

Legal Extranet

Information supplied by



Canada

[General Legal Overview](#)
[Basic Guide to Intellectual Property rights in the Territory](#)
[Self Regulatory Bodies](#)
[Statutory Bodies](#)
[Tripartite Body](#)
[Specific Legislation](#)

General Legal Overview:

Advertising Standards Canada is the advertising industry's national self-governing body in Canada. It preclears broadcast ads for food, natural health products, cosmetics, alcohol and children's advertising (and it preclears both broadcast and print ads for consumer drugs). It also administers the Canadian Code of Advertising Standards, the Broadcast Code for Advertising to Children, Gender Portrayal Guidelines, it conducts trade dispute hearings and responds to consumer complaints.

Apart from ASC, advertising in Canada is also governed by a number of federal acts including the Competition Act, the Food and Drugs Act, the Consumer Packaging and Labelling Act and various provincial acts including provincial consumer protection legislation and a range of product specific advertising codes such as those for alcohol and financial services, etc.

ASC's role, codes and guidelines can be found at www.adstandards.com

Each province/territory has consumer protection legislation which generally includes prohibitions against deceptive advertising (including omissions).

Basic Guide to Intellectual Property rights in the Territory:

Trade-mark

A trade-mark can be a word or group of words, a symbol, a drawing, a slogan, a colour or a shape identifying or distinguishing wares or services of a business.

In Canada, a trade-mark is created by its use in association with wares or services even if it is not "registered". As protection of a trade-mark results from its use, it is owned by the first person to use it. However, protection will only be given to an unregistered trade-mark in the geographical area where the trade-mark is actually used. The burden of proof with respect to the existence of the trade-mark as well as the extent of the wares and services associated thereto rests with the person that is claiming rights concerning the trade-mark.

However, registration of a trade-mark with the Registrar of Trade-marks of Canada grants additional rights to its owner, the main one being the exclusive right to its use across Canada respecting the relevant wares or services covered by the registration.

Registration constitutes notice of the owner's rights. Registration also evokes a presumption evidence that the owner alone has the power to use the trade-mark in Canada for the wares or services set out in the certificate. It also serves as a platform for the filing of trade-mark applications in foreign jurisdictions and provides the owner with a priority from the date of filing even if the actual use of the trade-mark comes later.

Registration is valid for 15 years and is renewable indefinitely. The registration process takes between 15 and 18 months.

The owner of a trade-mark must, however, protect the distinctive nature of it. Any misappropriation, passing off or infringement of a trade-mark must be vigorously pursued by its owner.

A trade name is a name under which a person's activities are identified. A trade name can also be a trade-mark. Often a trade name corresponds to the corporate or business name of a business and is distinct from the trade-marks associated with the wares or services offered by the business. Trade names are registered separately in each province where the business carries on its activities, as there is no federal registry in Canada. Registration of a trade name in a Canadian province only provides a moderate degree of publicity.

Copyright

Copyright is automatically protected on creation of literary, dramatic, musical, and artistic works; registration with the Copyright office is optional. To be granted protection, the work must be original, fixed and connected to Canada, or to a WTO, Berne or Universal Copyrights Convention member state.

Copyright means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform the work or any substantial part thereof in public or, if the work is unpublished, to publish the work or any substantial part thereof.

Passing-off

Passin-off refers to factual misrepresentation, direct or implied, that the goods or services are in some way connected or associated with those of another.

To succeed in a claim for passing-off, three elements must be proven:

- a) goodwill or reputation in a mark, name or other indicia with the goods, services or operation of a business;
- b) that the defendant misrepresented its wares, services or business as being those of, or being connected with, the plaintiff;
- c) damages suffered, or likely to be suffered, by the plaintiff.

Advertising Standards Canada

175 Bloor Street East Toronto, Ontario Canada M4W 3N8
Web link: www.adstandards.com

Canadian Broadcasting Corporation Advertising Standards

Canadian Broadcasting Centre Room 6H202, 205 Wellington Street West Toronto, Ontario Canada M5V 3G7
Web link: www.cbc.radio-canada.ca/htmen/6._5_1.htm

Canadian Marketing Association

1 Concorde Place, Suite 207 Don Mills, Ontario Canada M3C 3N6 (for Direct Marketers)
Web link: www.the-cma.org

Competition Bureau, Industry Canada

50 Victoria Street Gatineau, Quebec Canada K1A 0C9 Each province/territory has consumer protection legislation which generally includes prohibitions against deceptive advertising (including omissions).

Web link: www.ccb-bc.gc.ca

Advertising Standards Canada

Advertising Standards Canada/Standards Division handles complaints from consumers and Specialty Interest Groups regarding advertising and administers the industry's Trade Dispute Procedure.

Web link: www.adstandards.com

Collateral Gifts	01 June 2006
Alcohol	01 June 2006
Tobacco	01 June 2006
Health & Beauty	01 June 2006
Comparative advertising	01 June 2006
Direct Marketing	01 June 2006
Coupons	01 June 2006
Sponsorship	01 June 2006
Pharmaceuticals	01 June 2006
Prize Promotions	01 June 2006
Data Protection/Privacy	01 June 2006
Gaming & Betting	01 June 2006
Financial products and services	01 June 2006
Motors	02 June 2006
E-mail	02 June 2006

Information
supplied by:

Heenan Blaikie

Genevieve Marcotte

[Disclaimer](#)

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

[<< Click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Collateral Gifts
Country	Canada
Contact	Geneviève Marcotte
General legal framework	Products/services offered "Free" without cost or obligation must be truly "free". A product offered "free" with the purchase of another product must be offered without hidden costs such as an increase in the cost of the product/service being purchased. The offer must clearly state that the purchase of the other product is required to get the free product. The same applies to "one cent sales" such that the first product purchased should not be at an increased price (or decreased in size/quantity). Similarly, where a bonus item is offered with the purchase of another item, (i.e. "Included"/No Extra Charge"/"Bonus"), the price of the purchased item should not be reduced if the purchaser refuses the bonus item (nor can the price of the purchased item be increased by the cost of the "bonus" item).
Last updated	01 June 2006

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Alcohol	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	Alcoholic beverages are considered to be a food, and are therefore governed by the Food and Drugs Act. Advertising is also restricted by the Canadian Radio-television and Telecommunications Commission Code for Broadcast Advertising of Alcoholic Beverages ("CRTC Code") and additional provincial/territorial legislation and guidelines. Collectively, these requirements apply to most aspects of alcohol marketing, including sales promotions in virtually all media from broadcast to signage to the Internet. Generally, discount coupons or frequent buyer programs for alcohol are not permitted. Further, alcohol cannot be offered as a contest prize. Free give-aways, such as in-case items, are generally permitted in connection with the sale of alcohol provided they are of nominal value compared to the value of the alcohol. Some provinces pre-clear alcohol advertising/promotions for various media, while others are self-regulated. The ASC also pre-clears alcohol broadcast advertising pursuant to the CRTC Code which prohibits, among other things, advertising alcohol to persons below legal drinking age (which varies among the provinces/territories), encouraging alcohol consumption and the association of alcohol with skilled activities.	
Restrictions to the media	<i>Cinema</i>	The above requirement apply.
	<i>Direct Mail</i>	The above requirement apply.
	<i>E-mail</i>	The above requirement apply.
	<i>Web</i>	The above requirement apply.
	<i>Outdoor</i>	The above requirement apply.
	<i>Press</i>	The above requirement apply.
Restrictions to the public	<i>Children and adolescents</i>	No alcohol advertising may be directed to minors.
Restrictions relating to the contents	<i>Environmental claims</i>	See above.
	<i>Others</i>	See above.
Other conditions	Alcohol and beer beverages are foods and are subject to the Food and Drugs Act requirements with respect to ingredients and certain claims. For example, beer is a "standardized" product and must contain certain ingredients, be made in a certain way and contain certain information as to its identity ("light", "strong" etc). Additionally the Food Regulations have been revised and only alcohol having less than a certain percentage of alcohol is exempted from the majority of these new requirements.	
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Tobacco	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	The Tobacco Act prohibits virtually all tobacco advertising/promotional activity with the exception of "information" and "brand preference" advertising in a publication addressed and mailed to a named adult, (over 19), a publication with an adult readership of not less than 85% or signs in places where young persons are not permitted by law. No tobacco sponsorship (signage) advertising is permitted. There are numerous other restrictions including the prohibition against offering/providing any consideration, direct or indirect, for the purchase of a tobacco product including a gift to the purchaser or a third party or a bonus, premium, cash rebate or the right to participate in a game, lottery or contest. Tobacco packages must bear text and visual health hazard warnings.	
General self-regulatory framework	n/a	
The subject of the rules	All tobacco products.	
Restrictions to the media	<i>Others</i>	Advertising/promotions, with or without consideration concerning tobacco, are prohibited in all media (publishing/broadcast or any other dissemination) with the exception of mailings to adults over age 19 discussed above.
Sanctions	Breach of this legislation may result in fines and/or imprisonment.	
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Health & Beauty	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	<p>The advertising of health and beauty products is governed by the Food and Drugs Act, and the regulations pertaining to Cosmetics, Drugs and Natural Health Products. Natural Health Products (NHPs) legislation came into force on January 1, 2004 and applies to a range of substances including vitamins, minerals, herbs, probiotics and dietary supplements. The legislation also applies to cosmetic-like drugs such as antiperspirants, anti-dandruff shampoos and sunscreens which contain active ingredients that are minerals. NHPs must make a health claim and contain a substance listed in the Schedule to the NHP regulation. For the many products on the market that are not compliant, they will be required to comply on a phased-in basis depending on the level of risk. New regulations will be effective in December 2005 and will affect nutrition labelling and health claims in food advertising. Also new natural health product regulations will affect packaging, labelling and advertising of certain drug-like natural health products.</p>	
Restrictions relating to products or services	<i>Pharmaceuticals</i>	<p>Prescription drugs may only be advertised by name, price and quantity. This however, is handled in a creative fashion as illustrated by the Viagra ads that show a happy fellow greeting the day to "Singin' in the rain " music with only the name of the product and no product claims. All drug advertising must be pre-cleared and all cosmetic broadcast ads must be pre-cleared. Drug ads cannot make Schedule "A" claims (i.e. no obesity, diabetes and claims for some 30 conditions found in Schedule A of the Food and Drug Act).</p>
Restrictions to the media	<i>Cinema</i>	The above restrictions apply.
	<i>Direct Mail</i>	The above restrictions apply.
	<i>E-mail</i>	The above restrictions apply.
	<i>Web</i>	The above restrictions apply.
	<i>Outdoor</i>	The above restrictions apply.
	<i>Press</i>	The above restrictions apply.
	<i>Radio</i>	The above restrictions apply.
	<i>SMS</i>	The above restrictions apply.
	<i>TV</i>	The above restrictions apply.
	<i>Others</i>	The above restrictions apply to all media.
Restrictions to the public	<i>Children and adolescents</i>	<p>Advertising of such products should not be directed to children. Importantly, Quebec has significant restrictions on advertising any product to children under 13.</p>
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Comparative advertising	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	Comparative advertising is governed by the Competition Act's requirements that all advertising must be literally true and not convey a general impression that is materially misleading (i.e. in a way that affects a person's purchase decision), as well as by the Trade-Marks Act, Copyright Act and general principles of tort and civil liability. The claim must be based on adequate and proper testing (which should be in hand prior to making the claim) and must avoid trade-mark or copyright infringement, depreciation of the goodwill of a competitor's mark, trade, libel or wrongful interference with economic relations. There are special rules/guidelines for making comparative price claims (and several recent key price comparison cases).	
General self-regulatory framework	Advertising Standards Canada's Canadian Code of Advertising Standards requires that comparative advertising not discredit, disparage or attack unfairly other products, services advertisements or companies or exaggerate the nature or importance of competitive differences. Advertisers must not copy or imitate the slogans or illustrations of another advertiser in such a manner as to mislead the consumer. As with all advertising, comparative advertising must be clear, accurate and not contain deceptive claims, statements illustrations or representations either direct or implied. The general impression is key in assessing the accuracy and truth of a message. All claims must be supportable. Price claims requirements are similar to those in the Competition Act above.	
The subject of the rules	Comparative advertising is permitted in the interest of strong competition and providing consumers with relevant information, providing it is not deceptive.	
Restrictions relating to products or services	<i>Others</i>	Health Canada and ASC have developed have developed guidelines with respect to food industry as well as rules with respect to the comparison of non-prescription drug products.
Restrictions to the activity	No advertising, (with a few exceptions) comparative or otherwise, may be directed to children under 13 in Quebec. Outside Quebec, comparisons should not be made with the previous year's model of the toy or product (even if supportable).	
<i>Others</i>	Apart from the above, there are no specific rules about comparing like products/services but this may well come under the general prohibition of not making misleading claims.	
Other conditions	Provincial consumer protection legislation contains similar prohibitions against misleading/deceptive advertising.	
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Direct Marketing
Country	Canada
Contact	Geneviève Marcotte
General legal framework	All advertising conducted by direct marketing is subject to the key advertising requirements including those in the federal Competition Act and provincial consumer protection legislation.
General self-regulatory framework	The Canadian Marketing Association has a Code of Ethics that covers disclosures, privacy and accepted commercial practices among other guidelines. The CMA is fairly unique in having produced Guidelines for Marketing to Teens. While CMA members are of course bound by the CMA's requirements, the CMA's guidelines are broadly regarded as sound industry standards and practices and they often provide guidance to others.
Last updated	01 June 2006

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Coupons	
Country	Canada	
Contact	Geneviève Marcotte	
The subject of the rules	<p>The Criminal Code (the "Code") prohibits cross-couponsing" to protect consumers from companies that fail to provide the coupon item. The Code prohibits illegal "trading stamps", namely giving (i.e. for free) a coupon, stamp, piece of paper or "any device" to a purchaser of goods that is intended to represent a discount, or premium to the purchaser. The Code provides that coupons and such "devices" may avoid being illegal trading stamps if: the vendor who gives the coupon redeems it with his own cash or goods only at the place where the original goods were purchased (or, the person (manufacturer/distributor) who sold the vendor the goods may redeem the coupon but only with their own goods or cash (and redemption may occur at a different location); the coupon must show on its face where it is delivered (address) and the cash value of the piece of paper itself (i.e. ½ of a cent or a "mill value"); the coupon may be redeemed at any time (but expiry dates are permitted). Bonus points programs or money-like certificates to purchase products should meet these requirements. The prohibition does not apply to on-pack coupons that provide a premium for returning the coupon to the manufacturer (usually X amount off your next purchase.) Certain other commercial arrangements may also avoid this prohibition. Coupons should bear applicable retailer/consumer terms including the coupon offer, redemption, reimbursement of the coupon value, how applicable sales taxes and any fees are handled and the expiry date should appear prominently.</p>	
Restrictions relating to products or services	<i>Alcoholic beverages</i>	Generally discount coupons or frequent buyer programs for alcohol are prohibited.
Restrictions to the public	<i>Children and adolescents</i>	Price and purchase terms, when used in advertising to children, must be clear and complete, particularly in collection schemes involving labels, wrappers and coupons. Again, Quebec generally prohibits advertising directed to children under 13.
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Sponsorship
Country	Canada
Contact	Geneviève Marcotte
The subject of the rules	The Tobacco Act severely restricts tobacco advertising. Limitations include permitting only "information" and "brand preference" advertising in a publication addressed and mailed to a named adult, (over 19), a publication with an adult readership of not less than 85% and signs in places where young persons are not permitted by law. No tobacco sponsorship (signage) advertising has been permitted since October 1, 2003. There are numerous other restrictions. Generally alcohol contest and activity sponsorship is permitted provided the sponsor complies with alcohol advertising guidelines of the various provinces.
Restrictions to the activity	No general prohibition/restrictions other than certain product-specific guidelines as described above.
Last updated	01 June 2006

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Pharmaceuticals	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	The Food and Drugs Act.	
General self-regulatory framework	Advertising Standards Canada has guidelines on advertising non-prescription drugs and is developing guidelines for advertising natural health products.	
The subject of the rules	Certain drugs cannot be advertised to the general public including Narcotic Drugs (morphine, codeine, opium, cocaine and cannabis), Controlled drugs (stimulants/amphetamines), new drugs that have not met certain conditions, any drug making a claim concerning a health condition in "Schedule A" of the Food and Drugs Act (i.e. cancer, diabetes etc). Drugs for conditions that are not deemed suitable for diagnosis/treatment by the general public and requiring a medical practitioner's involvement, may only be advertised by name, price and quantity (including limited dose drugs (with maximum single and daily concentrations for use) and prescription drugs). Drugs not falling into these categories may advertise subject to meeting drug advertising guidelines in connection with misleading advertising, comparisons, non-acceptable claims, etc. A new sub-class of drugs, "natural health products" (including "dietary supplements", vitamins, minerals) are regulated much like drugs (pre-clearance, licensing and other requirements) as of January 1, 2004 (with phase-in periods for various products depending on risk).	
Restrictions to the activity	Broadcast/print advertising of non-prescription drugs must be pre-cleared by ASC in accordance with the marketing authorization (labelling standard, monograph etc). This assumes that the drugs themselves have been approved by Health Canada or otherwise meet monograph or labelling standards requirements.	
Restrictions to the media	<i>Others</i>	Several health professionals (including physicians/dentists) must comply with professional requirements/limitations concerning endorsements and other advertising activities.
Restrictions to the public	<i>Children and adolescents</i>	Drugs, proprietary medicines and vitamins in any pharmaceutical form, with the exception of fluoride toothpaste, may not be advertised to children. Quebec prohibits most advertising to children under 13 (with a few limited exceptions).
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Prize Promotions	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	The advertising of prize promotions is generally governed by the Criminal Code and by the federal Competition Act (a quasi-criminal Act).	
The subject of the rules	<p>Under the Criminal Code it is an indictable offence to dispose of property by any mode of chance alone. Thus, prudent contest organizers require that a skill test be administered to potential winners, making the contest a game of mixed chance and skill. Since Canadian courts have differed, however, on what constitutes sufficient skill or mixed skill and chance as opposed to pure chance, the traditionally accepted skill test is a 4-operation, time-limited mathematical skill-testing question. Section 206(1)(e) focuses specifically on schemes where payment of consideration is required to participate in either a game of chance or contest of skill, with a chance of profit. You can avoid this provision by awarding a prize that is not cash or other valuable consideration or allowing entry without purchase or entry fee. However, if the intent seems to be to collect entry fees to fund the promotion, it may run afoul of the rules. Under section 206(f) of the Code, it is an indictable offence to dispose of any goods, wares or merchandise by any game of chance or any game of mixed chance and skill in which the contestant pays money or other valuable consideration. Thus both games of chance or skill contests are caught by this provision if the entrant must pay money to participate. Since this provision only applies where "goods, wares or merchandise" are awarded, this provision may not apply when the prize is cash or services. Promotional skill games must meet Competition Act requirements, regarding minimal disclosures. Contravention could give rise to penalties, including Competition Bureau's order to: stop engaging in such conduct, to publish a corrective notice and/or to pay a monetary penalty. The Bureau requires disclosures to be made in a reasonably conspicuous manner prior to the entrant being inconvenienced or committed to the contest. The key contest disclosures include: the number and approximate value of the prizes; regional prize allocation (if applicable); the skill-testing question requirement, the odds of winning; the contest close date; and any other fact that materially affects chances to win. Quebec's Act Respecting Lotteries, Publicity Contests and Amusement Machines requires contest sponsors to meet filing and bonding requirements for publicity contests open to Quebec residents. Depending on the value of the prize and identity of the contest organizer, these may include registering the contest rules, submitting contest advertising prior to the contest's launch, and furnishing security to the Régie des alcools, des courses et des jeux based on the prize value available to Quebec residents. Rules and advertising generally must be available in French to comply with The Charter of the French language. At the end of such a contest, the organizer needs to report the winners to the Régie and account for any unawarded prizes.</p>	
Restrictions to the media	<i>Cinema</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>Direct Mail</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>E-mail</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>Web</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>Outdoor</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>Press</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>Radio</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>SMS</i>	Must comply with these federal (and if applicable, Québec) requirements.
	<i>TV</i>	Must comply with these federal (and if applicable, Québec) requirements.
Upcoming changes	None at this time.	
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

[Disclaimer](#)

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

[Send Article](#)

[<< Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	Data Protection/Privacy
Country	Canada
Contact	Geneviève Marcotte
General legal framework	The federal Personal Information Protection and Electronic Documents Act ("PIPEDA") came into effect on January 1, 2001 (the "first phase"), whereas the second phase came into effect on January 1, 2004. The subject of the rules: PIPEDA applied to personal information transferred outside a province for consideration (and to certain federal government entities). However, as of January 1, 2004, PIPEDA applied to everyone not caught in the first phase with respect to the collection, use and disclosure of personal information in the course of commercial activities (except for organizations governed by a province that has legislation deemed to be "substantially similar" to PIPEDA). PIPEDA sets out the requirements to obtain consumers' informed consent for the collection, use and disclosure of personal information, the types of consent required (express, negative or implied) for various types of personal information (sensitive or otherwise); the requirements an organization must meet for the storage/security/handling of personal information, among other requirements. An advertiser's actions should be consistent with its privacy policy. While PIPEDA is silent on the consent of minors, the Canadian Marketing Association's Code provides guidance on obtaining personal information from children/teens. The provinces of Quebec, British Columbia and Alberta have privacy legislation and other provinces/territories are developing their own privacy legislation.
Restrictions to the activity	If the purpose for the use of the personal information changes, consent for the new purpose must be obtained.
Others	The nature of the media (direct mail, E-mail, SMS, others) does not change the need for, nature of consent that must be obtained.
Other conditions	Personal information must be kept secure including by those who process it or otherwise deal with it. Agreements should be concluded with such parties to ensure they will keep the information in a safe and secure manner. An organization should designate a person(s) to be responsible for the care, security and access to the personal information.
Last updated	01 June 2006

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Gaming & Betting	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	Advertising of betting and gaming is covered by the Criminal Code of Canada. Generally, gambling/betting is prohibited in Canada unless run by a province (i.e. provincially-run casinos) or by a charity whose activity is approved by the province/municipality. There are special provisions for betting/horse races when conducted in accordance with the Criminal Code.	
General self-regulatory framework	As discussed above, the framework in Canada is generally a regulated one.	
Restrictions to the activity	Gambling/betting are generally prohibited unless permitted as described above.	
Restrictions to the media	<i>Cinema</i>	Subject to the law described above.
	<i>Direct Mail</i>	Subject to the law described above.
	<i>E-mail</i>	Subject to the law described above.
	<i>Web</i>	Subject to the law described above.
	<i>Outdoor</i>	Subject to the law described above.
	<i>Press</i>	Subject to the law described above.
	<i>Radio</i>	Subject to the law described above.
	<i>SMS</i>	Subject to the law described above.
	<i>TV</i>	Subject to the law described above.
	<i>Others</i>	Subject to the law described above.
Upcoming changes	None expected.	
Last updated	01 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Financial products and services
Country	Canada
Contact	Geneviève Marcotte
General legal framework	In addition to general misleading advertising law, financial services are subject to a variety of provincial consumer protection legislation and federal requirements including disclosure of borrowing costs, repayment terms, charges and penalties, borrower's rights and obligations and other prescribed disclosures and terms.
The subject of the rules	See above.
Restrictions to the activity	See above.
Last updated	01 June 2006

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Subject	Motors	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	General misleading advertising and ordinary price provisions of the Competition Act apply to the advertising of motor vehicles as well as provincial consumer protection legislation and administrative guidelines for the advertising of motor vehicles. In particular a "manufacturers suggested resale price" claim must be handled with care. Provincial cost of credit legislation requires disclosure of the full cost of borrowing and full details of financing terms, limitations and restrictions.	
General self-regulatory framework	Various industry associations have issued advertising guidelines for manufacturers, importers and dealers. The ASC's guidelines on safety often apply to ads for motor vehicles. Disclaimers are extensively used in advertising motors mostly in connection with prices, financing offers and leases. Such ads should disclose the existence, if not the actual cost of additional items included in the sale price of the vehicle. The size/prominence of such disclaimers is key. The Competition Bureau has stated that the price quoted should include all costs the buyer must pay to obtain the vehicle or clearly disclose that extra charges apply. The claim should not suggest that the price is all inclusive when it is not. The basis of performance claims (government or agency tests) is often disclosed in a disclaimer to help avoid claims of misleading advertising based on results produced by another testing body.	
Restrictions to the media	<i>Others</i>	The type of media does not generally affect the types of claims that can be made. The prominence/clarity of disclaimers is more of a challenge on television ads or in any medium where space/time is limited.
Other conditions	The federal Motor Vehicle Fuel Consumption Standards Act also regulates fuel economy claims.	
Last updated	02 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)

Legislation Article

Information supplied by



If you wish to email this article to a colleague please type in their email address at the bottom of the page and click on "Send Article"

Activity	E-mail	
Country	Canada	
Contact	Geneviève Marcotte	
General legal framework	There is no specific E-mail (anti-spam) legislation to date. This area is covered under the general privacy legislation in Canada, PIPEDA and that of Quebec, Alberta and British Columbia. The province of Ontario at one point prohibited referral selling but that provision was repealed when the new Consumer Protection Act, 2002 was brought into force in July, 2005. The new law simply prohibits deceptive referral selling - specifically, "a representation that misrepresents or exaggerates the benefits that are likely to flow to a consumer if the consumer helps a person obtain new or potential customers". (Section 14(2), paragraph 17). Other provinces (Quebec) have limits on referral selling but not outright prohibitions.	
General self-regulatory framework	Little guidance to date. Mostly under privacy laws as stated above.	
The subject of the rules	Generally privacy legislation requires consent to collect, use and disclose an individual's personal information for commercial purposes. This applies to E-mail as well as other modes of communication. Generally this means you cannot send unsolicited email to someone unless you have consent the form of implied consent by having an existing relationship with them. The federal government is considering possible anti-spam legislation.	
Restrictions relating to products or services	<i>Tobacco</i>	Since tobacco advertising is prohibited, one cannot send e-mails marketing tobacco products.
	<i>Alcoholic beverages</i>	Since advertising alcohol to persons under legal drinking age in their province/territory of residence is prohibited, marketers should not send emails marketing alcohol to those under legal drinking age. Importantly in a number of provinces the legal drinking age is different from age of majority.
Last updated	02 June 2006	

Information supplied by: [Heenan Blaikie](#)
[Genevieve Marcotte](#)

Disclaimer

The information set out above is only intended to provide a general overview of the subject matter covered. It is not a substitute for legal advice, which should be obtained for each individual situation, from a suitably qualified and experienced local lawyer.

If you wish to email this article to a colleague please type in their email address below and click on "Send Article":

<< [Please click here to go back](#)