

Competition Bureau settlements in retirement home acquisitions highlight focus on market shares in merger reviews

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On March 31, the Competition Bureau (Bureau) issued a [position statement](#) with respect to consent agreements reached in connection with two recent retirement home acquisitions. Pursuant to the agreements, the parties agreed to divest homes in local markets to resolve the Bureau's concerns.

The Bureau's position statement provides helpful guidance on how it assesses transactions in the senior living space. It also highlights the central role of the structural presumptions based on market shares/concentration levels in merger reviews of strategic transactions, which were introduced in amendments to the *Competition Act* (the Act) in mid-2024.

What you need to know

- The Bureau secured divestiture remedies to resolve its market concerns in connection with two retirement home acquisitions.
- These cases illustrate how the newly introduced structural presumptions are now central to merger reviews of strategic transactions, placing a heavy emphasis on market definition and reliable data to support market share/concentration level analysis.
- Where the structural presumptions are exceeded, the evidentiary burden placed on merger parties to rebut the presumptions is significant, affording the Bureau more leverage to negotiate remedies.

The details

The transactions

On March 2, 2025, Welltower Inc. (Welltower), a US-headquartered real estate investment trust with interests in senior housing properties in the United States, Canada, and the United Kingdom, [announced](#) an agreement to acquire Amica Senior Lifestyles (Amica) (the Welltower/Amica Transaction), a provider of senior living residences in Canada which at the time held a portfolio of 31 income producing properties and 7 properties under construction in Ontario and British Columbia.

On July 22, 2025, Chartwell Retirement Residences (Chartwell), a Canadian senior housing operator with properties in Ontario, Québec, British Columbia, and Alberta, [announced](#) an agreement to acquire six retirement homes located in southwestern Ontario from Sifton Properties Limited (Sifton) (the Chartwell/Sifton Transaction—together with the Welltower/Amica Transaction, the Transactions).

The Bureau's review of the Welltower/Amica Transaction took approximately nine months, while its review of the Chartwell/Sifton Transaction took approximately seven months. Given these timeframes, these reviews would have involved the issuance of significant data and document production orders (known as supplementary information requests or SIRs). This is consistent with a post-amendment trend of increasingly long and complex Bureau reviews. Notably, however, these are only the fifth and sixth settled cases since the structural presumptions were introduced, with no litigated cases during this period. In other words, while merger reviews are becoming longer and more complex, substantive outcomes do not appear to be materially different overall.

The Bureau's analysis

In June 2024, the Act was amended to introduce rebuttable structural presumptions that M&A transactions are anti-competitive if they result in certain concentration levels being exceeded in a relevant market. In these cases, merger parties will have to prove that the transaction will not in fact lessen competition. See our [previous bulletin](#) on these amendments for more details.

In the recent retirement home transactions, the Bureau defined the relevant product and geographic markets as follows:

- The Bureau divided the retirement home segment into two markets due to the differences in services, staffing requirements, and costs: *independent/assisted living*, consisting of care to residents who require assistance with their daily activities; and *memory care/long-term care*, consisting of care to residents who require more supervision and complex care (e.g., dementia patients).
- The Bureau concluded that competition between retirement homes is *local*.

These market definitions are generally consistent with the Bureau's [2012 position statement](#) regarding Chartwell and Health Care REIT's acquisition of Maestro Retirement Residences (the Chartwell-HC/MRR Transaction), though in that case the Bureau recognized that there was likely a degree of supply side substitutability between the two types of care that could counter a post-merger exercise of market power.

To assess market shares and concentration levels in the relevant local markets, the Bureau gathered unit type, unit count, and pricing information for each retirement home provider (including the parties and other competitors). The Bureau found that the structural presumption thresholds were exceeded in the following local markets (the Local Markets):

- with respect to the Welltower/Amica Transaction: Victoria, Northwest Vancouver, Brampton, and Ottawa for several unit types; and
- with respect to the Chartwell/Sifton Transaction: Kitchener-Waterloo for several unit types.

The parties made various arguments to the Bureau to rebut the structural presumptions, including differentiated service offerings (for example, Amica caters to more affluent retirees), the presence of alternative suppliers, and low barriers to entry.

However, the Bureau found that the evidence showed the parties were close competitors (both in terms of services offered and geographic proximity) and that the Local Markets were underserved with limited supply, in part due to high barriers such as significant capital and labour costs, and lengthy timelines for municipal zoning, provincial licensing, and construction. Notably, the Bureau previously found that barriers to entry by new players and expansion by existing ones were low in the Chartwell-HC/MRR Transaction.

The Bureau concluded that the Transactions were likely to result in a substantial lessening of competition in the Local Markets. To resolve the Bureau's concerns, [Welltower](#) and [Chartwell](#) entered into negotiated consent agreements requiring the sale of retirement homes in the Local Markets to preserve the level of competition therein that existed

prior to the Transactions.

Conclusion

The Bureau's reviews of the Transactions demonstrate the centrality of the structural presumptions to merger reviews of strategic transactions. There is now a heavy emphasis in merger reviews of strategic acquisitions on precisely defining the relevant market and producing reliable (ideally third-party) data to support market share/concentration level analysis.

Where the structural presumptions are exceeded, the evidentiary burden placed on merger parties to rebut them is significant. Absent sufficiently compelling evidence that clearly demonstrates a transaction does not result in a substantial lessening or prevention of competition, the Bureau now has more leverage to negotiate remedies—or, in certain cases, block a transaction entirely.

Merger parties considering strategic acquisitions should (together with their advisors) carefully assess pre-signing whether the structural presumptions would be exceeded in properly defined markets using reliable data. If so, they should further consider whether there is sufficient and compelling evidence to rebut them and how to appropriately allocate regulatory risk in transaction agreements, given the Bureau's increased leverage to negotiate remedies in such cases. Where merger parties proceed with such transactions, they should be prepared for potentially lengthy and complex reviews, which may include compliance with burdensome data and document production orders.

To discuss these issues, please contact the author(s).

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