

June 1, 2018

Lise Thériault

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**Re: GAZETTE OFFICIELLE DU QUÉBEC, April 18, 2018, Vol. 150, No. 16 – Draft Regulation  
consultation for an Act mainly to modernize rules relating to consumer credit and  
to regulate debt settlement service contracts, high-cost credit contracts and loyalty programs**

The Canadian Marketing Association(CMA) supports efforts by the Government of Quebec to protect consumers and welcomes the opportunity to provide commentary on the draft regulations pertaining to loyalty programs.

It is encouraging to see an approach that aims to protect point collectors from unwarranted surprises and encourages strong competition in the loyalty program arena. Nonetheless, the draft regulations seem poised to give rise to consumer confusion and uncertainty, while imposing significant structural impediments on many loyalty program operators and those businesses that offer such loyalty incentive initiatives, inclusive of retailers, banks, credit card companies and airlines. As such, the proposed provisions pose challenges for loyalty program operators and create unintended consequences for Quebec consumers.

One of the challenges we foresee is the inability to adjust the value of various reward offers or alter in any manner the conversion factor for points already accumulated by the consumer. Due to this proposed restriction, loyalty initiatives will be forced to manage all aspects of program administration and management structured at a specific point in time, for the life of the program. As such, loyalty program providers will have to, at a minimum, manage multiple-value currencies in their members' accounts, revise accounting practices, and invest to adapt and ensure substantive technology and data management processes. These will in turn lead to unnecessary increases to the costs of doing business, trigger ongoing members' communication and accompanying challenges. Without a doubt, this will create an environment of consumer and merchant confusion and complication, given the uncertainty of which earned-value currency they will be using. As we are not aware of any such restriction in other jurisdictions, this unprecedented proposed approach may inadvertently result in additional program changes, ultimately having a negative impact on many Quebec consumers who benefit from their participation in loyalty programs.

Loyalty programs are expected to compete for the support of their members and partner organizations and so they must also have reasonable flexibility to adapt to the ever-changing business conditions facing them as do other businesses in the marketplace that alter prices appropriately and reasonably as market conditions or competitive realities dictate. There should be no restrictions on adjustments to the values of various reward offers where such changes take into account consumer expectations and conform with reasonable and modest notice requirements.

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The CMA is in full agreement with the proposal that the cancellation of points requirements prescribed within the draft regulations should be permitted based on reasonable terms and conditions that are spelled out in the program membership agreement. For example, points expiration based on passage of time should be allowed in certain circumstances, such as member account inactivity. This approach would be consistent with Ontario laws and would help Quebec-based organizations prosper without having to adhere to different standards across provinces. We also want to reiterate the importance that undue restrictions not be placed on a business' ability to wind down or terminate a loyalty program where this is done in accordance with terms of the membership agreement.

The \$50 threshold that the CMA had put forward in its proposal to the Ontario government in 2017 and is now included in these draft regulations as well, was intended as a way to help support and distinguish the local merchants that offer small scale loyalty programs and initiatives such as everyday items like coffee, baked goods or sandwiches. It is important that a threshold exemption supports a competitive, level and dynamic environment in the loyalty program sphere and it should in no way lead to any organization attempting to circumvent the intent of this type of legislation. With that in mind, the Government of Quebec should consider clarifying language that clearly reflects the intended applicability of this provision.

Loyalty programs require sufficient latitude to operate successfully. A successful loyalty program provides superior and valuable rewards to its members and in turn to its partners, and helps to drive economic prosperity through its partners, suppliers, employees and most importantly, its members. Major regulatory changes affecting loyalty programs can have unintended and adverse consequences for members. Regulatory change often will require affected businesses to invest valuable time and money to introduce/redesign policies and processes, update communication materials and employee training, as well as manage program variations across different jurisdictions. It is important that businesses are given ample notice of the final regulations prior to the July 25, 2019 in effect date to prepare. A consumer education component should also be part of the rollout of the regulatory changes for loyalty programs in Quebec.

The Canadian Marketing Association appreciates the opportunity to provide input and we thank you for your consideration.

### **About the CMA**

The Canadian Marketing Association embraces Canada's major business sectors and all marketing disciplines, channels and technologies. The Association's members make a significant contribution to the economy through the sale of goods and services, investments in media and new marketing technologies and employment for Canadians. Against this backdrop, the Canadian Marketing Association is the national voice for the Canadian marketing community, with CMA's advocacy efforts designed to create an environment in which responsible consumer-friendly marketing can succeed.

For any further information regarding CMA or this submission please contact Florentina Stancu-Soare at 416-644-3766 or [fstancu-soare@thecma.ca](mailto:fstancu-soare@thecma.ca).

Sincerely,

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