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Elisa Kearney Discusses Criminalizing Wage-Fixing and No-Poach Agreements in *Global Competition Review*

Global Competition Review recently featured Davies partner [Elisa Kearney](#) for her insights on a parliamentary committee request to ban anticompetitive labour market agreements between rivals after the Competition Bureau was unable to investigate whether three supermarket chains colluded to end an employee pandemic bonus.

In the [article](#) (available to subscribers), Elisa noted that the Canadian government will likely give “serious consideration” to amending the cartel provision of Canada’s *Competition Act* to prohibit the labour market practices referred to in the committee’s report.

“Any amendment will have to be carefully crafted to ensure pro-competitive conduct is not stifled by introducing a blanket prohibition on all forms of joint purchasing arrangements,” Elisa said.

Elisa noted that any amendments should preserve the cartel provision’s ancillary restraints defence to ensure that no-poach or wage-fixing agreements that are necessary for a “larger legitimate collaboration between employers” are not considered a criminal offence.

Allowing such a defence would be consistent with guidance issued by the U.S. Department of Justice’s Antitrust Division and the U.S. Federal Trade Commission, she said.