April 17, 2014

The Honourable James Moore
Minister of Industry
235 Queen Street
Ottawa, ON K1A 0H5

Via e-mail: James.Moore@ic.gc.ca

Re: EAP 2014 – Canada/U.S. Price Discrimination

Dear Minister Moore:

On behalf of the Canadian Manufacturing Coalition, our 100,000 member companies and their roughly two million direct employees across the country, we are writing regarding the Government's 2014 Economic Action Plan (EAP 2014) and specifically, the noted intention to introduce legislation to address cross-border price discrimination in the Canadian marketplace.

While Coalition members support most aspects of EAP 2014, and are working with various government departments on implementation, the undersigned associations are concerned about the suggested legislation relating to cross-border price discrimination. The primary concern is that the measure appears to be aimed directly at the manufacturing sector and is ignoring many market realities for both manufacturers and Canada's retail sector.

Fundamentally, our organizations understand that pricing is a complex exercise for manufacturers and retailers, and strongly believe that government should not intervene in setting prices. Companies should have the autonomy to determine their own prices in accordance with a variety of factors, provided that these prices are not the result of anti-competitive conduct such as price-fixing or abuse of a dominant position. Furthermore, we do not believe that the government, either directly or through the Competition Bureau, should be in the business of regulating prices and that any intervention from government in this regard will only serve to add costs to an already over-regulated process, contravening earnest objectives of supporting consumer choice.

Over the past several years, and in particular when the Canada/U.S. exchange rate was above parity, our organizations worked with various Parliamentary and Senate Standing Committees on the issue of cross-border price discrimination in Canada. In all of our testimony, we consistently commented on the complexity of pricing, detailed the factors that influence pricing and documented the minor role played by manufacturers in establishing retail pricing for the vast majority of products. Specifically, we noted that:

- The manufacturing cost is often only between 10 and 20 per cent of the retail price for most consumer goods;

- Between 80 and 90 per cent of the price paid by consumers is made up of a variety of factors in the retail supply chain, including transportation, marketing, retail mark-up, compliance with regulations and tariffs;
- Input and operating costs such as labour, energy, regulatory management and transportation all impact the pricing of manufacturing and selling goods in Canada, and these costs are almost always higher domestically than in U.S. markets; and
- Canadian retail prices are compounded due to the concentration of retail operations in Canada which, according to former Governor of the Bank of Canada, Mark Carney, has the top four retailers owning a 28% market share, compared to only 12% in the United States.

Standing Committee reports consistently supported these claims as part of their findings. The February 2013 report of the Standing Senate Committee on National Finance specifically noted that "there is no one definitive explanation for the price discrepancies for products between Canada and the United States." Furthermore, none of the reports suggested legislative or regulatory actions to this complex issue.

In addition to private sector influences on pricing, it is critical to note that the government itself plays a major role in the retail price consumers pay for goods in Canada. One of the most significant impacts in this regard are regulatory differences between Canada and its major trading partners, especially the US. When regulatory differences emerge between our two countries, they immediately sever any leverage Canadian consumers gain from would-be access to higher volume production runs in the United States.

Outdated regulations within Canada also add to the cost of doing business by creating an uncertain and inefficient operating environment for Canadian manufacturers. For example, unpredictable and backlogged product approvals are a significant burden to Canadian manufacturers. Canada's regulations governing the manufacturing sector need to be modernized while continuing to prioritize the health and safety of Canadians.

Rather than government intervention in pricing, we believe the Government of Canada should act on the recommendations of the February 2013 Senate Standing Committee report. Specifically we believe:

- The Government of Canada, through the Canada-United States Regulatory Cooperation Council, continue to integrate the safety standards between Canada and the United States with the intent of reducing the price discrepancies without compromising the safety needs of each country; and
- The Government of Canada analyze the costs and benefits of increasing the *de minimis* threshold for low-value shipments in Canada in order to narrow the price discrepancies for certain goods between Canada and the United States.

We believe the new and complex regulatory processes that would be necessary to manage prices as proposed in EAP 2014 will lead to increased costs and reduced choice for consumers. We urge you to expand your focus on reducing regulatory burden and modernizing Canada's regulatory system to reduce costs for manufacturers and consumers. Coalition members have been working with various government departments in this regard, including most recently with the Treasury Board and Minister Clement, and would be pleased to discuss these efforts further at your convenience.

Thank you for your attention to this important matter and your continued efforts to support a strong, globally competitive Canadian manufacturing sector.

Sincerely,

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