



145 Wellington Street West, Suite 203, Toronto, Ontario, M5J 1H8
416.391.2362 • theCMA.ca

**CMA Submission
on Phase 1 regulatory proposals
under the Consumer Protection Act, 2023**

March 2025

Introduction

The Canadian Marketing Association (CMA) is the voice of Canada's marketing profession, representing corporate, public and not-for-profit organizations across Canada. Our membership spans organizations from virtually all business sectors and marketing disciplines, channels and technologies.

We foster high standards of professional conduct through our Canadian Marketing Code of Ethics & Standards, compliance and best practices guides, and professional development.

Our Consumer Centre helps Canadians understand their rights and obligations, and we address marketing-related enquiries from consumers and organizations.

The CMA appreciates the opportunity to provide feedback on the proposed regulations for the new Consumer Protection Act (CPA). We commend the Ministry of Public and Business Service Delivery and Procurement for their efforts to modernize consumer protection while considering business needs. We are pleased to see several of our previous recommendations and suggestions reflected in the Phase 1 regulatory proposals, particularly the unified set of core rules for most consumer contracts and recognition of the need for flexibility in certain types of contracts.

Delivery of required information to consumers

We recommend the regulations on delivering required information to consumers be refined as follows:

- Clarify what would be considered acceptable proof of delivery across communication channels considering the practical limitations of each channel.
- Develop standardized templates for key disclosures.
- Acknowledge that disclosure is a shared responsibility: while businesses must provide information in an accessible manner, consumers have a duty to review important communications.

Contract cancellation and amendments

Consumers should be able to cancel subscriptions through the same channels used for enrollment. To help inform consumers about their rights and procedures for ending their contract, we support disclosure of cancellation options at the time of subscription.

Flexibility to make necessary adjustments in response to market conditions or regulatory changes without always requiring express consent should be permissible. Minor changes that do not materially affect the consumer could be made with notice rather than express consent.

The requirements for "easy to use" means of communication for contract amendments or terminations must take into account the capabilities of businesses of different sizes.

Promotional gift cards

We note that the current and proposed Act addresses purchased gift cards or prepaid purchase cards. In future, the Ministry may wish to consider including a distinction between purchased and promotional gift cards. Specifically:

- The regulations would define a 'promotional gift card' as a prepaid purchase card issued by a business and provided free of charge to a consumer, typically as part of that business's own marketing promotion or customer loyalty program. This would not include third-party gift cards given as promotional items.

- It would be stated that promotional gift cards are exempt from the prohibition on expiry dates, allowing businesses to set reasonable expiration periods in the context of the promotion. This could be from 3 months to a year.
- The regulations would require clear disclosure of expiry dates on promotional gift cards to ensure consumer awareness.

This would give businesses the ability to set reasonable and appropriate timelines for marketing campaigns, create a transparent marketplace and bring the CPA in line with similar laws in other Canadian jurisdictions.

Unfair practices and consumer remedies

We support strong consumer protections against unfair practices. However, enabling consumers to rescind a contract for as long as a full year after an unfair practice takes place is not reasonable in many situations. We propose the regulations include the following measures:

- The ability to rescind a contract due to unfair practice should be limited to cases in which the practice has had a significant impact. This can include a monetary loss that exceeds a certain amount.
- The regulations should provide clear guidance on how to determine the date on which an unfair practice is considered to have taken place.
- The time limit for minor infractions should be shorter to provide more certainty to businesses and consumers.
- A clear dispute resolution process should be established to resolve disagreements about whether an unfair practice occurred or had a significant impact. This could include mediation or guidelines for assessing the impact of alleged unfair practices. This would build on the strengths of the Ministry's existing mediation role.

Public Record

We agree that the public record should reduce outdated requirements such as no longer requiring the Ministry to publish a business's fax number. As part of this review, the Ministry should consider alternative names for the public record (known as the Consumer Beware List) that is informative and conveys the purpose of the public record such as the Consumer Information Record.

We note that the Ministry is contemplating broadening the public record. The CMA supports increased transparency if it is done in a fair and reasonable manner based on the rules of natural justice. In particular:

- Companies must have the opportunity to respond to complaints before they are published.
- We support the proposal to require different posting periods to reflect the severity of the enforcement or compliance action taken.
- In the case of minor infractions or first-time offenses, the Ministry should have the discretion to determine whether to post Notices at all.
- The Ministry should establish a clear and timely appeal process for businesses that believe information is being posted in error. This should occur before the posting is public.

Implementation

Given the existing economic climate, and particularly the significant impact of the new U.S. tariffs, businesses will require sufficient time to budget for, and absorb costs associated with, implementing

these regulatory changes. The Ministry should provide an implementation period of at least one year from the time that the final regulations are published.

In addition, existing contracts with a duration of three years or less should be grandfathered until they come up for renewal.

These measures would allow businesses to adapt to the new regulations in a more orderly manner and minimize disruption to their operations.

Upon publishing the final regulations, the Ministry should provide comprehensive FAQs and maintain an open dialogue with industry stakeholders to support compliance.

In closing

With the refinements recommended in this submission, the proposed regulations can achieve their goal of protecting consumers while supporting a competitive business environment in Ontario. The CMA would welcome the opportunity to consult further with ministry officials to ensure that the final regulations achieve these objectives.

To discuss our submission, contact:

Sara Clodman
Chief Public Affairs and Governance Officer
sclodman@thecma.ca

Florentina Stancu-Soare
Director, Public Affairs and Regulatory Standards
fstancu-soare@thecma.ca

About the Canadian Marketing Association (CMA)

The CMA is Canada's largest marketing association and the voice of the marketing profession. We are the catalyst to help Canada's marketers thrive today, while building the marketing mindset and environment of tomorrow. We represent virtually all of Canada's major business sectors, and all marketing disciplines, channels, and technologies.

Our purpose is to champion marketing's powerful impact. We provide opportunities for our members from coast-to-coast to develop professionally, to contribute to marketing thought leadership, to build strong networks, to meet consumer needs and provide meaningful, trust-building relationships with their customers, and to strengthen the regulatory climate for business success.

Our Chartered Marketer (CM) designation signifies that recipients are highly qualified, with the skills they need to help businesses grow and up to date with best-in-class modern marketing practices, including those reflected in the Canadian Marketing Code of Ethics and Standards and our Consumer Centre helps Canadians better understand their rights and obligations.