



**Canadian Vehicle
Manufacturers' Association**
Association canadienne
des constructeurs de véhicules

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Mr. Christopher Tyrell
Clerk, Standing Committee on Justice Policy
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park
Toronto, ON M7A 1A2
comm-justicepolicy@ola.org

Re: Bill 161, Smarter and Stronger Justice Act

Dear Mr. Tyrell:

The members of the Canadian Vehicle Manufacturers' Association ("CVMA"), which includes FCA Canada Inc., Ford Motor Company of Canada, Limited and General Motors of Canada Company, have contributed to various stages of the Justice Act review and are pleased to provide this letter to support the Standing Committee on Justice Policy study of Bill 161 with a specific focus on proposed class action amendments.

The CVMA participated in the Law Commission of Ontario ("LCO") Class Actions Project and engaged in constructive discussions with the research team leads. CVMA also provided a written submission to the LCO. In August 2019, CVMA representatives participated in a round table discussion with the Honourable Doug Downey, Attorney General, to discuss the recommendations for legislative reform to the Class Action Proceedings Act 1992 (the "Act"), as contained in the July 2019 final report of the Law Commission of Ontario's class action project.

Bill 161 Schedule 4 makes several amendments to the Act and the CVMA members offer the following comments for the Committee's consideration.

Schedule 4, paragraph 7 – amendment of subsection 5(1) of the Act.

The CVMA and its members support the amendment of subsection 5(1) of the Act to:

- (i) provide criteria upon which a determination that a class proceeding is the preferable procedure shall be made;
- (ii) require that common questions of fact or law predominate over individual issues; and
- (iii) recognize and deal with class proceedings commenced in a Canadian jurisdiction other than Ontario and multi-jurisdictional class proceedings.

These amendments recognize that other procedures may be more appropriate for the resolution of the issues, require a predominance test, and expressly deal with cross jurisdictional issues, all of which foster judicial efficiency.

The CVMA and its members support these amendments in anticipation of claims not appropriate for class proceedings and parallel or overlapping class action proceedings being reduced. Moving towards a more coordinated and balanced approach where one jurisdiction is determined to take the lead will streamline the process from both a cost and resource perspective, for both the parties and the Courts.

Schedule 4, paragraph 7 – addition of section 13.1 (Carriage motions)

The CVMA and its members support the addition of provisions dealing with carriage motions, which allow for the stay of duplicative actions, again promoting judicial efficiency.

Schedule 4, paragraph 26 – Discontinuance, abandonment and dismissal for delay

The CVMA and its members support the repeal of section 29 and the substitution with a new section 29 and the addition of a new section 29.1 that allows a class action to be dismissed if the plaintiff does not take steps to pursue the action in a timely manner. This can be determined at an early stage, before the parties have had to expend significant resources and costs.

Schedule 4, paragraph 27 – Appeals: certification

The CVMA and its members support appeals on certification to the Court of Appeal, as opposed to the Divisional Court. They also support the removal of the requirement for leave to appeal a certification order.

In closing, we recognize the complexity and significant efforts that have been undertaken to review the *Class Proceedings Act* and to develop the proposed amendments presented in Bill 161. The CVMA and its members appreciate this opportunity to provide input and context related to automotive manufacturing experiences to support the work of the Committee. If any further information would be helpful or if you have any questions, please do not hesitate to contact me directly at 416-560-2960.

Yours sincerely,



Yasmin Tarmohamed
Vice-President, Environment, Health & Safety

c.c. Hon. D. Downey, M.P.P., Attorney General (attorneygeneral@ontario.ca)
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