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Response to the Ontario Government's Consultation Paper on the Consumer Protection Act

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The Canadian Marketing Association (CMA) is pleased to participate in the Ontario Government's consultation on the *Consumer Protection Act*.

The CMA supports efforts by the Government to protect consumers and modernize the Act while allowing businesses to be agile, competitive and innovative. As the voice of the marketing profession in Canada with more than 400 corporate, not-for-profit, public, and post-secondary members, many of whom are based in Ontario, the CMA helps our members maintain high standards of professional conduct through our mandatory [Canadian Marketing Code of Ethics & Standards](#), and a series of [compliance and best practices guides](#). In addition, we provide [resources to educate consumers](#) about their rights.

Earning and retaining consumer confidence is good business. CMA members recognize their obligation to maintain the highest standards of honesty, transparency, truth, accuracy, fairness and professionalism.

Transparency is a key ingredient to building customer trust. [The CMA Guide on Transparency for Consumers](#) provides a framework to help organizations provide clear, user-friendly information about how consumers' personal information is collected, used and shared. Adhering to this Guide demonstrates our members' commitment to provide clear, plain language information to consumers.

We are pleased to offer the following comments on proposals contained in the consultation review paper on the Act issued by the Ministry of Government and Consumer Services:

- Reputable businesses need a reasonable degree of flexibility to design products and promotional offers that are well-suited to a variety of customers. Legislative provisions that require complete standardization could hamper their efforts and impede healthy competition, which is not in the best interests of consumers. We submit that a reasonable degree of flexibility should be permitted, subject to clear, upfront transparency.
- Consumers should be able to unenroll through the same channel that they use to enroll. For example, if a consumer signed up for a membership online, they should be able to cancel that membership online and not be required to take added steps, such as going in person to a store. However, the new law should provide some flexibility for small and medium sized businesses that may not have the capability or resources to provide a full range of options.
- Predatory UX practices used by (mostly offshore) websites and apps that lull consumers to take unintended actions, such as buying multiple items, signing up for paid subscriptions, or automatic pre-selects, should not be permitted without disclosure or clear notice, so that consumers can make informed choices.
- We agree that consumers should not be prohibited by contract or otherwise penalized from publishing fair reviews of a business or its goods or services. Fair reviews provide valuable insights for consumers about products and services and to businesses about the customer experience.
- Contract clauses that suggest a consumer has waived any legal rights provided under the Act should be prohibited.
- Before legislation is developed, further discussions should be had related to unilateral contracts and grandfathering. The CMA would like to be involved in these deliberations.

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- Similarly, as the government further develops its plans to update the Act, the CMA would welcome the opportunity to provide feedback on new proposals or draft legislative language to ensure that proposed changes would not result in unintended consequences that could hamper reasonable promotional activities.

Implementation

We recommend that careful consideration be given to the implementation timeline. Providing too short of an implementation window could pose challenges at a time when many businesses, especially small and medium-sized businesses, are facing significant pressures due to the pandemic. CMA proposes an implementation notice period of one year from the time that the final regulations are published, with additional accommodations for small and medium-sized businesses.

Thank you for the opportunity to comment. For questions or to discuss our submission, please contact:

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About the CMA

The CMA is the voice of the marketing profession in Canada. We serve more than 400 corporate, not-for-profit, public and post-secondary members, including Canada's most prestigious brands. Our community also includes creative, media, and PR agencies, research firms, management consulting firms, technology companies and other suppliers to the marketing community. We support activities related to thought-leadership, professional development, consumer protection, and commercial success. We act as the primary advocate for marketing with governments, regulators and other stakeholders. Our Chartered Marketer (CM) designation ensures that marketing professionals are highly qualified and up to date with best practices. We champion self-regulatory standards, including the mandatory Canadian Marketing Code of Ethics and Standards.