

Consumer protection in Canada: Compliance for global businesses

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This article is part of a practical series written for international companies looking to establish, launch, operate or invest in a business Canada. Each article covers a major area of law in Canada – everything from employment laws to taxes. Access all the articles on the [“Doing business in Canada: A practical guide from ‘Eh’ to ‘Zed’” page](#).

In addition to addressing competition issues, such as price-fixing, bid-rigging and other anti-competitive practices, the federal *Competition Act* addresses a variety of consumer issues, including misleading advertising, spam, deceptive telemarketing and pyramid schemes.

Under the Canadian Constitution, the federal and provincial governments share responsibility for consumer protection. The federal government is responsible for ensuring that the marketplace is fair, efficient and competitive for producers and consumers. Federal consumer protection laws govern the sale, advertising and labelling of consumer goods sold in Canada. Provincial governments are responsible for contractual matters related to the sale of goods, such as conditions of sale, warranties and licensing. The standard of protection afforded consumers is broadly similar in all provinces across the country. The provinces also require a variety of businesses that provide goods or services to the public to be registered, licensed or granted a permit before they can sell their goods or provide their services. These businesses include real estate agents, automobile dealers, collection agencies and direct sellers.

Regulation of advertising

The misleading advertising and deceptive marketing practices provisions of the *Competition Act* apply to any person promoting, either directly or indirectly, the supply or use of a product or service, or any business interest, by any means (including print, broadcast and internet advertisements, written and oral representations, and illustrations). Any materially misleading representations that affect the purchaser's decision to buy the product fall under the *Competition Act* and can result in penalties. Misleading advertising and unfair business practices are also the subject of various provincial consumer protection regulations.

Regulation of labelling of goods in Canada

In general, federal consumer protection laws govern the information that must be disclosed on product labels and prohibit false or misleading information.

The federal *Consumer Packaging and Labelling Act*, regulates the packaging and labelling of consumer goods. The goal of this legislation is to protect consumers from misrepresentations and to help consumers differentiate between products. Products regulated under the *Consumer Packaging and Labelling Act* include any article that is the subject of trade or commerce, including both food and non-food products. Administration and enforcement of the *Consumer Packaging and Labelling Act*, as it relates to non-food products, is the responsibility of the Competition Bureau, and as it relates to food products, the Canadian Food Inspection Agency (CFIA). The *Consumer Packaging and Labelling Act* applies to “dealers” (defined broadly as retailers, manufacturers, processors or producers of products, or any person who is engaged in the business of importing, packing, or selling any product) and prohibits dealers from selling, advertising or importing into Canada any prepackaged product unless a label in the prescribed form is affixed. Certain information displayed on labels must be written in both English and French (including the common name and the net quantity of the product), and such information must be shown in the prescribed format (i.e., meet size and placement requirements).

In addition to the requirements imposed under the *Consumer Packaging and Labelling Act*, the federal *Food and Drugs Act* regulates the advertising, sale and importation of foods, drugs, cosmetics and medical devices, by prescribing standards of purity and quality, as well as labelling and advertising standards.

The *Hazardous Products Act* regulates the advertising, sale and importation of hazardous or controlled products and substances, which include compressed gas, flammable and combustible material, oxidizing material, poisonous and infectious material, corrosive material, and dangerously reactive material. The statute generally prohibits suppliers from selling or importing hazardous products intended for use in a workplace, unless the importer provides a material safety data sheet disclosing certain information, and the packaging of such hazardous products complies with certain labelling requirements.

The *Canada Consumer Product Safety Act* generally regulates manufacturers, importers and retailers of “consumer products” (which are defined broadly to include products, their parts, accessories and components, which may be reasonably expected to be obtained by an individual to be used for non-commercial purposes, and their packaging), as well as those persons who advertise, test, package or label consumer products and those who distribute them, including those who distribute promotional products for free. The purpose of the statute is to prevent the manufacturing, importation, advertising and selling of consumer products that pose a danger to human health or safety, such as the advertising or labelling of consumer products in a manner that is false, misleading or deceptive in respect of their safety. The federal government can require the recall of products pursuant to the *Canada Consumer Product Safety Act*.

The statute also requires corporations to report consumer product safety incidents and product defects, and to maintain records pertaining to the supply chain.

Other consumer protection legislation regulates the marketing and sale of certain specific products. For example:

- the *Textile Labeling Act* requires labels to be affixed consumer textile articles, including to garments and certain stuffed and filled textile articles;
- the *Precious Metals Marking Act* sets out rules for the sale of goods made from precious metals;
- the *Agricultural Products Marketing Act* sets standards and grades for agricultural products and regulates the import, export and inter-provincial trade of agricultural products;
- the *Tobacco and Vaping Products Act* requires that the packaging of tobacco and vaping products display, amongst other information, the health hazards and health effects arising from the use of or emissions from such products;
- the *Cannabis Act* includes strict product safety and quality requirements, labelling regulations, and restrictions on the advertisement and promotion of cannabis, which are designed to protect public health; and
- the *Motor Vehicle Safety Act* regulates the safety standards for motor vehicles imported into and exported from Canada.

In addition, both the federal and provincial governments have set mandatory standards for the performance and safety of numerous other potentially dangerous products, such as electrical wiring, equipment and appliances.

Product liability law

Product liability law in Canada is based on both the law of contracts and the law of negligence. Statutory law also applies in some cases, providing, among other things, statutory and/or implied warranties.

Contract law provides a remedy for parties who are injured when enforceable contractual promises are breached. Contracts for the sale of personal property are subject to provincial jurisdiction and are regulated by provincial sale of goods and consumer protection legislation, which generally implies into contracts certain conditions and warranties of fitness and quality of goods. Where goods are found to be defective or there is a breach of either an express or implied warranty, sellers, distributors and manufacturers may be held liable for breach of contract. The purchaser of the defective goods may choose to either reject the goods and rescind the contract, or treat the breach as a breach of warranty and sue for damages.

Proof of negligence is not required for a breach of warranty action; contract law requires only that a warranty was breached and that the breach resulted in damage. An injured party can generally sue for breach of warranty only if the injured party has a contractual relationship with the party being sued.

The law of negligence provides a remedy for parties who are injured when the conduct of a responsible party (usually the party responsible for manufacturing or bringing a product to market) falls below an accepted standard. To support a claim in negligence, an injured party must generally show that the responsible party owed the claimant a duty of care, that the responsible party's actions with respect to the product breached the applicable standard of care, and that the breach caused the claimant's injury. Negligence does not require a contractual relationship between the injured party and the

responsible party, so liability in negligence can extend to anyone who came into contact with the defective goods, including manufacturers, designers, distributors and consumers.

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