

IF
CASINOS
REGULATED

WAL★

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• • •

WERE

LIKE

MART

University of Calgary



WAL★MART



Research Questions

- (1.) How are consumers protected in the marketplace?**
- (2.) Are gamblers "consumers" of services in need of protection?**
- (3.) How are gamblers as consumers protected under Canadian law?**

Consumer Protection

Few areas of the law affect the average [individual] as directly or dramatically as consumer protection. As consumers of complex goods and services we are exposed on a daily basis to problems of product safety, fair trade practices, product quality and dispute resolution.... [C]onsumer protection problems are important both to the individual and to society at large.... The nature and extent of consumer protection regulation in a modern society says a great deal about that society, about its social and political sophistication and maturity....

- Edward Belobaba, 'The Development of Consumer Protection Regulation: 1945 to 1984' in Bernier, I. and Lajoie, A. (eds.) Consumer Protection, Environmental Law and Corporate Power (1985) at 1-2

Gambler as Consumer?

Gambler:

gaem blEr

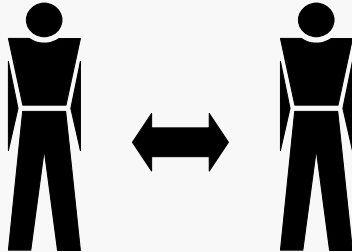
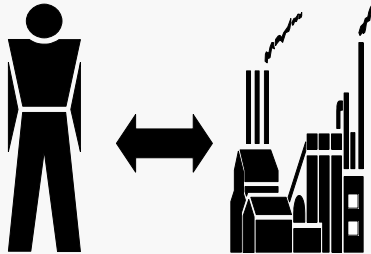
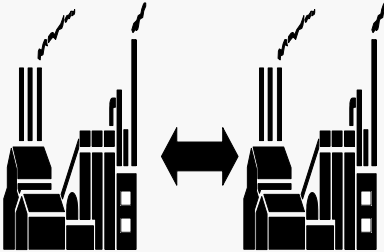
1. one who bets money or other stakes on the outcome of a game, race, or any other game of chance or skill.

Consumer:

kEn su mEr

1. one who purchases goods or services.

Predictive Model for Regulatory Intervention in Contractual Relationships

Type of Contractual Transaction	Economic Relationship	Examples	Characteristics	Degree of Special Legal Protection Between Parties
<p>(#1) <i>Private</i></p>		<ul style="list-style-type: none"> ▪ Babysitting in one's neighbourhood ▪ Sale of one's personal effects online ▪ Giving one's "word" ▪ Garage sales 	<ul style="list-style-type: none"> • Ad hoc, infrequent • Personal use • No party "in this business" • Caveat emptor • Small value stakes • "As is, where is" 	<p><i>Little</i></p>
<p>(#2) <i>Consumer</i></p>		<ul style="list-style-type: none"> ▪ *Gambler—Casino* ▪ Employee—Employer ▪ Tenant—Landlord ▪ Professional services ▪ Customer—Retailer ▪ Borrower—Bank ▪ Insured—Insurer 	<ul style="list-style-type: none"> • Consumer v. Business • Standardized forms • Often unequal bargaining power • Frequent transactions 	<p><i>Much (favouring consumer)</i></p>
<p>(#3) <i>Commercial</i></p>		<ul style="list-style-type: none"> ▪ Contracts of supply ▪ Wholesale trade ▪ Contractor—Subcontractor ▪ Franchisor—Franchisee ▪ Government procurement 	<ul style="list-style-type: none"> • Business doing commerce with another business • Law consider both partners to be equally strong and aware • Frequent in the world of business 	<p><i>Little</i></p>

Misleading Advertising

Food and Drugs Act R.S. 1985, c. F-27

Ss. 5, 9 and 20 prohibit false, misleading or deceptive advertising of food, drugs, cosmetics and therapeutic devices

Competition Act R.S. 1985, c. C-34

An Act to provide for the general regulation of trade and commerce in respect of conspiracies, trade practices and mergers affecting competition

S. 52 prohibits false or misleading representations made for the purpose of promoting the supply or use of a product or of any business interest

S. 74 prohibits “deceptive marketing practices” such as misleading advertising and bait and switch advertising

Labelling

Consumer Packaging & Labelling Act R.S. 1985, c. C-38

An Act respecting the packaging, labelling, sale, importation and advertising of prepackaged and certain other products

Textile Labelling Act R.S. 1985, c. T-10

An Act respecting the labelling, sale, importation and advertising of consumer textile articles

Weights and Measures Act R.S. 1985, c. W-6

An Act respecting weights and measures

Conduct Toward Consumers

Telemarketing—Competition Act R.S. 1985, c. C-34

S. 52.1 criminalizes deceptive telemarketing, requires telemarketers to disclose specific information and prohibits certain practices

Product Safety

Food and Drugs Act R.S. 1985, c. F-27

An Act respecting food, drugs, cosmetics and therapeutic devices

Canadian Food Inspection Agency Act 1997, c. 6

An Act to establish the Canadian Food Inspection Agency

Hazardous Products Act R.S. 1985, c. H-3

An Act to prohibit the advertising, sale and importation of hazardous products

Motor Vehicle Safety Act 1993, c. 16

An Act to regulate the manufacture and importation of motor vehicles and motor vehicle equipment to reduce the risk of death, injury and damage to property and the environment

Fair Trading Act

R.S.A. 2000, c. F-2

Unfair Practices

S. 6 of the Fair Trading Act sets forth a list of prohibited “unfair practices.” Such practices include exerting pressure or influence on the consumer to enter into the consumer transaction; inserting in a consumer transaction terms or conditions that are harsh, oppressive or excessively one-sided; and, a supplier's doing or saying anything that might reasonably deceive or mislead a consumer.

Negative Option Practices

S. 22 states “A consumer is not liable to pay for any goods or services received under a negative option practice unless the consumer agrees in writing to pay for the goods or services.”

S. 23 states “No supplier may supply goods or services to a consumer through a negative option practice.”

Direct Sales Contracts

S. 27 states “A consumer may, without any reason, cancel a direct sales contract at any time from the date the sales contract is entered into until, subject to the regulations, 10 days after the consumer receives a copy of the written sales contract.”

Time Share Contracts

S. 37(1) states: “A consumer may, without any reason, cancel a time share contract at any time from the date the contract is entered into until 7 days after the consumer receives a copy of the contract.”

Credit and Personal Reports

Ss. 44-46 establish rules governing the furnishing, content, and disclosure of credit and personal information.

S. 49 reads: “No person may give false or misleading information to a reporting agency.”

Cost of Credit Disclosure

Ss. 62-65 require credit grantors to disclose total costs of credit and stipulate the form and manner of such disclosures

Designated Trades and Businesses

S. 104(1) states “No person may engage in a designated business unless the person holds a licence under this Act that authorizes the person to engage in that business.” Such trades and businesses are regulated by the provincial government, i.e., by specifying activities that constitute engaging in a designated business and establishing codes of conduct.”

Collection Practices

S. 116 imposes upon collection agencies and collectors a list of prohibited collection practices. For example, a collector may not make any personal call or telephone call for the purpose of demanding payment of a debt on any day except between 7 a.m. and 10 p.m.

Research Findings

- (1.) Gamblers are consumers.**
- (2.) Government protects consumers in several different ways, but there is no general consumer protection for gamblers.**
- (3.) Casinos engage in practices that likely would not be permitted in other businesses.**