

MARCH 6, 2017

## Rewards Programs May Be Covered by Québec Consumer Protection Legislation

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On February 22, 2017, Bill 791: An Act to amend the Consumer Protection Act in order to regulate rewards program contracts (Proposed Amendment) was introduced as a private member's bill in the Québec National Assembly. The Proposed Amendment extends the scope of the Québec Consumer Protection Act (Act) to encompass contracts related to rewards programs.

"Rewards programs" is defined by the Proposed Amendment as a program under a consumer contract or contract of credit under which a consumer receives points that can be exchanged for money or for free or reduced-price goods or services. Thus customer loyalty programs and other rewards-based customer incentives will be subject to the Act if the Proposed Amendment comes into force.

On the basis of this first draft of the Proposed Amendment, retailers and other consumer-facing businesses will need to consider the following when evaluating their current or future rewards programs to ensure they are compliant:

- **Disclosure:** Before entering into rewards program contracts, merchants must inform the consumer of the conditions applicable to obtaining and using rewards points.
- **Expiration:** Subject to any applicable regulations (none of which have yet been proposed), any stipulation of or amendment to the contract providing for an expiry date of the rewards points obtained by the consumer is prohibited.
- **Changes to value:** Any stipulation providing that the merchant may retroactively change the value of the rewards points accumulated by the consumer is prohibited.

The proposed additions to the Act to include rewards programs is in keeping with similar legislative initiatives taken in other Canadian jurisdictions. Notably, the proposed changes are similar to the amendments to the Ontario Consumer Protection Act created by the Protecting Rewards Points Act, which was introduced by way of a private member's bill on October 20, 2016, and passed by the Ontario legislature on December 5, 2016. This legislation is set to come into force later this year and will have a retroactive effect to October 1, 2016, with respect to the expiry of reward points.

It remains to be seen whether the Proposed Amendment will be enacted in its present form or whether these additional protective measures will be diluted or expanded. In the case of the Protecting Rewards Points Act, the bill initially put forward prohibited expiry of rewards points. This was subsequently amended before the bill was passed so that the expiry of rewards points will not be allowed "due to the passage of time alone." We will continue to monitor the Proposed Amendment's evolution in the national assembly and provide periodic updates about the nature of its modifications to the legislative landscape, as warranted.

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