

Gift Card Review

Public Consultation Paper & Survey

This initiative is part of Manitoba's five year plan for stronger consumer protection. The public consultation paper is a review of Part 20 of *The Consumer Protection Act* and the *Prepaid Purchase Cards Regulation, 98/2007*.

Consumer Protection Office

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Disponible en français.
Available in alternate formats upon request.

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Introduction

In 2007, Manitoba introduced prepaid purchase card legislation under Part 20 of *The Consumer Protection Act* and the *Prepaid Purchase Cards Regulation, 98/2007*. The legislation addressed consumer concerns and complaints about prepaid purchase cards.

Under the legislation, a mandatory review of the program was required 18 months after coming into force. The initial review found that no changes to the legislation were needed at that time. A second review was planned to be held in three years.

This public consultation paper is part of the second review. It identifies the main features of the existing legislation and how it applies in Manitoba. It also provides information about how other provinces regulate prepaid purchase cards; identifies some of the differences between provinces; and discusses ongoing issues related to prepaid purchase cards.

This discussion paper provides general information about prepaid purchase cards. The public is encouraged to fill in the survey questions at the end of this discussion paper and provide any other information that may be useful to government in reviewing legislation on this topic.

Confidentiality

This public consultation paper is part of the Manitoba Healthy Living, Seniors and Consumer Affairs review of Part 20 of *The Consumer Protection Act* and the *Prepaid Purchase Cards Regulation, 98/2007*. Your submission and comments are an important part of the review process.

The information you provide will be used only to assist in the review of legislation and regulations pertaining to prepaid purchase cards. This will involve disclosing your submission and comments to the government employees carrying out the review of this legislation. It may also involve disclosing your submission and comments to others participating or interested in the consultation during and after the consultations, through various means such as written reports and the internet. Your personal identity including your name will not be disclosed to the public without your consent. But please be aware that the identity of an organization may be made public in connection with its submission or comments.

You may be contacted by a government representative to clarify your submission or comments. Your name will not be placed on any mailing lists that are not related to the public consultation.

Our authority to collect any personal information you provide is section 36(1)(b) of *The Freedom of Information and Protection of Privacy Act*. Any personal information you provide as a part of this consultation is protected by the Act. If you have any questions about the collection, use or disclosure of your personal information, please contact:

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Industry Overview

The popularity of prepaid purchase cards remains strong in Canada and private market research shows a spending increase of four per cent by consumers in 2010. Further, most consumers (56 per cent) buy these cards year-round, not just during the December holiday period.

Consumers

Prepaid purchase cards are popular because they are an easy and convenient way to shop. People appreciate them as gifts because they can buy goods or services they actually need or want. The cards can also be used as payment towards larger purchases or to offset other expenses.

Retailers

Prepaid purchase cards continue to be an effective marketing tool for retailers. They can be easily displayed in a store and they can help build consumer loyalty. When redeeming the cards, most consumers spend more than the value of the card.

Regulating prepaid purchase cards

Before the introduction of prepaid purchase card legislation, consumers were concerned that the value of their cards had decreased or could become void because of various fees enforced by the vendors or because of expiry dates. Consumers were not made aware, when they bought the cards, about the terms and conditions that applied to the cards. All provinces now have legislation to regulate prepaid purchase cards.

Most provinces have the following protections:

- restrictions on expiry dates
- restrictions on fees
- requirements for information and disclosure
- administrative penalties for failure to comply with the law

Manitoba Legislation

In November 2007, Part 20 of *The Consumer Protection Act, Prepaid Purchase Cards*, and the *Prepaid Purchase Cards Regulation, 98/2007* came into force. In Manitoba, a prepaid purchase card is any electronic card, written certificate or other voucher or device with a monetary value that can be used in the future to buy goods or services. This definition includes products commonly referred to as **gift cards** and **gift certificates**. Manitoba's prepaid purchase card legislation and regulation contain several provisions.

Expiry dates

Manitoba does not allow expiry dates on prepaid purchase cards **except** in the following circumstances:

- the card is issued or sold for a specific good or service (ex: a manicure)
- nothing of value is exchanged for the card when it is issued (ex: cards issued for a promotion or a charity or as a part of a rewards/loyalty program)

Fees

Manitoba does not allow fees to be charged for a prepaid purchase cards **except**:

- to replace a lost or stolen card
- to customize a card (ex: personal photograph on a card)
- if a card has not been used for 12 months (a maximum charge of \$2.50 per month for multi-vendor (mall) gift cards)

Information disclosure requirements

Manitoba requires anyone who issues prepaid purchase cards to provide the following information to buyers in a way that it is likely to bring it to the cardholder's attention:

- all restrictions, limitations and conditions
- how the holder can get information about the card, including outstanding balances

Administrative penalties

If vendors breach the regulations, they may be charged a penalty of \$1,000 to \$5,000. Penalties for other offences under the act may also apply.

Legislation in other provinces

All provinces in Canada currently have prepaid purchase card legislation. Most have many of the same general features – some are more restrictive than others.

Expiry dates

Expiry dates on prepaid purchase cards have been banned in all provinces. However, some common exceptions include prepaid purchase cards issued for charities or promotional purposes and on cards that are issued when nothing of value is exchanged for the card. For example, prepaid purchase cards that result from redeeming loyalty or reward points can have expiry dates.

Prepaid purchase cards issued for a specific good or service, (ex: manicure) are also often not covered. In some provinces (ex: Quebec, Nova Scotia), expiry dates are not allowed under any circumstances and businesses must provide the service even if it has increased in price. However, businesses in these provinces can protect themselves by indicating the value of the goods or services at the time the gift card is bought. In these cases, the consumer may have to pay the difference, but the value of the certificate will never expire.

Fees

All provinces restrict fees but the terms and exceptions vary. Some limit the amount of the fees, some restrict the circumstances when fees apply and some do both.

For example, British Columbia and Ontario have banned activation and dormancy fees. In some provinces, such as Alberta, activation fees are still allowed. Most provinces allow businesses to charge fees for replacing or customizing cards.

Activation fee: a fee charged to buy the card or to use the card for the first time

Dormancy fee: a fee deducted from the unused balance on a card if it has not been used in several months

Multi-vendor (mall) gift cards

Most provinces treat multi-vendor or mall cards differently than cards issued by one retailer and allow limited activation and dormancy fees. Depending on the province, activation fees can range from \$1.50 to \$3.50. Dormancy fees are typically \$2.50 per month. However there are differences between provinces as to when these fees become applicable. Generally, these fees begin after 12 to 18 months of inactivity, but some provinces allow consumers to extend the period if they contact the retailers.

Network-branded prepaid cards

In Saskatchewan and Quebec, prepaid purchase card rules also apply to cards branded or issued by federally regulated institutions. In Saskatchewan an activation or upfront fee may be charged, but dormancy fees are prohibited, unless the card has a cash-back option. If the card has a cash-back option, the prepaid purchase card rules do not apply and fees can be charged. In Quebec, prepaid purchase card protections apply to network-branded cards, with the exception being that fees can be charged for issuing the cards and refunds on balances of \$5 or less are not required.

Prepaid phone cards

In Saskatchewan and Quebec, prepaid phone cards are regulated under prepaid purchase legislation. If a prepaid phone card has not been activated, it cannot expire. However, if the card has been activated, it is only good for the period specified, even if the full value of the card has not been used. In Quebec, mobile phone prepaid cards can have expiry dates and they do not have to provide refunds on balances of \$5 or less.

Disclosure

All provinces regulate how the terms and conditions of the prepaid purchase cards must be disclosed. Also, most provinces require the vendor to give the consumer the contact information to find out the balance or other features of the card.

Refunds on card balances

In Quebec, a retailer must refund the remaining value on a prepaid purchase card if asked to do so by the consumer and the remaining value is \$5 or less. However, this does not apply to network-branded prepaid cards or prepaid mobile phone cards.

Ongoing issues

Federal regulation of prepaid payment products

The June 2011 federal budget announced that the government was developing ways to increase consumer protection for users of prepaid payment products. Prepaid payment products are also referred to as network-branded prepaid cards, such as those cards offered by Visa, American Express or MasterCard. This was in response to consumer concerns about the fees, terms and conditions associated with these types of cards.

In October 2012, the proposed *Prepaid Payment Products Regulation* was announced. The aim of the regulation is to ensure that consumers understand what fees and conditions apply to network-branded prepaid cards so that they can make informed financial decisions. The proposed regulation will require issuers to disclose fees on the outside packaging to consumers in a way that is clear, simple and not misleading. Additionally, issuers must provide information about where they can access the full terms and conditions of the card and a toll-free number to call and find out about the remaining balance on the card.

The new federal regulations would prohibit:

- funds on the card from expiring, unless it is a promotional product
- maintenance or dormancy fees for at least a year after activation, unless it is a promotional product
- fees and interest charges with respect to overdraft without the express consent of the product holder

Public consultations regarding the proposed regulation are expected to be complete by the last week of November 2012.

Website and virtual gift cards

The market for prepaid purchase cards is no longer limited to physical cards. The market now includes website and virtual gift cards. Private market research shows 12 per cent of gift cards in 2010 were for or from websites and 18 per cent of consumers received this type of virtual gift card in the past year.

The popularity of online prepaid purchase cards is predicted to grow in the future as smart technologies continue to advance.

Group buying and daily deal websites

In the past several years, many daily deal websites (ex: Deal Find, Groupon, Swarm Jam) have gained popularity. They offer prepaid services to consumers or groups of consumers at a discount.

Many consumers like these sites because they can get goods and services at a significant discount. Many retailers like the sites because they see them as an effective way to market to consumers and to create consumer loyalty. The sites also offer the retailer an opportunity to develop store loyalty and to market and sell other products or services not connected with the discount coupon.

Some of the common terms and conditions of these group-buying coupons include:

- expiry dates
- no substitution clauses
- no refunds for the full value of the coupon
- limits on the number of coupons that can be purchased

Feedback

Your feedback will be used for ongoing review and revisions to laws and regulations. The Manitoba government's goal is to protect consumers, while supporting a stable marketplace and level playing field for businesses.

We welcome your responses to this discussion paper and would also welcome your responses to the attached survey. Please provide any additional information, your personal experiences and comments on the topic. Responses to the survey can be submitted online (using the online survey tool) or by mail, email or fax to:

Consumer Protection Office

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Phone: 204-945-3800

Toll free: 1-800-782-0067

Fax: 204-945-0728

Email: consumers@gov.mb.ca

Please submit your response by February 8, 2013.

Any personal information you provide is protected by the *Freedom of Information and Protection of Privacy Act*. If you have any concerns about privacy, please refer to the confidentiality section in this discussion paper.

Thank you for participating in this consultation.

Prepaid Gift Card Survey

1. Did you know the Manitoba government regulates prepaid gift cards?

- Yes No

2. Have you recently **bought** a prepaid gift card?

- Yes No

Please comment on your experience.

3. Have you recently **redeemed** a prepaid gift card?

- Yes No

Please comment on your experience.

4. Should inactivity fees be allowed for multi-vendor gift cards (mall cards)?

- Yes No

5. Have you ever bought a prepaid gift card over the Internet?

- Yes No

Please comment on your experience.

6. Should prepaid gift cards purchased from a group buy website be allowed to:

a. Have expiry dates? Yes No

b. Charge a fee? Yes No

7. What information do you think should be given to people who buy prepaid gift cards? Please check all that apply.

Fees payable

Expiry dates

Contact information to get the balance on cards

Contact information for general inquiries

Consumer Protection Office contact information

Other? Please specify _____

8. Should retailers be required to offer to convert the prepaid gift card to cash when the balance on the card goes below a certain value?

Yes No

9. If yes, at what value should retailers be required to convert a prepaid gift card to cash, if the customer asks?

Less than \$2

Less than \$5

Less than \$10

The remaining value after any purchase

Other _____

Additional comments: _____

10. Have you ever bought a network-branded prepaid card (ex: Visa, American Express, Master Card) issued by a federally regulated institution?

Yes No

11. Have you ever received a network-branded prepaid card (ex: Visa, American Express, Master Card) issued by a federally regulated institution?

Yes No

12. If you answered **YES** to either question 10 or 11,

a. Did you pay fees of any kind? Yes No

b. If **YES**, please indicate amount paid \$ _____

c. Was there an expiry date? Yes No

d. If **YES**, please indicate length _____

e. Were you given adequate information about the fees or expiry dates?

Yes No

Additional comments: _____

13. Should issuers of network-branded prepaid cards be allowed to charge any of the following types of fees? Please indicate the box that applies. If you indicate “Yes” or “Capped Amount,” please enter the amount you think it should be limited to.

	Yes	No	Capped Amount	Indicate Amount
a. Purchase or activation fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
b. Monthly fee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
c. Inactivity/dormancy fee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
d. Transaction fee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
e. Replacement fee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____

14. Please add any comments or information you think would be useful to government about your experience with prepaid gift or purchase cards.

15. Please identify yourself as any of the following groups: (optional)

- Consumer
 - Retailer
 - Organization
 - Other? Explain _____
-
-

We may wish to contact you to clarify your submission or comments. If you are willing to be contacted, please provide your name and contact information below. Please note that your name will not be placed on any mailing lists that are not related to the public consultation.

Name: _____

Phone: _____

Email: _____