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This webinar is facilitated by **Your Legal Rights**, a website of legal information for community workers and advocates who work with low income and disadvantaged communities in Ontario.

Funding for this webinar was provided by the **Law Foundation of Ontario** as part of The Connecting Project and the Connecting Communities Consortium.

www.communitylawschool.org

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The Law Foundation of Ontario
Building a better foundation for justice in Ontario



**Community Law School
(Sarnia-Lambton) Inc.**



**your legal
rights**



Please Note:

The content of this webinar is based on law that was current on the date the webinar was recorded. Your Legal Rights webinars contain general legal information. They are not intended to be used as legal advice for a specific legal problem. For more information on how to find a lawyer or to contact your local community legal clinic visit: www.yourlegalrights.on.ca/find-services

About our presenter...

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**Hot Topics in
Consumer Protection:
Watch Your Step on the
Internet!**

Webinar Overview



1. What are common internet frauds?
2. Options for Action, #1: Prevention
3. Options for Action, #2: Personal Reporting
4. Options for Action, #3: Contact Criminal Law Enforcement
5. Options for Action, #4: *Consumer Protection Act* Protections
6. Resources: Contact Information





Options for Action, #1: Prevention



- Be suspicious of all emails requesting personal information, no matter how legitimate it may seem (e.g., from your bank, university, or a government office).
- Do not click on links, as personal information could be revealed without your or your client's knowledge.
- Never enter personal information in a “pop up” window.
- Do not provide banking, credit card, or debit card information to strangers, regardless of how desperate or sad their story seems.
- Do not agree to pay a “fee” or “Processing charge” in order to claim a prize or a lottery win.
- Do not agree to deposit a cheque from a stranger and send a portion back for a percentage (because the stranger's cheque is counterfeit and will bounce).





Options for Action, #2: Personal Reporting

- Whether the scam involves loss of personal information and/or money, it is important to promptly report the incident.
- This could potentially result in monies being returned.
- The following parties should be alerted when you or your client are scammed:
 - All banks or other financial institutions
 - All credit card companies
 - Any government office affected by the scam (e.g., Passport Canada, Social Insurance Number, OHIP, etc.).





Options for Action, #3: Contact Criminal Law Enforcement

- Internet frauds can constitute violations of the *Criminal Code*, the *Competition Act*, and the *Consumer Protection Act*.
- Therefore, law enforcement officials should be contacted so that they can followup (although overseas scammers are notoriously hard to prosecute).
- Also, reporting to law enforcement shows good faith on your/your client's part when dealing with banks and credit card companies (see Options for Action, #2).
- Report the scam to:
 - Local Police Department; and
 - Canadian Anti-Fraud Centre and Reporting Economic Crime Online (RECOL).
- Scams targeted by RECOL and the Canadian Anti-Fraud Centre (formerly called "Phonebusters"), national centres that handle complaints and educate the public about fraudulent internet-based pitches. Both are coordinated by the Ontario Provincial Police, the Royal Canadian Mounted Police, and several other law enforcement agencies across Canada.



Options for Action, #3: *Consumer Protection Act* Protections



- Sometimes internet purchases (e.g., dating services, product purchases, computer repair services) are problematic.
- Sometimes the service is delivered minimally or not at all.
- Sometimes the products are damaged and the vendor will not cooperate.
- In these cases, if the agreement involves a purchase over \$50, and if one of the parties is located in Ontario, the purchase is protected by the *Consumer Protection Act* (CPA).
- Important protections under the CPA include:
 - a) Freedom from Unfair Practices. These agreements are subject to the “unfair practices” protections, which permits rescission of the contract within one year if the purchaser is misled, forced to sign under duress, is sold a product that they cannot afford, or is under a disability which does not allow them to enter into a contract for these goods or services.





Options for Action, #3: *Consumer Protection Act* Protections, cont.

b) Contractual Protections.

- Internet agreements must disclose all charges and details pertaining to the contract, for example:
 - The vendor's name and contact information (address/telephone/fax/email);
 - A fair and accurate description of the goods and services;
 - An itemized list of prices/taxes/shipping costs/brokerage/customs charges;
 - The terms and conditions of payment;
 - The dates/times of delivery and or completion of performance; and
 - The place of delivery/where services are to be performed.
- An internet agreement must provide the express opportunity to accept it or decline the agreement and to correct any errors immediately before entering into it.



Options for Action, #3: *Consumer Protection Act* Protections, cont.



- All internet agreements must be made available to a consumer in a manner that allows the consumer access to the information and to retain and print it, and it must be sent in the form of a written copy of the agreement.
 - If the above conditions are not met, the consumer may cancel the agreement within seven days after receiving a copy of it.
- If the consumer is not supplied with a copy of the agreement within 15 days of entering into it, s/he may cancel the agreement up to 30 days from the date of entering into it.
- A consumer agreement is not binding on the consumer if the agreement is not made in accordance with the *Consumer Protection Act*.

c) Warranties and Quality of Work. The internet vendor is deemed to warrant that the services or goods to be provided are of reasonably acceptable quality.





Options for Action, #3: *Consumer Protection Act* Protections, cont.

d) Complaint to the Ministry of Consumer Services.

- The Ministry has broad investigative powers and can conduct an inquiry into any complaint received.
- The Ministry can make an order directing a person to comply with the CPA if it is believed on reasonable grounds that a party has engaged or in engaging in any activity that contravenes any provision of the CPA.
- The Ministry can also take the party to Provincial Offences Court for breaches of the CPA.
- An individual convicted of an offence under the CPA can be liable for a fine of up to \$50,000 or imprisonment for a term not to exceed two years less a day, or both. A corporation that is convicted is liable for a fine of up to \$250,000.
 - The Provincial Offences Court can also order restitution be paid to injured party as part of the sentence.



Options for Action, #3: *Consumer Protection Act* Protections, cont.



e) Civil Lawsuits: Breaches of the *Consumer Protection Act* and Warranty Issues.

- The CPA permits lawsuits for breach of contract.
- If damages can be proven as a result of breaches of the CPA, then the injured party may file a claim in Small Claims Court or in Superior Court.
- Additionally, given the warranty provisions in the CPA, it is possible that a tort claim could be launched if the goods or services are substandard and damages can be proven.
- The limitation period for starting a claim is **two (2) years** from the date the breach was discovered.
- For information about starting a claim in Small Claims Court, please see the Ministry of the Attorney General's website at: <http://www.attorneygeneral.jus.gov.on.ca/english/courts/scc>.



Resources: Contact Information

Ministry of Consumer Services

Consumer Protection Branch

- Complaints against a business
- Questions about your consumer rights

Phone

416-326-8800 or 1-800-889-9768

TTY

416-229-6086 or 1-877-666-6545

Facsimile

416-326-8665

Mail

Consumer Protection Branch
5775 Yonge Street, Suite 1500
Toronto, ON M7A 2E5

Email/Website

consumer@ontario.ca

www.sse.gov.on.ca/mcs/en/pages/default.aspx

Complaint Form

www.sse.gov.on.ca/mcs/Documents/stel02_046670.pdf

Cancelling a Contract under the CPA

www.sse.gov.on.ca/mcs/en/Pages/Cancel_a_Contract.aspx

The Canadian Anti-Fraud Centre (formerly
Phonebusters)

RECOL (Reporting Economic Crime Online)

P.O. Box 686

North Bay, ON P1B 8J8

Telephone (toll-free): 1-888-495-8501

Telephone (overseas and local): 705-495-8501

Facsimile: 1-888-654-9426

Email: info@antifraudcentre.ca

Websites: www.phonebusters.com

www.recol.ca

Small Claims Court

To pursue a claim before the Small Claims Court against an internet vendor for unfair practices or another breach of the CPA or the law in general, it is recommended that one review the Small Claims Court information and forms on the Ministry of the Attorney General's website: www.attorneygeneral.jus.gov.on.ca/english/courts/scc.



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For more information about consumer issues visit the Consumer Law section of Your Legal Rights at www.yourlegalrights.on.ca.

For more public legal information webinars, including webinars on other consumer protection topics, visit: www.yourlegalrights.on.ca/training.

For information about other consumer issues, social welfare laws, and community advocacy training visit the Community Law School website at www.communitylawchool.org.



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