

## **Agreement on Internal Trade, Chapter Eight -- Consumer - Related Measures and Standards**

### **Annual Report to the AIT Secretariat Office of Consumer Affairs, Industry Canada Fiscal year ending March 31, 2000**

#### **1. INTRODUCTION/BACKGROUND**

Chapter Eight of the Agreement on Internal Trade calls upon the federal, provincial and territorial governments to report on and cooperate in the enforcement of consumer protection measures. As part of that agreement, the Committee on Consumer Related Measures and Standards (CMC), composed of federal, provincial and territorial officials, undertook negotiations to reach agreement on specific commitments made under the AIT. The CMC is furthermore tasked with monitoring the implementation and administration of agreements made under Chapter Eight of the AIT.

The CMC is also responsible for identifying any substantive measures for inclusion in future negotiations and to act as a forum for discussions between the Parties on consumer-related measures as well as dispute resolution. The CMC is presently co-chaired by Ms. Judy Budovitch, of New Brunswick's Ministry of Justice (replacing Mr. Rick Solkowski, Alberta Ministry of Government Services), and Mr. Michael Jenkin, Director-General of the Office of Consumer Affairs, Industry Canada.

#### **2. GENERAL PROGRESS ON CHAPTER EIGHT**

There has been excellent progress towards meeting the objectives outlined in Chapter Eight. This progress has been the result of maintaining open and frank lines of communication through regular meetings and conference calls of CMC representatives, a meeting of Deputy Ministers Responsible for consumer affairs in Québec City in March, 2000, and through the annual Ministers' meeting held in Banff in November, 1999

Progress is being made with regard to harmonization of direct sellers and cost of credit disclosure measures, despite the fact that the original deadlines for implementation have been missed.

It should be noted that the CMC and the Ministers' meetings have proved to be effective fora for

issues of importance to consumers but which lie outside the strict limits of Chapter Eight. These areas include collection agencies, market-based consumer redress, electronic commerce, and the “alternative consumer credit market”.

### **3. SPECIFIC REQUIREMENTS UNDER CHAPTER EIGHT**

#### **3(a) Harmonization**

##### ***3(a)(i) Direct Sellers Measures*** (AIT Annex 807.1)

*AIT Deadlines:*

Conclusion of Negotiation: July 1, 1995  
Adoption of Legislation: July 1996

*Issue:*

Negotiations among the provinces/territories began in 1994. While it was impossible to harmonize the definition of “direct seller”, the jurisdictions agreed to establish a 10-day cancellation right for consumers, and well as obligatory contractual terms. In this way, consumers would receive a high standard of protection throughout the country, while businesses operating in more than one jurisdiction could use the same contract in each.

Ultimately, final agreement was reached on a harmonization proposal establishing a 10-day absolute cancellation policy and a single statement of cancellation rights to be issued in one uniform contract across the country.

*Progress:*

Since the last report, all of the four jurisdictions which had yet to harmonize (i.e. Ontario, Nova Scotia, North West Territories, and British Columbia) have had their bills passed in their legislatures while only Ontario’s legislation awaits proclamation of enabling regulations.

##### ***3(a)(ii) Cost of Credit Disclosure Harmonization*** (AIT Annex 807.1)

*AIT Deadlines:*

Conclusion of negotiations: January 1, 1996  
Adoption: January 1, 1997

*Issue:*

Changing patterns of credit use among Canadians have prompted the need to modernize laws governing credit. In particular, consumer leasing arrangements, similar to credit arrangements,

have become more and more widely used as a means of financing automobiles.

The objectives of the reforms are to harmonize laws and develop simplified, uniform cost of credit disclosure requirements in order to reduce compliance costs and provide uniform consumer protection across Canada. Harmonization will apply to all federal and provincial laws governing disclosure of the cost of consumer loans. At the federal level, harmonization affects the *Bank Act* and the *Interest Act*, while at the provincial level the affected statutes are predominantly consumer protection and financial institutions laws.

There are three specific objectives being pursued:

- C Fair, accurate, timely and comparable consumer information about the cost of credit
- C Easy to understand credit disclosure
- C Ability for consumers to pay off loans at any time with no financial penalty

*Progress:*

In June 1998 the CMC presented the draft technical template in accordance with the approved harmonisation proposals at the 1996 Consumer Ministers' meeting. As of the last report, Alberta and the Federal government had tabled legislation in accordance with the template. Since then Alberta's legislation has come into force (September 1, 1999), and both Ontario and British Columbia tabled legislation with Ontario's legislation also receiving royal assent. The Federal Government, Ontario and British Columbia are developing the effective implementing regulations.

*(Note that subsequently British Columbia's legislation has received Royal Assent).*

*Major Issues with Implementation:*

With the current legislative and regulatory framework well under way in most jurisdictions, in particular four large jurisdictions -- Ontario, Québec, Alberta and the Federal Government -- which have worked closely with each other in the drafting of their new rules and are sharing drafts with other jurisdictions, smaller jurisdictions are now more likely to move forward with amendments. The CMC Co-chairs, as well as representatives of the four larger jurisdictions, are confident that this close cooperation will create the critical mass necessary to finally modernize cost of credit disclosure laws throughout Canada.

*Future Action:*

Although full implementation will be long after the deadline indicated in the AIT Annex, progress in the major jurisdictions reflects a formidable effort, given the arduous negotiations and consultations over this difficult material. Most remaining jurisdictions anticipate that their enabling legislation will be tabled sometime in 2001 or 2002.

**3(b) Cooperative Enforcement**  
(AIT Article 808)

**3(b)(i) Cooperative Enforcement Agreement**

The Cooperative Enforcement Agreement, approved by Ministers in 1998, came into effect on April 1, 1999. The agreement provides for a uniform administrative mechanism for requesting and supplying information and other assistance from other jurisdictions. Although not formally incorporated or annexed to the AIT, the CMC fulfilled its obligations under chapter 8 by reporting on the conclusion of the agreement to Ministers. The Agreement has been signed by the appropriate Ministers in all jurisdictions save the Yukon and Nunavut.

*Future Action:*

The CMC hopes to extend the agreement to apply to the Yukon and Nunavut.

**3(b)(ii) Canshare**

Ministers approved the creation of a Canshare Management Sub-Committee, composed of representatives from each jurisdiction's regulatory branch to work with other law enforcement agencies to access Canshare, to develop a business plan and implementation plan. The Sub Committee, which is currently chaired by Alberta and the Federal Government, continued working on legal documents to enable the creation and sustainable funding of Canshare and access by new law enforcement agencies, in addition to a document setting out the rules of usage. Data from Ontario, Alberta, Saskatchewan, the Federal Competition Bureau and Project Phonebusters has been incorporated into the information sharing network, while most jurisdictions are posting alerts.

**3 (c) Other Commitments**

**3 (c) (i) Dispute Resolution**

(AIT paragraph 809(2)(d))

Since the last report the CMC approved changes to the dispute resolution process as proposed by the AIT secretariat and the newly renamed "Consultations Process" was forwarded to the Secretariat of the Agreement on Internal Trade on May 5, 1999 for approval.

**3(d) Other Issues**

**3(d)(i) Electronic Commerce**

(AIT paragraph 809(2)(c))

At the Banff consumer ministers meeting in November 1999, Ministers approved the electronic commerce work of the CMC which will focus on the following three areas:

- i) *Adaptation and harmonisation of existing consumer protection laws to the electronic commerce environment:* The CMC developed a common approach to adapting and harmonising consumer protection law, based on present distance selling and direct sales provisions, including rules for information disclosure, contract formation and cancellation rights. Key aspects include requirements for clear contract formation procedures, contract

documents being in the custody and control of the consumer and the use of electronic signatures. This provides a guide for jurisdictions as they consider changes to their consumer protection laws and regulations. Although there is no timetable for this harmonisation exercise, a number of jurisdictions are moving ahead and all jurisdictions will be exchanging information on planned legislative initiatives.

- ii) *Consumer education and information:* The CMC will be working together with business and consumer groups to determine what information products and tools could be developed to help consumers protect themselves when shopping on-line.
- iii) *Merchant Certification and On-Line Consumer Redress:* The CMC will be working with business and consumer groups on the development of a coherent Canadian approach to these issues. The objective is to introduce measures aimed at providing adequate protection for consumers regarding e-commerce, and to develop good practices.

**3(d)(ii) Forward Agenda**  
(AIT Article 809(2)(c))

Following a meeting in February 1999 on marketplace trends, the CMC developed a framework for forward agenda development through a discussion paper and presentation which was tabled to Ministers in Banff and is being revised and updated upon the direction of Deputy Ministers.

Significantly Ministers in Banff approved of a future workplan which includes work in the following areas:

*a) Collection Agencies:* Over the past year, the CMC has focussed attention on the need for more cooperation to address consumer concerns about abusive tactics by collection agents. Led by Saskatchewan and New Brunswick provinces and territories worked together to: revise licencing application forms to enable more sharing of information among regulators; work in consultation with industry and consumer groups to harmonize prohibited practices in collection agency legislation; and study issues pertaining to financial security measures that protect creditors.

*B) Market -Driven Consumer Redress:* Research over the past year has indicated the value of expanded and more innovative marketplace mechanisms for handling consumer complaints and providing effective redress. The Consumer Measures Committee established a Task Force on Market-Driven Consumer Redress, chaired by Alberta and the Federal government, with a mandate to work in collaboration with business and consumer groups to identify best practices for complaint prevention, handling and dispute resolution.

*c) Alternative Consumer Credit Market:* CMC research over the past year indicates that an increasing number of consumers, facing debt and credit pressures and lack of access to traditional

credit markets, are seeking small, short term loans from alternative lenders at very high cost. While it was recognized that more research is needed to better understand this growing industry and the consumers who use it, the Alternative Consumer Credit Market working group, chaired by British Columbia and the Federal Government began in 2000 to engage stakeholders in discussions about industry practices and consumer needs and to examine how vulnerable consumers can be helped to make more informed choices in the marketplace for small, short term credit. A successful roundtable was held in June 2000 in Vancouver to this effect.

#### 4. CONSUMER AWARENESS

##### *Deceptive Telemarketing:*

The CMC participated as a member in the Deceptive Telemarketing Prevention Forum, a committee of public and private sector partners which has developed a publicity campaign to help combat telemarketing fraud. The Forum presented to Ministers in November, 1998, and launched its campaign in May 1999.

##### *Consumer Handbook:*

Following the successful March 31, 1999 launch of the *Canadian Consumers' Handbook*, first presented to ministers in November 1998, an equally successful second edition was launched on March 31, 2000.

The book comprises two main sections. The first of these contains general advice and guidance to consumers. The second is a directory of postal addresses, telephone and fax numbers and, where applicable, e-mail addresses of government departments, organizations, associations and businesses which may assist consumers with particular queries and/or problems.