinars
- We developed compliance bulletins to assist registrants in understanding how we were implementing the regulation

# Regulatory efficiency (cont.)

## Performance reporting

- The Tires regulation creates four categories of tires
  - Passenger and light truck
  - Medium truck
  - Off road tires and
  - Large tires (over 700kg)
- The regulation requires various reports against those four categories
- As a result of our site visits, we understood how tires are handled and we designed the reporting requirements to avoid the need to change how tires are handled, thereby avoiding the imposition of unnecessary cost and regulatory burden, while meeting the regulatory objectives

# Regulatory efficiency (cont.)

## Performance verification

- Earlier this year, in consultation with the tire industry, we developed the procedure to be used for verifying performance against collection and management targets
- We recognized that:
  - Producers had contracted with PROs
  - PROs would be reporting performance on behalf of their producer customers
  - Auditors would need clear guidance on how to meet the verification requirements
- PROs can each procure a single audit on behalf of their producer customers (five audit reports in place of 445 individual producer audit reports)

# Regulatory efficiency (cont.)

## Supply data verification

- We are currently consulting on a verification procedure for producer supply reporting
  - We have proposed three categories to address the diversity of producer size based on their collection target

<b>Threshold</b>	<b># of producers</b>	<b>% of producers</b>	<b>% of aggregate collection target</b>
Large producer >500,000 kg	48	11%	92.3%
Medium producer ≤500,000 kg and >100,000 kg	36	8%	5.35%
Small producer ≤100,000 kg	361	81%	2.35%
<b>Total</b>	<b>445</b>	<b>100%</b>	<b>100%</b>

## Regulatory efficiency (cont.)

- Clearly, a one size fits all approach will not work
- We are proposing that:
  - the larger producers provide a third party verification report, and
  - the 81% of smaller producers would simply be inspected by RPRA on an annual sample basis for the purpose of verifying their supply data
- We are waiting for final feedback from producers
- This procedure will be completed before year-end

# How we approach compliance - tire collection

- When the Tires regulation was issued,
  - Collectors were required to register by October 31, 2018
  - Producers were required to identify their collection systems by November 15, 2018
  - Tire collection systems had to meet accessibility requirements set out in the regulation
- Neither of these deadlines were met
- We worked with the PROs and haulers to get collectors registered
- We worked with the PROs to ensure that there were sufficient collection sites located across Ontario to meet the accessibility requirement
- This left one more compliance issue: if a site is not being serviced, who does the regulator call?
- Again, working with the PROs, we have a name against each collection site that we can call if a site is not being serviced

**Questions?**



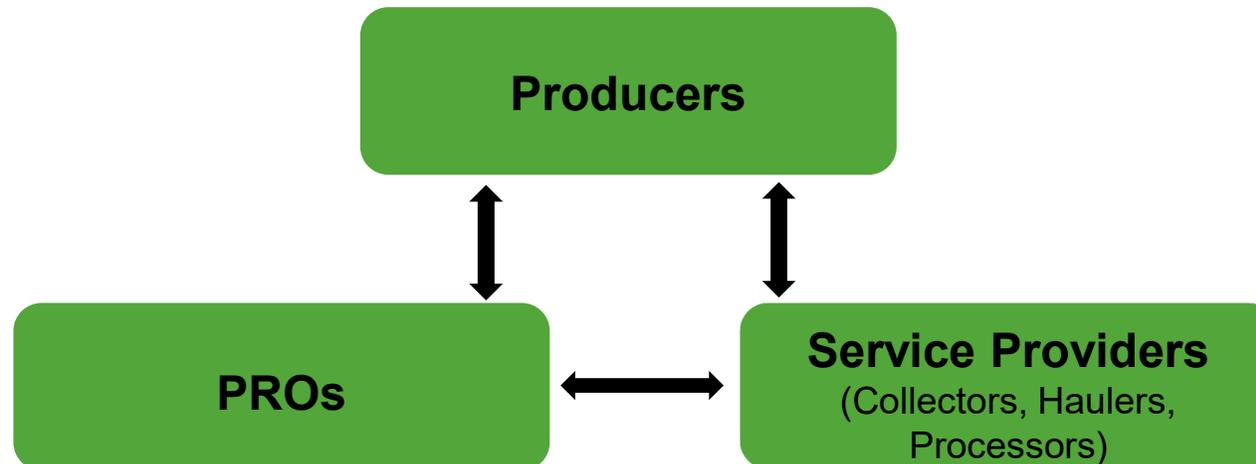
# What do producers need to know?

- The Ministry is working on a Batteries regulation and an EEE regulation
- If you are a producer, you will have a performance target to meet based on what you supply into the Ontario market
- You will need to:
  - Continue or develop a system for determining what you supply into Ontario to support the reporting requirement
  - Carefully consider your options for meeting your performance target, since you can't contract out of that legal obligation:
    - Do I manage my own obligation?
    - Do I contract with a PRO or individual service providers?
    - How do I meet the collection accessibility requirements?

# What do PROs need to know?

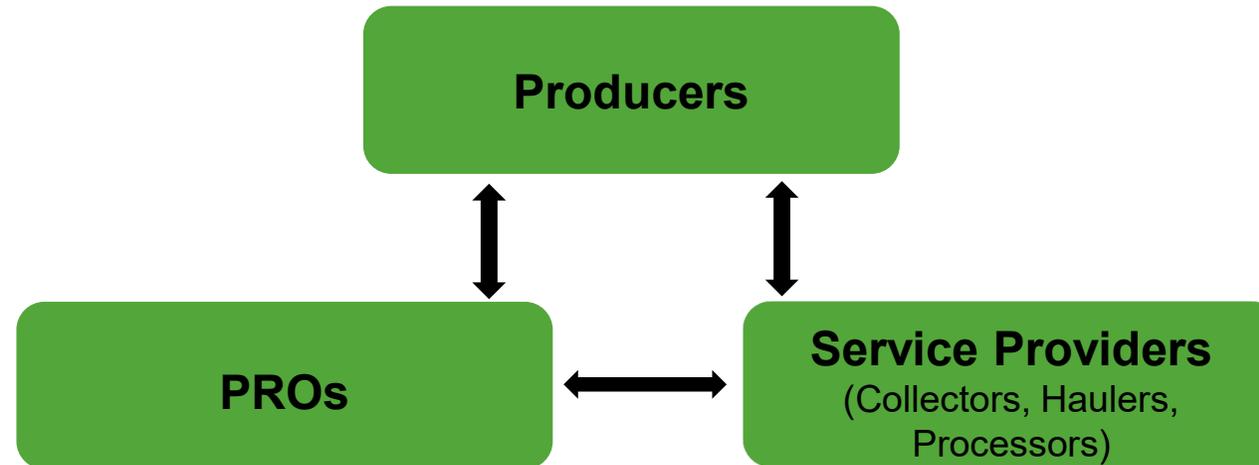
Producer obligation will be met through contractual arrangements

- Do I understand my producers' regulatory obligation and how that is being implemented by the regulator?
- What do my producer customers need?
  - Collection and management performance and reporting
  - Collection accessibility
- Who do I need to contract with to meet those needs and are they registered?



# What do service providers need to know?

- You need to be registered
- You need a contract
- You need to understand the tracking requirements
- Talk to the regulator
  - We have information on our website, we hold education sessions and we have inspectors that will answer your questions



# What is the Registry?

- The Registry is based on a Salesforce platform – a secure cloud-based system that allows us to manage interactions with people required to register and report
  - Registrants:
    - create an account
    - identify authorized users in their account
    - report required information annually
- A custom portal is developed for each regulation that allows registrants under that regulation to report the data required by the regulation
- Registrants with obligations under more than one regulation only need one account and will be able to meet all of their reporting requirements through that single account

# The RPRA Registry – Protecting your data

## What data is collected?

- All regulated entities supply corporate business information for registration (i.e., Business Name, Address, Contact Info)
- Producers report sales data
- Producers or their service providers report on performance against collection and management targets

## What degree of Security and Privacy is required?

- The data submitted by regulated entities is commercially sensitive and highly confidential.
- Security and privacy are therefore a critical consideration in the design, build, and operationalization of the Registry.

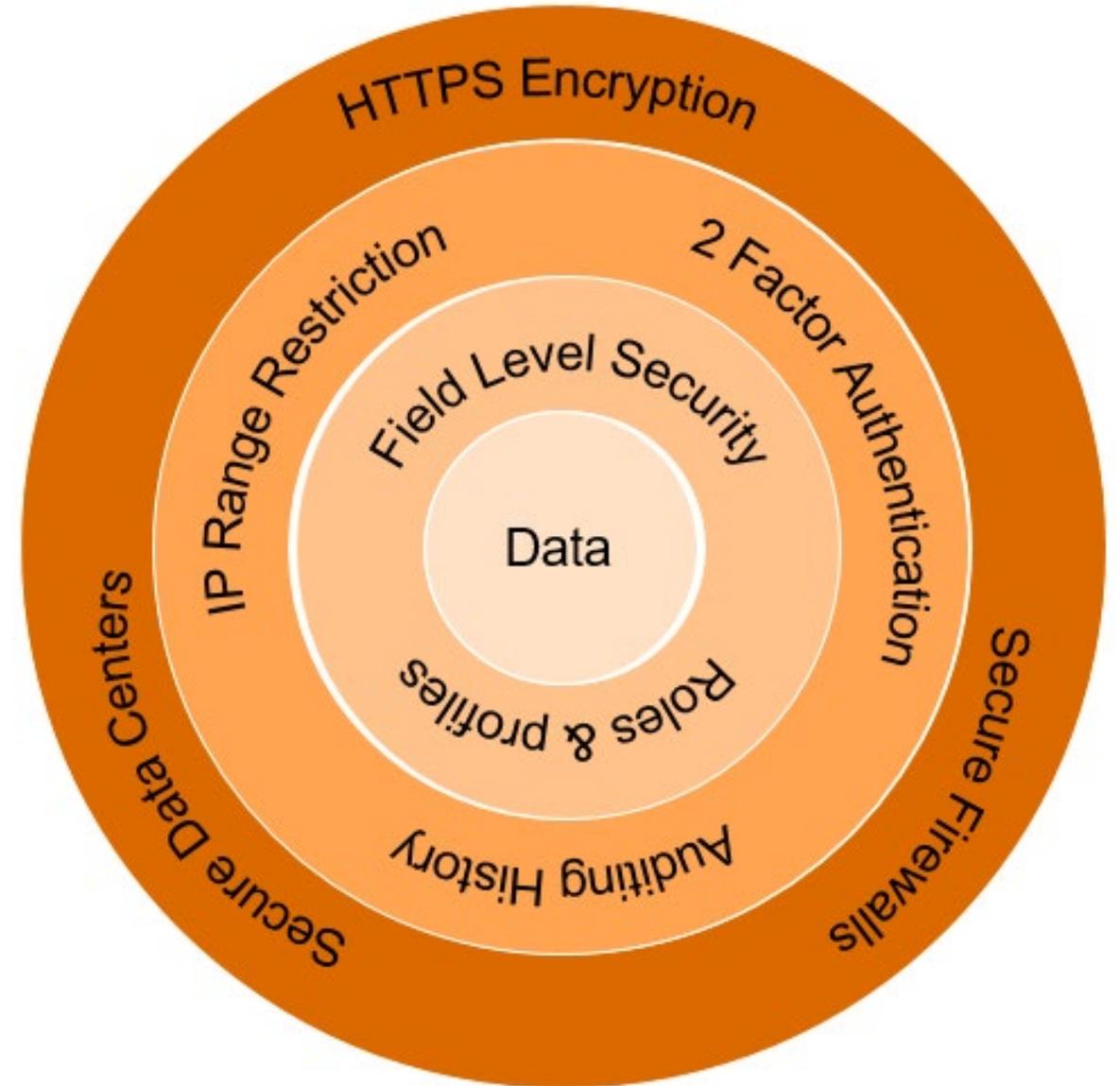
# Cybersecurity and Privacy Considerations

Given the highly confidential nature of most of the data submitted via the Registry, cybersecurity and privacy considerations are embedded throughout the Registry Project, including within the:

- Technology platform - the software platform and architecture selected
- Registry design considerations - implementation of features that promote cybersecurity and privacy by design
- RPRA operational processes - establishment of organizational policies and controls that reinforce strong cybersecurity and privacy practices

# Multiple lines of defence

There are several safeguards in place in order to support the security of all data which resides in the Registry.



# Registry Design Considerations for Cybersecurity and Privacy

- The Registry can be accessed by two groups of users – external and internal
- **External:** Producers, Producer Responsibility Organizations (PROs) and other service providers
  - External users are authenticated using two-factor authentication
  - Producer-centric data access and permission model allows Producer to control PRO access to their data
  - Auditing for field history and Event Monitoring for key events (e.g., login)

**External user access**



Two-factor authentication

**Producer-centered access model**

**Field Level Security**

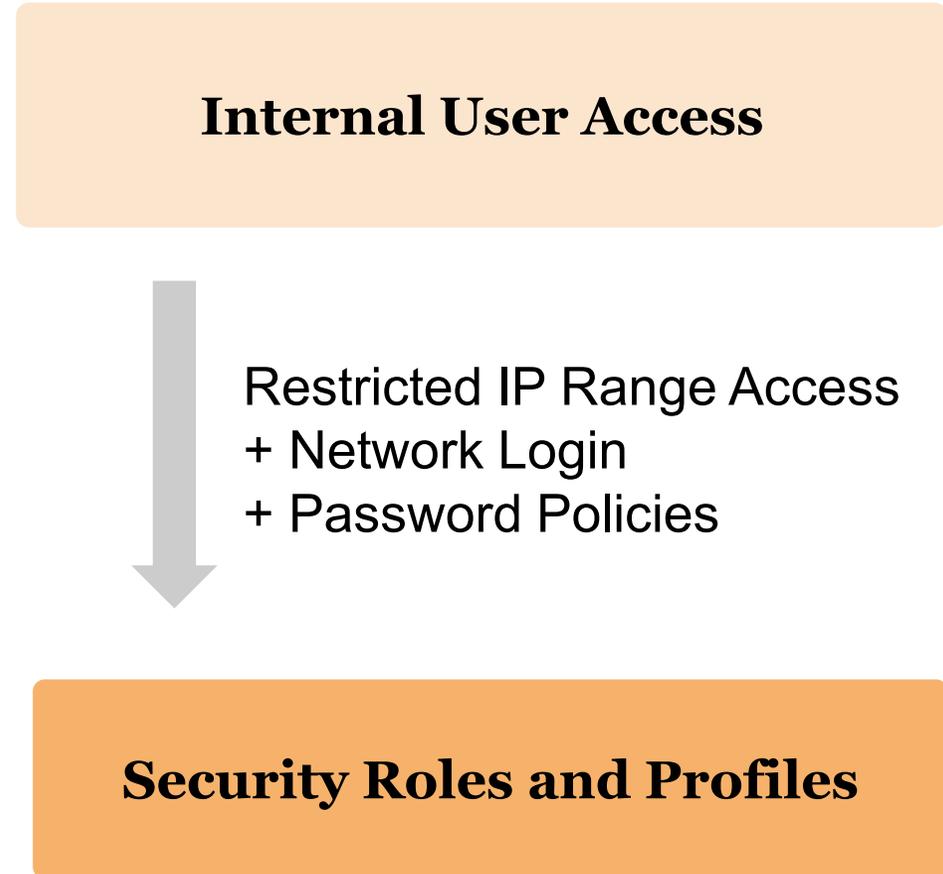
**Auditing**

**Encryption**

**Event Monitoring**

# Registry Design Considerations for Cybersecurity and Privacy

- **Internal:** RPRA Staff (e.g., Registry Officers)
  - Internal users have role-based access to the Registry from a restricted set of IP addresses
  - Auditing for field history and Event Monitoring for key events



# Operational Processes - Examples

- Tiers of environmental security to identify the users and their access:
  - Access to physical location
  - Network access
  - Registry System access
  - Role-based data access
- Control around the external primary user and secondary users (limited access/abilities)
  - Modifications to Primary User needs to be done via a business process that involves a Registry Officer (i.e. not a self-serve model)
  - Modifications to Secondary Users can be done by Primary Users and Registry Officers
- Application of good privacy by design principles: only capturing the critical data elements required to support the regulation

# Additional considerations

- Reviewed the Government of Ontario Information Technology Standards to inform the development of our cybersecurity policy
- We engaged industry experts to assist in the development of the cybersecurity policy and related procedures
- We reviewed our approach to cybersecurity with the Ministry's Chief Information Officer and staff to make sure we had not missed anything
- We regularly review our policies and test our systems

**Questions?**



# The HWIN proposal

- The Ministry has posted a proposal to have the Authority deliver a registry service to the Ministry as part of their hazardous waste regulatory program
- This is a pure registry service, with the compliance function remaining with the Ministry
- The registrants in the HWIN program will bear the cost of that registry system, just as Tires registrants pay for the Tires Registry and Battery registrants will pay for the Batteries Registry, and EEE registrants will pay for the EEE Registry
- The fee setting process under the Resource Recovery and Circular Economy Act will apply across all the registries



# Roger Nassrallah

A/ Assistant Deputy Commissioner  
Monopolistic Practices Branch,  
Competition Bureau, Government of  
Canada





Competition Bureau  
Canada

Bureau de la concurrence  
Canada

# Overview of the Competition Bureau

September 2019

Canada

# Competition Bureau



**360 Employees** in four offices  
(Ottawa/Gatineau, Toronto, Montreal,  
Vancouver)



**Mission:** Ensure that Canadian consumers and businesses prosper in a competitive and innovative marketplace



**\$2.8 billion** in annual consumer savings

# Mandate



- **Enforcing the *Competition Act***, a law of general application that applies to all sectors of the economy
- **Promoting competition by:**
  - **Providing advice** to various levels of government on pro-competitive regulatory design
  - **Promoting corporate compliance** and consumer awareness through outreach

**The Competition Bureau is an independent law enforcement agency.**

# Why is Competition Important?

## Policies & Regulations

Pro-competitive policy promotes growth, competitiveness and innovation



## Canadian Economy

Allows the economy to grow by promoting productivity and efficiency



## Canadian Consumers

Provides consumers with:

- competitive prices
- better quality products and services
- more choice
- information they need to make informed purchasing decisions



Competition is a key driver of innovation



**“Competition maximizes the pie”**

Competition leads to an economically efficient allocation of resources

*(Fundamental Theorem of Welfare Economics)*

## Global Markets

Strengthens businesses' ability to adapt and compete in global markets



## Small and Medium-Sized Businesses

Gives SMEs a fighting chance to compete and participate in the economy



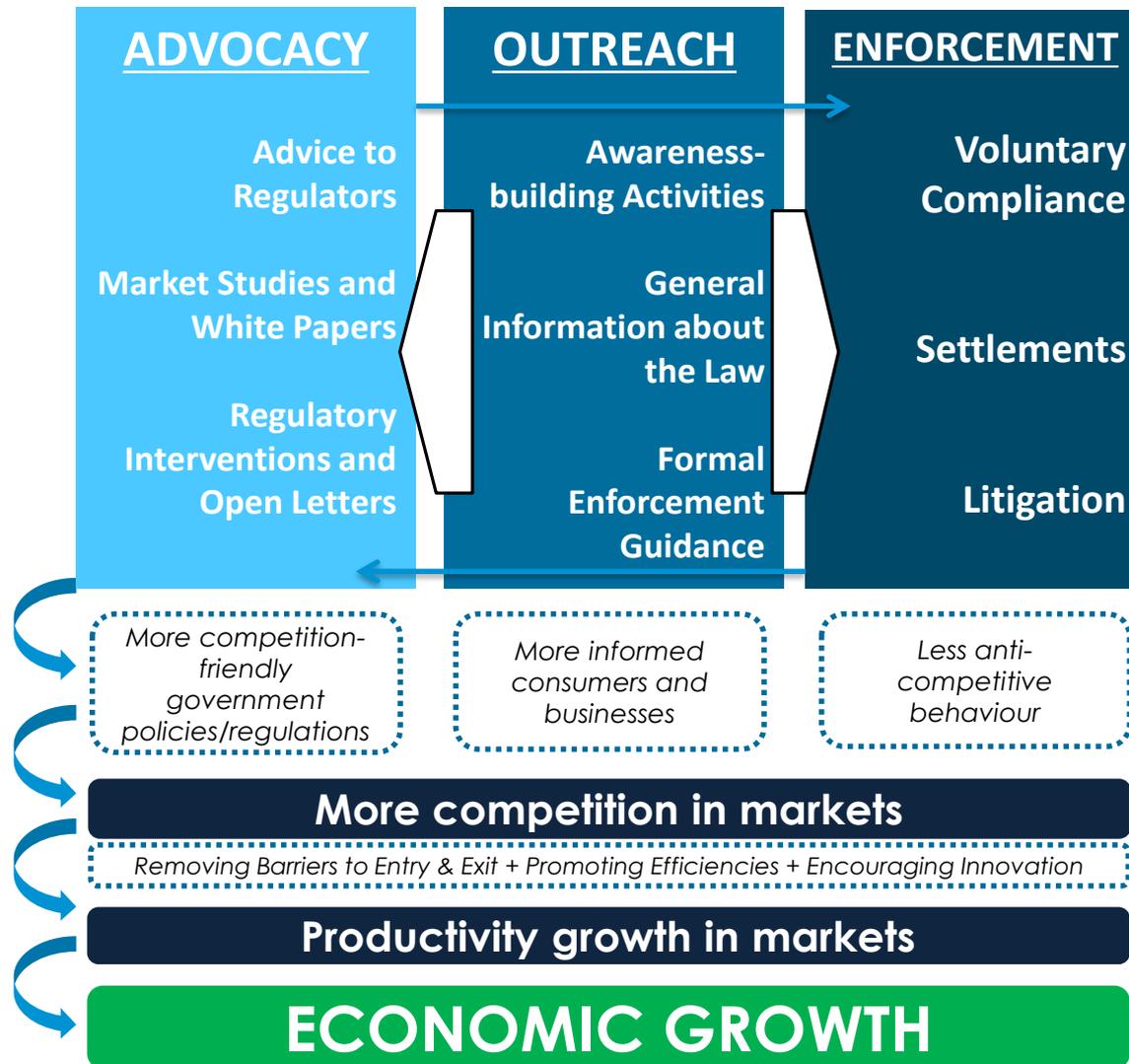
# The Bureau in Context

## The Bureau supports Canada's economic and trade agenda by:

- Advocating for greater competition
  - to better equip Canadian industries to compete in the global marketplace
  - to strengthen domestic competition through increased trade
- Promoting global convergence on competition law and policy, thereby leveling the playing field for Canadian firms abroad



# Competition Bureau Activities



# What Types of Business Practices Does the Bureau Investigate?



## Cartels

Did competitors agree to fix prices, allocate/restrict markets or rig bids?

### Out of Scope

Conduct that looks like price fixing but where there is no agreement among competitors



## Deceptive Marketing Practices

Is a firm's marketing message misleading or false in a material way?

### Out of Scope

Messaging that may be unfair or aggressive but not false or misleading



## Mergers

Is a merger likely to lead to substantial anti-competitive harm in a market?

### Out of Scope

Mergers that « smell bad » but where there is no evidence of likely harm



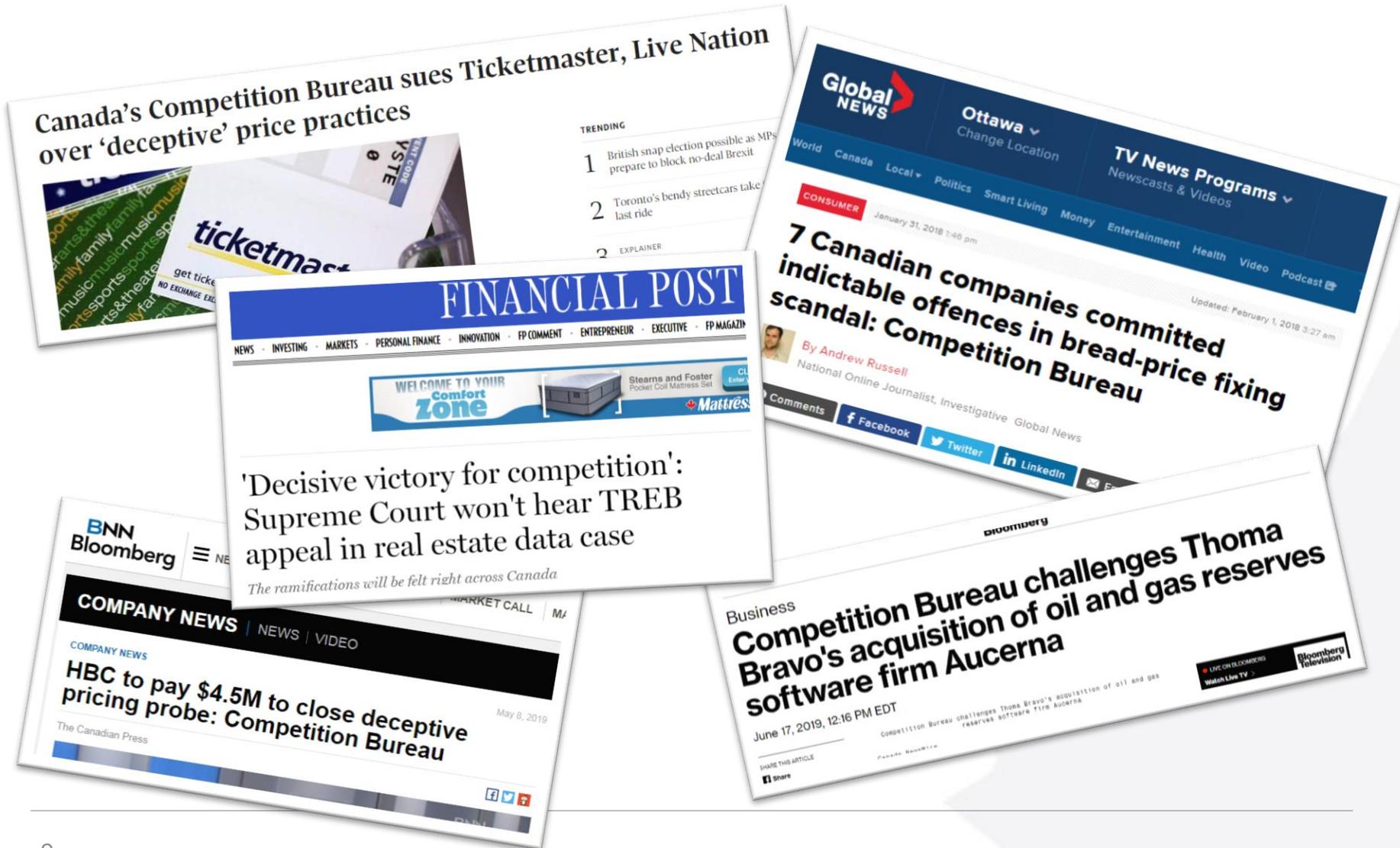
## Monopolistic Practices

Is a dominant player causing anti-competitive harm by abusing its market power?

### Out of Scope

Taking action against a « monopoly » or a company just because it's big

# Recent Enforcement Actions



# How Does the Bureau Advocate for Competition?



- **Market Studies**
  - In-depth examination
- **White Papers**
  - Original research
- **Regulatory Interventions and Open Letters**
  - Advice in context
- ***Competition Advocate***
  - Short publications



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# What's next?

- The Ministry has been consulting on a Batteries regulation and an EEE regulation
- The Ministry will start the development of an MHSW regulation at some point next year and has established some working groups in advance of work to develop a regulation to transition the Blue Box program
- We will continue to:
  - Consult and communicate for compliance
  - Include users in the design and testing of the next instalments of the Registry to meet the needs of new Registry users
  - Implement our compliance function with a clear focus on supporting a level playing field in a competitive market for each material that transitions to IPR
- We will also be reporting out in our annual reports on the results for each program as they become available, beginning with Tires



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**Mary Cummins**  
Deputy Registrar  
Resource Productivity and Recovery Authority





# Transitioning to IPR: What we've learned so far



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A scenic landscape featuring a dense forest of evergreen and deciduous trees. In the foreground, a calm lake reflects the surrounding greenery. A dark blue banner with white text is overlaid across the middle of the image. The text reads "Thank you for joining us!".

**Thank you for joining us!**