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## SALES AND DISTRIBUTION IN QUÉBEC

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The Province of Québec is the only Canadian province whose law system is based on the civil law tradition. The Civil Code of Québec (CCQ) is a general law that contains all of the basic provisions that govern life in society, namely the relationships between people and property (ie. sales contracts and distribution). All other specific matters are enacted through statutes and regulations. Unlike in the United States, no Uniform Commercial Code is applicable in Canada.

The provisions of the contracts are generally regulated by the CCQ, which states that parties must act in good faith when the contract is formed, performed and extinguished. A contract is formed by the sole exchange of consent between the parties having capacity to contract.

The CCQ has significantly affected the basic principle of freedom of contract. If an agreement is not the result of a true and fair negotiation, it will be considered a “contract of adhesion” (Section 1378 CCQ). In that case, an excessive and unreasonable clause detrimental to the adhering party is null, or the obligation arising from it may be reduced.

Contract pre-determined by one party, printed order forms, invoices and receipts must be drawn up in French (or French and English), unless the parties agree to have it drawn up in another language.

There is no specific legislation in Québec governing distributorships, dealerships and franchises. However, in such agreements, the parties are bound by warranties of quality (Section 1730 CCQ) and can also be liable to repair injury caused by safety defects (Section 1468 CCQ).

In addition, the *Consumer Protection Act* governs contracts of goods and services entered into between a consumer and a merchant (in the course of his business) including contracts of credit as well as particular contracts and business practices.

Pursuant to the provisions of the *Consumer Protection Act*, it is prohibited to make false advertising and misrepresentations of goods and services, pyramid sales and use of commercial advertising aimed at persons under 13 years of age.

### **Competition Legislation**

If a distribution agreement is to be performed wholly or partially in Canada, the provisions of the agreement should be carefully considered in light of the *Competition Act*.

The *Competition Act* is a federal law governing most business conduct in Canada. It contains provisions aimed at preventing anti-competitive practices in the market place, and ultimately providing consumers with competitive prices and product choices. Some specific requirements are also included in *Consumer Packaging and Labelling Act*.

Manufacturer and distributor/supplier shall ensure that distribution arrangement they agreed upon does not breach any provisions of the *Competition Act* or related acts. A practice, whereby a supplier requires a customer to deal only or primarily the products supplied by the supplier or to refrain from dealing other kinds of products or with other suppliers, could raise the issue of “exclusive dealing” which may be a restrictive trade practice.

If resulting in a substantial prevention or lessening of competition (Section 77 of *Competition Act*) manufacturer shall not use its “dominant position” to do price discrimination or abuse.

### Internet Links

- Québec Minister of Justice

<http://www.justice.gouv.qc.ca/english/sujets/glossaire/code-civil-a.htm>

- Québec Minister of Industries

<http://www.mdeie.gouv.qc.ca/index.php?id=871>

- Québec Charter of French Language

<http://www.olf.gouv.qc.ca/english/infoguides/index.html>

- Access to law in Canada

<http://www.lexum.umontreal.ca/en/projects/index.html#can>

- Competition Bureau of Canada

[http://www.bureaudelaconcurrence.qc.ca/eic/site/cb-bc.nsf/eng/h\\_00148.html](http://www.bureaudelaconcurrence.qc.ca/eic/site/cb-bc.nsf/eng/h_00148.html)