



Laws and Regulations

Applicable to the

TRAVEL INDUSTRY

Study Guide for Travel Agents and Counsellors

INSTITUT DE TOURISME ET D'HÔTELLERIE DU QUÉBEC (ITHQ)

3rd edition

Laws and Regulations Applicable to the Travel Industry Study Guide for Travel Agents and Counsellors

Centre d'expertise et de recherche en hôtellerie et restauration

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FIRST FOREWORD

One of the mandates entrusted by the *Office de la protection du consommateur* (OPC) to the Centre d'expertise of the *Institut de tourisme et d'hôtellerie du Québec* (ITHQ), is the publication of a pedagogical tool intended for travel professionals.

This publication is the outcome of our collaboration with the OPC and it represents an accomplishment of which the ITHQ can be proud. By using information technologies to provide training and certification services, the ITHQ enables professionals of the travel sector to access the knowledge that is essential to their practice through the Internet, regardless of their location in Quebec.

This Guide is perfectly suited to the industry's current needs: it brings together information on the legislative and regulatory components pertaining to this sector of economic activity, as well as on travel agency management, that is all the more useful considering the fact that the examination for travel agents and counsellors was made mandatory by a regulation that has been in force since 2010.

Laws and Regulations Applicable to the Travel Industry: Study Guide for Travel Agents and Counsellors is an essential pedagogical aid for all instructors, whether they teach at training institutions, business consultation workshops, or in a context of online learning. It is also an excellent reference manual for all professionals working in the travel industry.

Finally, I would like to thank the authors, Nathalie Gilbert and Isabelle Proulx, tourism management professors, for their outstanding work!

Liza Frulla

General Director

Institut de tourisme et d'hôtellerie du Québec



SECOND FOREWORD

The *Office de la protection du consommateur* is proud to continue its collaboration with the *Institut de tourisme et d'hôtellerie du Québec* in presenting the third edition of this study guide for travel industry professionals. This revised and enhanced edition of the guide incorporates the legislative and regulatory changes that have come into force in 2018 and 2019 with a view to improving protection for travelers.



Are you well acquainted with your obligations and responsibilities as regards the sale of tourism services? In this guide, you will find out more about the rules governing the forms of advertising allowed, the pricing of tourism products, contracts concluded online or over the phone, and the Compensation Fund for Customers of Travel Agents.

In a nutshell, you will find in these pages all the tools required to prepare for the examination and obtain your certificate. With your certificate in hand, I would invite you to refer to this guide from time to time. It will continue to be very useful in your professional practice, much to the benefit of your customers.

Marie-Claude Champoux

President

Office de la protection du consommateur

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A WORD FROM THE AUTHORS

This textbook,¹ now at its third edition, is intended as a reference guide for matters relating to your everyday duties. It will also help you to prepare for the mandatory examination administered by the *Institut de tourisme et d'hôtellerie du Québec* (ITHQ), leading to the certification of travel agents and counsellors. In preparing this guide, the first of its kind in Quebec, our primary concern was to make it helpful and accessible. With this practical purpose in mind, laws and regulations are explained in simple and straightforward terms. Throughout the guide, the text is addressed directly to you. For example, your current or upcoming workplace practices are challenged with evaluation grids. To ensure a direct link between your practices and the rules to be respected, topics are presented in chronological order, from the start of a travel agency's business activity to the closing of a customer's file. However, regardless of number sequence, topics may be read in any order. If prior knowledge of a topic is required, you will be automatically redirected to the topic concerned. In order to simplify the content and focus on key areas, case law and obligations applicable to restricted licence holders are not covered.

Guide features

This guide is made up of two modules. The first is **Operating a travel agency: responsibilities and obligations**, followed by **Dealing with customers: responsibilities and obligations**. Each module-integrated topic is presented in the same manner, thereby making the information easier to assimilate and quicker to locate. Moreover, this third edition introduces a new feature, i.e. clearly identified sections intended exclusively for travel agency managers. As such, certain specific parts of the manual are marked "**Manager**." This indicates to readers that only managers will be questioned about this aspect of the manual during the examination. For each topic, first come the learning objectives, which are reviewed at the end by a "**test yourself**" **exercise** allowing you to assess your level of learning. On the first page, the right-hand column identifies the sections of the Travel Agents **Act** or the **Regulation** respecting travel agents that the topic addresses more specifically. The initial **context**, subsequently referred to in the topic section, is the starting point enabling you to familiarize yourself with the content. This background information is also used to **test your knowledge** and then check your score against

¹ Research for this publication is current as of January 1, 2019.

the answers provided at the end of each topic section. In addition to encountering **tables**, **figures**, and **examples**, during your reading you will come across keywords that are listed in the **glossary** and you will be referred to **appendices**.

Supplementary material

This guide would be incomplete if not read with reference to the Travel Agents Act and the Regulation respecting travel agents. We recommend printing these documents, the full texts of which are available via the following links:

- <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-10>
- <http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/A-10,%20r.%201>

These official reference documents will enable you to do the exercises and suggested readings at the end of each topic. This will facilitate your study for certification.

Acknowledgments

Preparing a guide is no small matter. Taking on such a task requires a dash of daring and, above all, the trust of those who granted us this privilege, most notably François Therrien, Director of the Centre d'expertise of the ITHQ, whom we thank for the latitude he allowed us throughout the project. We also extend our thanks to the members of the reading committee whose insightful comments in line with their respective areas of expertise improved the quality of this book. Topic reviews were provided by

- Jocelyne Hamel, Professor, Tourism Techniques,
Collège Montmorency
- Louis Jolin, Professor, Department of Urban Studies
and Tourism, Université du Québec à Montréal
- Benoît Legault, Tourism Journalist, regular contributor
to *Le Devoir*, the *Ulysse* guides, and *L'Express de Toronto*
- Jean-Louis Renaud, Allard, Renaud et associés,
Office de la protection du consommateur (OPC), Legal Affairs

The second and third editions were carefully reviewed, in particular by the following members of the OPC staff:

- Marie-Josée Boutin, Director, Department of Licencing and Indemnity
- Julie Bilodeau, Communications Advisor
- Denys Robitaille, Licencing Analyst
- Thorn Néo, Licencing Analyst
- Nathalie Racette, Licencing Analyst
- Marie Simian, Consumer Protection Officer

- 
- Nicole Legault, Analysis Centre Supervisor
 - Michèle Milhomme-Drouin, Allard, Simard et associés, Legal Affairs
 - Marilou Bélanger-Simoneau, Allard, Simard et associés, Legal Affairs

We wish to thank them warmly.

Finally, we are grateful to Marquis Interscript for their valuable collaboration and skill in creating a graphic presentation that reflects our pedagogical intent.

Nathalie Gilbert and Isabelle Proulx,
Professors, Tourism Management

TOPIC OUTLINE

AT THE END OF THIS TOPIC

Outlines the learning goals targeted by the topic

CONTEXT or BACKGROUND

Introductory explanation of learning objectives and realities of the travel industry

EXAMPLE

Illustrates the topic by using examples

3 OPERATING AN ESTABLISHMENT WITH A LICENCE

By the end of this section, you will be able to

- Identify the intended users of a travel agency licence
- Differentiate the various types of travel agency licences
- Distinguish the required procedures for obtaining or renewing a general licence
- Complete a licence application
- Understand the grounds and types of recourse available in the event of a licence refusal, suspension, or cancellation
- Demonstrate your knowledge of the penalties and offences associated with failure to comply with the Act and the Regulation
- Explain the legal **liability** associated with performing the duties of a travel agent

A travel agent licence or travel counsellor certificate must be obtained in order to perform the duties of a travel agent, such as operating a business that organizes travel and sells tourist services. This section looks at the conditions, obligations, and procedures involved in the issuing and renewal of a general or restricted licence, as well as the reasons for the refusal to issue a licence, for licence suspension, and cancellation. The penalties and types of recourse following an offence are also addressed. Before going any further, let's test your knowledge of this topic.

Context

Mr Fortunato has long loved his career as a travel counsellor. At a certain point in his life, he decided to own and operate his own travel agency. To achieve his goal, he seized the opportunity presented to him by the Four Suns Agency, offering to sell him the company's licence. He is now starting the process of becoming a travel agent. How can he help him?

Topic 3 - Operating an Establishment with a Licence

This section refers to the following legal provisions:

- Travel Agents Act (CQLR, chapter A-10)**
- Division I - Definitions and application (ss. 2 and 3)
 - Division II - Licences and certificates (ss. 4 to 11.1)
 - Division III - Suspension, cancellation or refusal to issue or renew licences, proceeding before the Administrative Tribunal of Québec (ss. 12 to 13.2)
 - Division IV - Obligations of a travel agent (s. 37)
 - Division V - Inspections (s. 35.7)
 - Division VI - Regulations (s. 36)
 - Division VII - Penalties (ss. 37 to 40.1)
- Regulation respecting travel agents (CQLR, chapter A-10, r. 1)**
- Division I - Exceptions (ss. 1.1 and 1.2)
 - Division II - Classes of travel agent licences (s. 2)
 - Division III - Classes of restricted

THIS TOPIC REFERS TO

Designates which sections of the Travel Agent Act or Regulation are covered by the topic

TEST YOUR KNOWLEDGE

Evaluates your initial knowledge and introduces you to the topic

Test your knowledge

True or false?

- Mr Fortunato must have a travel agent diploma from the Department of Education to apply for a general travel agent licence. _____
- A person must be at least 18 years old to apply for a travel agent licence. _____
- The Association des agents de voyages du Québec is the body authorizing Mr Fortunato to apply for a travel agent licence. _____
- A person must have acquired two years of full-time work experience as a travel counsellor to obtain a travel agent licence. _____
- Mr Fortunato can have his employer's licence transferred to him in order to take over operating the Four Suns Agency. _____
- The general licence fee is calculated according to the number of employees working for the travel agency. _____

Answers are found at the end of this section.

3.1 THE ISSUING OF A LICENCE

3.1.1 Who needs a licence?

Does your job include renting or booking accommodation or transportation services, or **organizing trips** for your customers? In this case, you are performing travel agent operations, when needed. Under the Act (T.A.A. s. 2), a travel agent is a person, a partnership, or an association that, on account of a third party or on account of its members, engages in or offers to engage in or issues vouchers for or offers to issue vouchers for any of the following operations:

- the booking or reservation of lodging accommodation, e.g. selling overnight stays in a hotel to your customers or those of another agency;
- the booking or reservation of transportation services, e.g. selling airplane tickets to your customers or those of another agency;
- the arranging of travel services, e.g. signing agreements with tourist service **suppliers** to plan and coordinate package trips or tours in order to sell them to your customers or those of another agency.

Whether you perform any of these operations or all three, the Travel Agents Act obliges you to have a travel agent licence issued by the president of the *Office de la protection du consommateur*. A single licence will be issued to you. If you operate more than one **business establishment**, you must ask for a duplicate for each additional **establishment**. The president remains the owner of the licence; he or she can therefore withdraw, cancel, or refuse to renew the licence.

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TERMS IN BOLD

Words that are found in the glossary

DID YOU KNOW THAT

Emphasizes specific information

- Air carrier conditions - Check-in, seat assignment, schedule changes, connection flights, baggage limit, and other information, as appropriate.
- Accommodation conditions - Assignment of room categories, and check-in and check-out times.
- Procedures relating to travel documents - Passports, visas, and tourist maps.

Below are two examples of websites that include information which is useful to customers and consistent with the intent of the law:

Example

Notice on the website of a travel agency

IMPORTANT!

If you do not understand the terms stipulated, please consult a counsellor at www.voyagesenabois.com or any other person of your choice in order to clarify the point of issue before booking.

By booking you acknowledge that you understand and agree to the general conditions listed below.

Example

Notice on the website of a service provider

CANCELLATION CHARGES (www.transetholidays.com)

For any cancellation, whatever the cause, the following charges apply:

Tour packages and flights:

- 46 days or more prior to the departure date: \$300 per person
- 45 to 22 days prior to the departure date: 50% of the total tour package cost per person, including taxes and service charges
- 21 days or less prior to the departure date: 100% of the total tour package cost per person, including taxes and service charges

Indirect flights: 100% non-refundable.

To differentiate the sections concerning the readers taking the travel agency manager examination.

Validates the compliance level of your work practices

Rates your level of proficiency
on selected topics

Make sure to avoid fines! Inspectors and investigators monitor compliance with various aspects of the Act and the Regulation respecting travel agents. Where offences are discovered, they can recommend **penal charges**. The following checklist can help you to assess your level of compliance and find out what fines you are exposed to in the event of an infringement of the law. In addition, a licensee can have his or her licence suspended or cancelled by the president of the *Office de la protection du consommateur*. Please refer to the material covered in this section to refresh your memory on this topic.

Penal liability	Compliant	Non-compliant	First offence	Repeated offence
How many included all the necessary items on the invoice?			\$600 \$6,000 (for a natural person)	\$1,200 \$12,000 (for a natural person)
How many reimbursed customers who opted for a refund following a price increase?			\$1,000 \$40,000 (in other cases)	\$2,000 \$80,000 (in other cases)
			\$600 \$6,000 (for a natural person)	\$1,200 \$12,000 (for a natural person)
			\$1,000 \$40,000 (in other cases)	\$2,000 \$80,000 (in other cases)

This topic deals mainly with the invoicing required to confirm the sale of a tourist service by a travel agent or a travel counselor. At this point, you are engaged in a commercial transaction with your customer. The invoice (or receipt) is a binding contract for the remainder of the customer service process.

Now it's your turn to assess your knowledge of the material covered in this section.

um amount of working capital,
ounts receivable existing
on, an association, or a company
under the agent's control

ified by your turnover

Table 3.2	
Turnover	Cost*
	\$344
	\$459
	\$631
	\$860
	\$1,146
	\$1,490

* The costs indicated are those in effect for 2018. The amount is adjusted annually on July 1, based on the Canadian Consumer Price Index. Every year, the Office de la protection du consommateur publishes a notice in the Gazette officielle du Québec indicating licence costs (www3.publicationsduquebec.gouv.qc.ca/).

Table 3.2

Cost*
\$344
\$459
\$631
\$860
\$1,146
\$1,490

www.nature.com/scientificreports/

Turnover	Minimum working capital
Up to \$1 million	\$5,000
Up to \$3 million	\$7,500
Up to \$5 million	\$10,000
Up to \$10 million	\$15,000
Up to \$25 million	\$25,000
Up to \$50 million	\$50,000
Up to \$75 million	\$75,000
Up to \$100 million	\$100,000
More than \$100 million	\$150,000

⁸ For more details concerning the cost of renewing a licence, please visit the OPC website of (in French only): <http://www.opc.gouv.qc.ca/commerces/permis-certificat/agence/permis/renouveler-un-permis/tarifs>

Topic 3 – Operating an Establishment with a Licence • Unauthorized reproduction prohibited

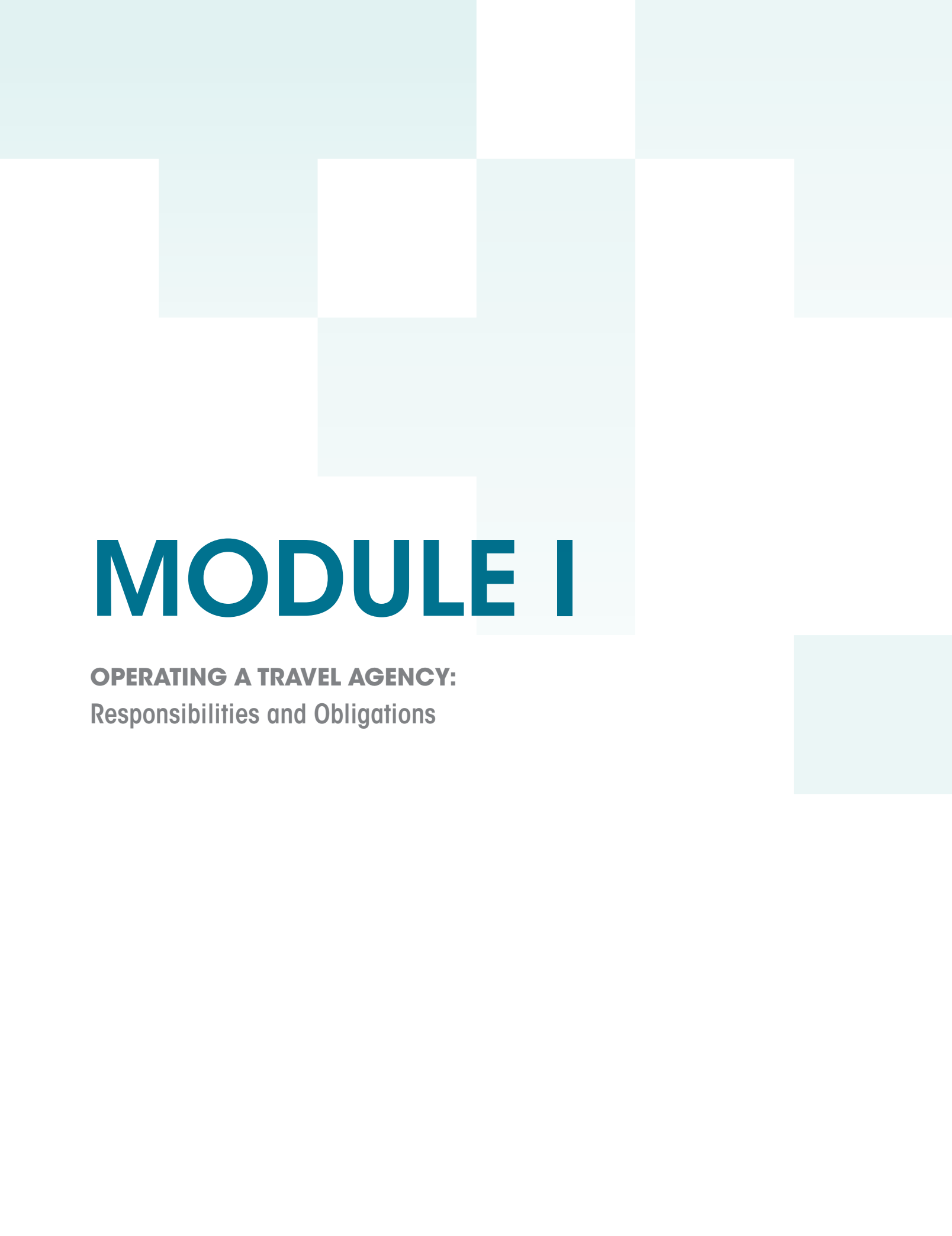
45

Represents the information succinctly, in tabular form

“Test your knowledge”
answer key

Complements and further enhances
your knowledge of covered topics

Refers to a specific section
of an act or regulation



MODULE I

OPERATING A TRAVEL AGENCY:
Responsibilities and Obligations

1 DEALING WITH THE RELEVANT LAWS AND AUTHORITIES

By the end of this section, you will be able to

- Explain the role of the *Office de la protection du consommateur* under the legislation concerning the travel industry
- Understand the fundamentals of the Travel Agents **Act** and the **Regulation** respecting travel agents
- See how the Civil Code of Québec and the Consumer Protection Act apply in the context of the travel sector
- Define a number of legal terms

This first topic describes the role and responsibilities of the *Office de la protection du consommateur* (as well as those of its president), which is the main player involved in implementing the legislation pertaining to the travel industry. Also included is the main legal terminology used in dealing with the acts and regulations applicable to this business sector.

Before going any further, let's test your knowledge of this topic.

Context

Excerpt from the indexation notice of required fees, effective May 1, 2018, presented by the *Office de la protection du consommateur*.

Published on February 10, 2018 in the *Gazette officielle du Québec*, Part 1, 150th year, No. 6, page 91.

"In accordance with the third subparagraph of section 4.1 of the Regulation respecting travel agents (*chapter A-10, r. 1*), the *Office de la protection du consommateur* hereby gives notice of the cost, effective May 1, 2018, of the fees required by paragraphs *a*, *b*, and *d* of the first subparagraph of section 4, section 11.5, and section 31.9 of this Regulation, following their indexation based on the rate of change of the general consumer price index for Canada, established for 2017 at 1.6% by Statistics Canada, namely:

This section refers to the following legal provisions:

Travel Agents Act (*CQLR, chapter A-10*)

- Division I – Definitions and application (*ss. 2 and 3*)
- Division II – Licences and certificates (*ss. 4, 11, and 11.1*)
- Division III – Suspension, cancellation or refusal to issue or renew licences; proceeding before the Administrative Tribunal of Québec (*ss. 12 to 13.2*)
- Division III.1 – Provisional administration (*ss. 14 to 16*)
- Division III.2 – Fonds d'indemnisation des clients des agents de voyages (*ss. 30.1 and 30.4 to 30.7*)
- Division IV – Obligations of a travel agent (*s. 33.2*)
- Division V – Inspection (*ss. 34 to 35.2*)
- Division VI – Regulations (*s. 36*)
- Division VII – Penal provisions (*ss. 37 to 40.1*)
- Division VIII – Final provisions (*ss. 41.1 to 43*)

Regulation respecting travel agents (*CQLR, chapter A-10, r. 1*)

- Division I.1 – Exceptions (*ss. 1.1 and 1.2*)
- Division IV – Licences (*ss. 5 to 8, 8.3, 9, and 10*)

- Division IV.1 – Travel Counsellors (ss. 11.2, 11.4, 11.7, and 11.8)
- Division IV.3 – Travel agency manager (ss. 11.11 and 11.12)
- Division IX – Trust account (ss. 22 and 23)
- Division X – Individual security and indemnity fund (s. 28)
- Division XI – Individual security (ss. 29, 32, 35.1, and 36)
- Division XII – Indemnity fund (ss. 39.1 and 43 to 43.14)
- Division XV – Penal (ss. 46 and 47)
- Division XVI – Advisory committee (ss. 48 to 57)

Consumer Protection Act (CQLR, chapter P-40.1)

- Ss. 224 and 292

Civil Code of Québec (CQLR, chapter CCQ-1991)

- Ss. 1432, 1458, 2098, and 2925

- General travel agent licence (s. 4) \$917
- General travel agent licence
- Renewal (s. 4, according to turnover)
 - Up to \$0.5M \$344
 - Up to \$2M \$459
 - Up to \$5M \$631
 - Up to \$10M \$860
 - Up to \$20M \$1,146
 - More than \$20M \$1,490
- Duplicate licence per establishment Issuance (s. 4) \$573
- Duplicate licence per establishment Renewal (s. 4) \$287
- Travel counsellor certificate Issuance (s. 11.5) \$57
- Travel counsellor certificate Renewal (s. 11.5) \$29
- File opening (s. 31.9) \$287

? Test your knowledge

True or false?

1. Drafted in connection with an act of legislation, a regulation defines the application of that legislation. _____
2. Passed by Parliament, an act dictates the expected work behaviour in a given field. _____
3. The *Office de la protection du consommateur* is a private association of informed consumers that defends the rights of other consumers. _____
4. Companies selling tourism-related products and services in Quebec are subject to provisions of the Civil Code of Québec and the Consumer Protection Act. _____
5. Your clients can file a complaint against you with the Small Claims Division for amounts over \$15,000. _____
6. Travel agents are formally consulted on amendments to the Travel Agents Act and the Regulation respecting travel agents. _____
7. A customer has 12 months to file a complaint with the court. _____
8. Among the legislation that is specifically relevant to you, four laws are implemented by the *Office de la protection du consommateur*. _____

Answers are found at the end of this section.

1.1 OFFICE DE LA PROTECTION DU CONSOMMATEUR

The *Office de la protection du consommateur* is a public body that monitors in particular the implementation of the Act and the Regulation respecting travel agents.

1.1.1 What is the OPC's role?

Mission

The OPC was created in 1971 in order to protect consumers and thus promote a better balance of power between customers and merchants. This is when the Consumer Protection Act came into force in Québec, and it has subsequently been subject to annual improvements. Since then, the mission of the OPC has been to enforce acts and regulations that fall within its jurisdiction, in particular the legislation pertaining to travel agents.

Its role does not end there however. The OPC also informs consumers collectively and individually, it educates consumers, and receives their complaints. In addition, the Office fosters concerted action between players in the consumer market. The distribution of informative publications and appearances at certain public events, such as travel fairs and tradeshow, reflect the mission of this public body.

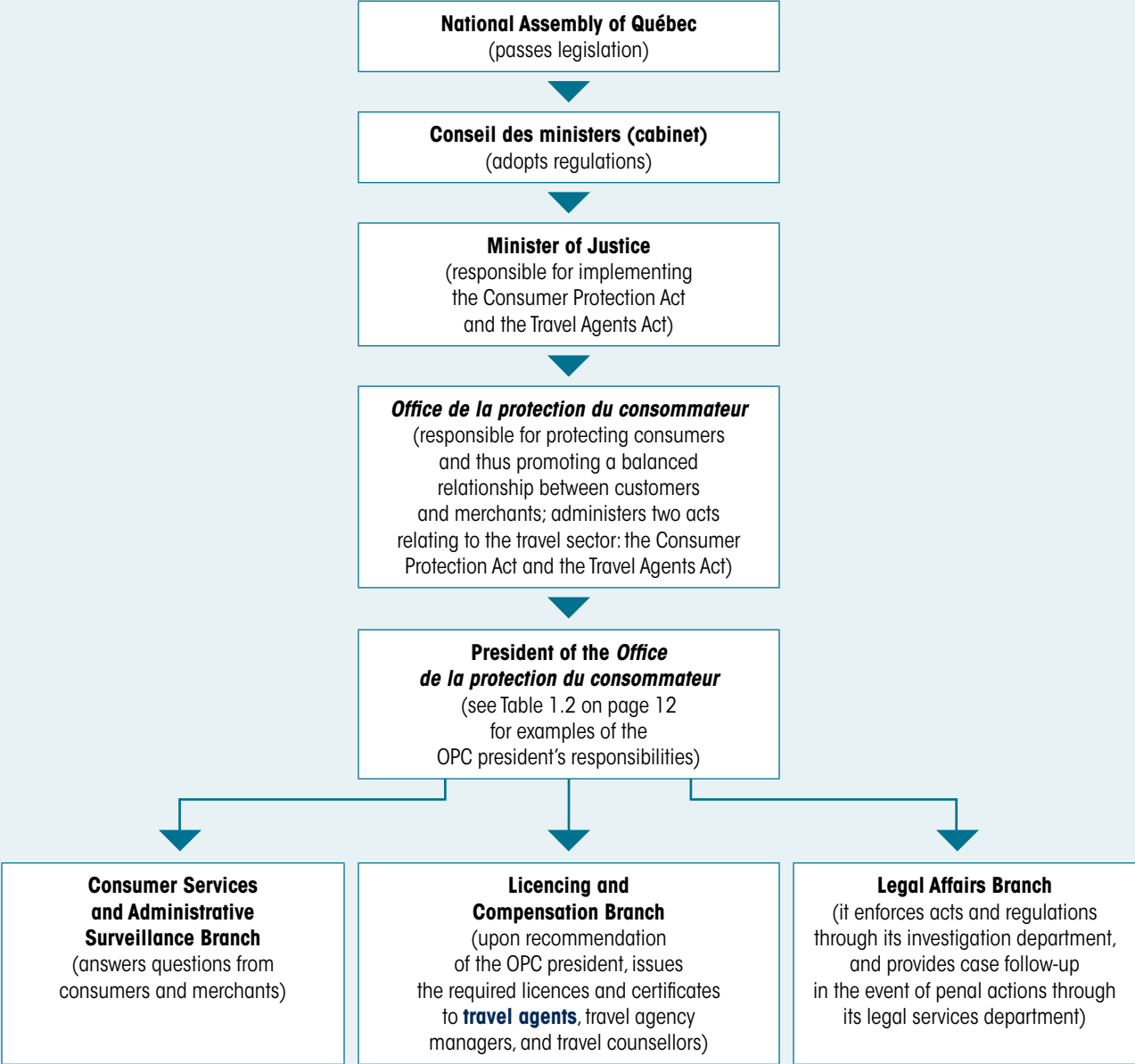
The following figure summarizes the structure and responsibilities of the OPC as they relate to the travel sector.

! Did you know that...

An act is a written, general, and permanent rule of law, adopted by the National Assembly. A regulation is designed to ensure the implementation of an act and must conform to it.

Figure 1

Public bodies involved in the drafting
and implementation of acts and regulations



Mandates

The **mandates** of the OPC, described in section 292 of the Consumer Protection Act, fall into four categories:

Information and education

As a merchant, you may obtain answers to your queries concerning **obligations** associated with operating a travel agency (Module I of the guide) or transactions with customers (Module II of the guide). This information can be obtained by telephone or by consulting the OPC website at www.opc.gouv.qc.ca/en, where you will find useful information regarding consumer **rights** and **recourse** as well as merchant obligations.

The Office is present in the media. Its spokesperson answers questions from journalists and gives interviews. Press releases and news items featuring consumer tips, warnings, or solutions to difficult situations, are published regularly to make information available to you and your customers. The Office may also conduct information campaigns focused on a specific topic. Indeed, every year it can use \$250,000 or 5% of investment income, whichever is less, from the Compensation Fund for Customers of Travel Agents (FICAV) to set up information and education projects for customers of travel agents, relating to the laws that it is in charge of implementing. These projects can include, for example, participating in a travel show or publishing an advertisement in a travel-related magazine. Finally, its website offers educational materials for instructors.

Supervision

The OPC plays an especially important role with respect to travel agencies in Quebec. It issues licences to travel agents and certificates to travel agency managers and travel counsellors. The OPC has the power to withdraw any such licence or certificate in cases specifically prescribed by the Act and the Regulation. It also receives and handles certain complaints from consumers (in relation to operating without a licence, for example). After investigation, inspection, and audit, the OPC can undertake legal action, where appropriate. The Legal Services Department of the OPC can file penal charges. The merchant has a period of 30 days to enter a plea. Where there is a **guilty plea**, the merchant must pay a fine and associated costs. If the accused party pleads not guilty, the matter is referred to the Court of Québec, Criminal and Penal Division, and following a trial, the travel agent may be found guilty or not guilty.

! Did you know that...

It is the Court of Québec, Civil Division, that handles cases where the amount in dispute is more than \$15,000 and less than \$85,000. (<https://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/court-of-quebec/civil-division>).

In matters of travel, cases where the amount in dispute exceeds \$85,000 and class actions are heard by the Superior Court. (<https://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/superior-court>).



Did you know that...

The Small Claims Division of the Court of Québec hears cases where the amount of money in dispute does not exceed \$15,000. This court also handles cases involving the resolution, cancellation, or termination of a contract when the amount claimed is below \$15,000. In small claims cases, litigants represent themselves and appear without counsel. (<https://www.justice.gouv.qc.ca/en/your-disputes/small-claims>)

Example of a judgment



Operating a travel agency without a licence

Whatatrip and its president found guilty

Quebec City, December 10, 2016 –

The *Office de la protection du consommateur* announces that the Hello Travel Association, also known as Whatatrip, and its president pleaded guilty last April to charges brought against them under the Travel Agents Act.

The Office accused the president and her agency, doing business at 123 Chemin Commun, Montreal, of having acted in April 2015 as a travel agent in Quebec without holding the licence required under the Travel Agents Act. They were thus assessed identical fines totaling \$2,000 by the court.

A **penal charge** is filed by the Director of Criminal and Penal Prosecutions (or its representative) against a person who violates a Quebec act or regulation. If convicted, the defendant is liable to be fined.

Example of a penal proceedings



The OPC charges Airways Air with 17 law violations

"The *Office de la protection du consommateur* (OPC) has just filed a complaint against Airways Air for having sold airplane tickets at prices higher than those appearing in its advertisements. The complaint involved 17 violations noted between November 2015 and January 2016. If the carrier is found guilty, it will have to pay fines totaling more than \$42,000. The OPC sent a formal notice to Airways Air in early fall, and the carrier replied by letter that it was refusing to comply. [...]"

Three other carriers, Transport Jet, Air Public, and Happy Airlines were also given formal notice to comply with the provisions of subparagraph c of the first paragraph of section 224 of the Consumer Protection Act, which provides that no company may charge a price higher than the one advertised. [...] "However, these carriers announced their intention to comply with the law."

Consultation

The *Office de la protection du consommateur* does not act on its own but in conjunction with consumer groups, retail associations, Quebec government departments and agencies, and partners from all sectors. Various associations, including the Association of Canadian Travel Agents (ACTA Québec), the Association des agents de voyages du Québec (AAVQ), the Association of Retail Travel Agents (ARTA Canada), and the Association of Tour Operators of Quebec (ATOQ), cooperate with the OPC, which consults them and shares information with them as part of fulfilling its mission. The OPC also maintains contacts with authorities in Ontario and British Columbia in the context of a concerted effort to harmonize legislation regarding travel agents.

Conciliation, court jurisdictions, and indemnification

One of the OPC mandates is to defend the interests of consumers and listen to the demands of retailers. The OPC sometimes plays a conciliatory role between a retailer and a consumer upon having processed a complaint.

Since conciliation does not always lead to the expected compensation, some consumers choose to take their complaint to the Small Claims Division, which hears cases where a sum of money is in dispute, as well as cases involving the cancellation or termination of a contract where the value of the contract and, as applicable, the amount claimed do not exceed \$15,000 each. In small claims cases, citizens represent themselves, without counsel (<https://www.justice.gouv.qc.ca/en/your-disputes/small-claims>).

The Court of Québec, Civil Division, handles cases where the amount in dispute is more than \$15,000 and less than \$85,000. (<https://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/court-of-quebec/civil-division>).

Class action in matters of travel and appeals where the amount in dispute exceeds \$85,000 are heard by the Superior Court. (<https://www.justice.gouv.qc.ca/en/judicial-system/courts-and-tribunals-of-quebec/superior-court>).

Customers have three years to file a complaint in court.

The OPC also manages various financial protection plans, such as the **individual security** and the Compensation Fund for Customers of Travel Agents (FICAV) and oversees consumer compensation. These protection procedures will be presented in detail in Topic 2 of this guide, under the heading *Administering Funds*.



Did you know that...

How much time do customers have to file a complaint in court?
Three years.

1.1.2 What is the legislation under the OPC's jurisdiction?

Among the legislation that concerns you more specifically, two acts fall under the jurisdiction of the *Office de la protection du consommateur*:

- The Consumer Protection Act (*R.S.Q., chapter P-40.1*)
- The Travel Agents Act (*R.S.Q., chapter A-10*)

The Consumer Protection Act “is intended to protect Quebecers in a large number of consumer sectors. It establishes a fundamental guarantee for all goods and services offered to consumers. It governs all contracts between consumers and merchants and establishes a specific protection system for contracts signed with itinerant merchants (door-to-door sales, for example), credit contracts (such as the deferred payment of a travel package), and distance contracts (in e-commerce, for example). [...] This law identifies the business categories whose operation requires a licence. It prohibits merchants, manufacturers, and advertisers from engaging in certain practices that could mislead consumers. In some circumstances, it requires merchants to deposit funds that they collect from consumers in a **trust account**. Finally, in addition to providing for penal sanctions in cases of non-compliance with the law, it specifies the remedies available to consumers when merchants, manufacturers, or advertisers contravene the law.”²

As for the Travel Agents Act, it is “intended, first, to ensure that those who work in this industry respect the rules of conduct and, second, to protect consumers when a supplier defaults. Travel agents must be licenced, and customer funds must be deposited in a trust account until **suppliers** are paid for services. They are also required to provide an **individual security** bond proportional to their **turnover**. The Act also sets forth the rules governing the Compensation Fund for Customers of Travel Agents.”³

Each act is complemented by a corresponding regulation:

- **Regulation** respecting the application of the Consumer Protection Act, (*R.R.Q., c. P-40.1, r. 3*)
- Regulation respecting travel agents (*R.R.Q., c. A-10, r. 1*)

Regulations are presented as more detailed documents to complete and clarify act provisions. Table 1.1 presents an example of details provided by a regulation.

² Office de la protection du consommateur, *Rapport annuel de gestion 2009-2010* (annual management report 2009-2010), Annexe 1 – Présentation des lois, p. 65. Our translation.

³ *Ibid.*

Table 1.1

Clarifications provided by the Regulation	
Travel Agents Act	Regulation respecting travel agents
Subsection 2 of section 4 of Division II (Licences and certificates) deals with the obligation for travel counsellors to have a certificate. The second paragraph states that “a travel counsellor who is in the employ of a travel agent or has entered into an exclusive service contract with a travel agent may engage in the operations referred to in section 2 and deal with clients if the counsellor holds a certificate issued for that purpose by the <i>Office de la protection du consommateur</i> and meets the conditions prescribed by regulation.”	As mentioned in the Act, the Regulation presents the conditions and procedure for the application of section 4 of the Act. Sections 11.1 to 11.9 of Division IV.1 of the Regulation are entirely dedicated to travel counsellors. For example, section 11.2 indicates that “the president issues a travel counsellor certificate where the applicant (a) has passed an examination on the knowledge of the laws and regulations applying to the travel sector; [...] (f) has sent the information required under section 11.4.”

An **act** is a written, general, and permanent rule of law, adopted by the National Assembly. A **regulation** is designed to ensure the implementation of an act and may not infringe it.

1.1.3 What is the role of the president of the *Office de la protection de consommateur*?

The OPC **president** plays an essential role in the ongoing application of the Act and the Regulation respecting travel agents. His or her responsibility extends from the issuing of your licence or certificate to its suspension, cancellation, or refusal to issue or renew it. As **trustee**, the president is also responsible for the administration of funds provided for individual security and for FICAV, the Compensation Fund for Customers of Travel Agents. The OPC president has exclusive authority to appoint a **provisional administrator** to administer or terminate current business affairs of an agency not meeting the conditions of the Act or Regulation (e.g. a travel agent going bankrupt) or that jeopardizes **customer** rights (e.g. an agent ceasing to make payments to his or her supplier because a trust account is running a deficit).

Table 1.2

Some examples of the OPC president's responsibilities

Issue, suspend, cancel, refuse to issue, or renew a licence

Authorize, or refuse to authorize, a request for a licence transfer or duplication

Issue, suspend, cancel, refuse to issue, or renew a travel agency manager certificate or a travel counsellor certificate

As trustee, manage funds of the individual security (if the money is not submitted in the form of a security policy) and of FICAV

Use, if he chooses, investment income from the Fund to finance information and education campaigns for travel customers relating to their rights and obligations under the laws that the OPC is in charge of implementing

Appoint, where necessary, a provisional administrator

The president or the provisional administrator appointed by the president

- Refund customers the amount paid for a service that wasn't delivered
- Compensate customers in certain cases where a final court decision was rendered in their favour
- Pay the required amount to ensure immediate departure or repatriation of a customer

1.1.4 Travel Agents Advisory Committee

Who are the members of the committee?

The Regulation respecting travel agents provides for the creation of a travel agents advisory committee with a view to representing the commercial activity of the travel industry as faithfully as possible. In addition to the OPC president, the committee has eight members appointed for a fixed term by the Minister responsible for the *Office de la protection du consommateur*: four persons representing the travel industry, two consumer representatives, and two government representatives. The OPC president chairs the committee but can designate a substitute.

What is the role of the committee?

The committee meets at least three times per year to discuss and subsequently advise the Minister responsible for the *Office de la protection du consommateur* on all legal aspects surrounding travel agent activity. It also analyzes and provides its views on specific issues submitted by the Minister. The committee sends a yearly report on its activities to the Minister no later than June 30, for the previous fiscal year.

1.2 WHAT IS THE ROLE OF THE CIVIL CODE OF QUÉBEC IN THE TRAVEL SECTOR?

The Civil Code of Québec plays a key role in your activities. This general law, which structures life in Quebec society, governs relationships such as those between neighbours or spouses, as well as between you and your customers with regard to **civil law** matters. Of the 3,168 sections listed in the Act, several are specifically relevant to you. For example, section 1458 specifies that “every person has a duty to honour his or her contractual undertakings” and section 1432 provides that “in case of doubt, a contract is interpreted in favour of the person who contracted the obligation and against the person who stipulated it. In all cases, it is interpreted in favour of the adhering party or the consumer.” In addition, section 2098 reads: “A contract of enterprise or for services is a contract by which a person, the contractor or the provider of services, as the case may be, undertakes to another person, the client, to carry out physical or intellectual work or to supply a service, for a price which the client binds himself to pay to him.” The Civil Code is therefore an essential part of travel sector legislation and will be cited in relation to specific elements in this guide.

Through their roles and responsibilities, the OPC president, the Travel Agents Advisory Committee, and the laws governing the travel sector influence your commercial travel agent activity. The acts and regulations, which are reviewed in light of new realities in the industry, apply to you as reference tools. They constitute the foundation for sound commercial harmony between you and your customers.

Now it's your turn to assess your knowledge of the material covered in this section.

Test yourself			
After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Explain the role of the <i>Office de la protection du consommateur</i> in the legislation affecting the travel industry			
2. Understand the basics of the Act and the Regulation respecting travel agents			
3. Identify the role of the Civil Code of Québec and the Consumer Protection Act in relation to the travel sector			
4. Define certain legal terms			
Total			

Keep up the hard work! Review this topic or go on to the next section.

Answers Test your knowledge

1. **True.** A regulation is intended to ensure the implementation of an act. It is based on and supplements this act.
 2. **True.** An act is a set of rules, laid down by a given authority, that everyone must follow.
 3. **False.** The *Office de la protection du consommateur* is a public body. It protects consumer rights by enforcing the acts and regulations that are under its responsibility. (*TAA*, s. 43 and *CPA*, s. 292).
 4. **True.** The Civil Code of Québec, which governs life in Quebec society, specifically oversees relations between you and your customers within the framework of **civil law**. The Consumer Protection Act also establishes, among other things, a fundamental guarantee for all goods and services offered to consumers.
 5. **False.** The Small Claims Division of the Court of Québec handles disputes involving amounts of \$15,000 or less. Other disputes, involving amounts of more than \$15,000 and less than \$85,000, are transferred to the Court of Québec, Civil Division. For larger amounts, the case is submitted to the Superior Court.
 6. **True.** In order to represent the commercial activity of the travel sector as faithfully as possible, four of the eight persons making up the advisory committee come from the sector. A broader consultation among stakeholders involved in the travel industry and consumer associations may also be conducted. (*RTA*, s. 49)
 7. **False.** A customer has three years to file a complaint in court.
 8. **False.** Among the legislation that concerns you more specifically, two acts fall under the jurisdiction of the *Office de la protection du consommateur*: the Consumer Protection Act and the Travel Agents Act.
- Result : _____ /8



Supplementary readings and exercises

- *Office de la protection du consommateur*, www.opc.gouv.qc.ca/en.
To learn more about the OPC.
- Travel Agents Act, *CQLR*, chapter A-10,
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-10>.
- Regulation respecting travel agents, *CQLR*, chapter A-10, r. 1,
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/A-10,%20r.%201>.
- Consumer Protection Act, *CQLR*, chapter P-40.1,
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/P-40.1>.
- Civil Code of Québec,
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/CCQ-1991>.
- *Ministère de la Justice*, <https://www.justice.gouv.qc.ca/en>.
To learn more about justice in Quebec.
- Société québécoise d'information juridique:
<http://citoyens.soquij.qc.ca>.
To learn more about decisions handed down by the courts.

2 ADMINISTERING FUNDS

By the end of this section, you will be able to

- Define individual security, trust account, and Compensation Fund for Customers of Travel Agents (FICAV)
- Understand the purpose of the individual security, the trust account, and the Compensation Fund for Customers of Travel Agents (FICAV)
- Determine the amount of **individual security** to be provided and how to go about it
- Calculate the contribution amount to be collected for the Quebec Travel Agency
- Customer Compensation Fund (FICAV), where necessary
- Produce accounting records
- Cite the penalties for offences due to non-compliance with the law

Establishing procedures to carry out your management activities is of paramount importance when operating a travel agency. The National Assembly and the Government of Quebec have introduced three consumer protection measures. First, the travel agent must open a **trust account** in order to separate the money belonging to the consumer from the travel agent's own funds. The second protection consists in providing an individual security guaranteeing the travel agent's obligations to his or her customers. The third is the creation of a Compensation Fund for Customers of Travel Agents (FICAV).

Before going any further, test your knowledge as it would apply to the story of Ms. Fairbrother.

Context

Ms. Fairbrother's long-time dream was to go on a Mediterranean cruise. One day she dropped by Fancyfree Agency Inc. Based on the information she received from the counsellor, she booked and paid an amount of \$4,407.36 for her trip. Several weeks following this purchase, she returned to

This section refers to the following legal provisions:

Travel Agents Act (*CQLR, chapter A-10*)

- Division III.1 – Provisional administration (ss. 14.3, 15, and 16)
- Division III.2 – Fonds d'indemnisation des clients des agents de voyages (ss. 30.1 to 30.5, and 30.7)
- Division IV – Obligations of a travel agent (ss. 32 to 33.2)
- Division V – Inspection (ss. 35 and 35.1)
- Division VI – Regulations (s. 36)
- Division VII – Penal provisions (ss. 37 to 40.1)

Regulation respecting travel agents (*CQLR, chapter A-10, r. 1*)

- Division IV – Licences (ss. 4.1 and 6)
- Division V – Obligations of travel agents (ss. 12 and 12.1)
- Division VII – Accounting (s. 17)
- Division IX – Trust account (ss. 21 to 27)
- Division X – Individual security and indemnity fund (s. 28)
- Division XI – Individual security (ss. 29, 30 to 31.1, 31.6, 31.7, and 31.9 to 36)
- Division XII – Indemnity fund (ss. 39 to 40, 43.2, and 43.6 to 43.14)
- Division XV – Penal (ss. 46 and 47)

the agency for additional details regarding her trip. Surprise! She found a note on the door saying that the agency had closed... until further notice! Ms. Fairbrother is worried and wonders what will become of her trip and her money.

In fact, Fancyfree Agency Inc. (contrary to its name!) had financial problems. All in good faith, management paid its rent and telephone bills from the trust account in order to keep the agency running.

? Test your knowledge

True or false?

1. Ms. Fairbrother has lost her money and will be unable to take the trip she planned. _____
2. The counsellor who did business with Ms. Fairbrother is responsible and will have to reimburse her. _____
3. The OPC could reimburse Ms. Fairbrother through FICAV, the Compensation Fund for Customers of Travel Agents. _____
4. Travel agency managers can use the money from a trust account to pay their bills, as long as they pay it back. _____
5. Fancyfree Agency Inc. no longer had a valid permit. Therefore Ms. Fairbrother no longer has any recourse against this agency. _____
6. Fancyfree Agency Inc. was permitted to withdraw the amount of its commission as soon as the customer had paid for her trip. _____

Answers are found at the end of this section.

2.1 TRUST ACCOUNT

2.1.1 What is the purpose of a trust account?

Travel agents must deposit in a trust account their customers' "[...] cash, cheques, or other negotiable instruments, as well as any amount representing the monetary equivalent of all or part of a payment by credit card or debit card, or of any other form of payment" (*RTA, s. 21*). This trust account must be opened in a Canadian chartered bank or in another institution authorized to receive deposits under the laws of Canada or Québec. A travel agent must, within seven days of the event, notify the OPC president of the opening, closing, and transfer of a trust account and provide the name and address of the financial institution, as well as the account number. Changes in the list of account signatories must also be reported to the OPC within 15 days of the modification.

You can access the trust account only to administer it as **trustee**. You are not permitted to use **funds** from this account for personal or corporate purposes. Accordingly, money belonging to your company or to its directors must be deposited in a different bank account, which is used for current transactions. Holders of a travel agent licence may provide written authorization allowing a member of their staff to carry out banking transactions in the trust account on their behalf (however, withdrawals from the trust account can only be made by individuals with signing authority on the account).

To fill out the travel agent trust account application form, visit the website <https://www.opc.gouv.qc.ca/en/merchant/licenses-certificates>

You are authorized to withdraw funds by cheque or bank transfer (withdrawal at the counter is not authorized), under certain conditions, for each of your customer files, only in the following situations:

- Services to be rendered to customers (renting or booking accommodation and transportation or **organizing trips**)
- Pay suppliers on behalf of customers
- Reimburse yourself or pay service fees incurred on behalf of customers
- Reimburse amounts due to customers
- Collect **gross income** (commission) that is owed to you for each customer file, but only after suppliers have been paid

Your trust account must never be overdrawn or show a deficit. You may not use one customer's money on account to pay for another client's expenses, nor are you allowed to use this account to pay operating or personal expenses. Accordingly, Fancyfree Agency Inc. was not entitled to use funds in the trust account to pay its operating expenses.

2.2 INDIVIDUAL SECURITY

Customers who buy all-expense-paid packages or specific services (hotel stay, plane ticket, guided tour, etc.) from a travel agency want to benefit from the advice and expertise on offer. Furthermore, customers expect to obtain assurance that their trip, including all booked services, will run smoothly, and to be able to seek your assistance if necessary. In other words, customers want to make sure that your agency provides and guarantees professional services in addition to demonstrating its solvency in the event of a **recourse** or a claim.

2.2.1 Who must provide this security?

To protect your customers and instill customer confidence in your travel agency, an **individual security** is required. This type of security is a contract whereby the **surety** agrees to fulfill the travel agent's obligations in case of default. The security must accompany the general licence and it allows for the customer to be reimbursed or indemnified. It is therefore the travel agent's responsibility to provide it. In case of financial problems, such as those experienced by Fancyfree Agency Inc., Ms. Fairbrother is protected! The security makes it possible, if required, to reimburse amounts paid for tourist services that were not delivered and to indemnify customers in the event where they obtain a judgment against you. This security also covers administrative fees and the expenses of the **provisional administrator**, i.e. the person appointed to ensure follow-up on customer accounts and see to the agency's complete closing.

2.2.2 How to pay individual security?

There are three ways to provide the individual security required in order to obtain a general travel agent licence.

- Through the purchase of an individual security policy from an insurance company. You will have to pay a premium based on the amount of the policy. The company issuing the security policy will complete the "Individual Security Policy" which is available (in French only) at <http://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/cautionnement-av-police-individuel.pdf>.
- By depositing the amount in cash.
- By depositing bearer bonds that you own, issued or guaranteed by the Government of Canada or the government of a Canadian province.

In the second and third cases, you must complete the "Engagement du commerçant" form [merchant's undertaking], available (in French only) at <http://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/cautionnement-av-engagement-commercant.pdf>.

If the security is provided in the form of bearer bonds payable to the holder, you must also pay a file opening fee. The amount of this fee, indexed on July 1 every year, can be found at <https://www.opc.gouv.qc.ca/commercant/permis-certificat/agentsdevoyages/permis/demande/tarifs#cautionnement> (in French only).

2.2.3 What amount of security should be provided?

To obtain a general licence, the individual security amount you must provide varies between \$25,000 and \$225,000.

When applying for a general licence, therefore in the first year of operation, you must provide a security of \$25,000.

The individual security amount is set once each year, on your licence anniversary, and it is determined according to your **turnover** as indicated in your last financial statements, combined with the number of years of business operation.

Example: Your fiscal year ends on April 30, 20XX

Your **turnover** for the fiscal year ending on April 30, 20XX is \$1.9 million.

As indicated in Table 2.1 below, on your anniversary of business operation, you must provide an individual security of \$40,000.

Table 2.1

Individual security amount to provide for obtaining a general licence on the basis of turnover⁴

Turnover	First anniversary	Second anniversary	Third anniversary	Fourth and subsequent anniversaries
Up to \$1M	\$25,000	\$25,000	\$25,000	\$25,000
Up to \$2M	\$40,000	\$35,000	\$30,000	\$25,000
Up to \$3M	\$55,000	\$45,000	\$40,000	\$30,000
Up to \$4M	\$70,000	\$60,000	\$50,000	\$40,000
Up to \$5M	\$90,000	\$75,000	\$60,000	\$50,000
Up to \$6M	\$105,000	\$90,000	\$70,000	\$60,000
Up to \$7M	\$115,000	\$100,000	\$80,000	\$70,000
Up to \$8M	\$125,000	\$115,000	\$90,000	\$80,000
Up to \$9M	\$135,000	\$125,000	\$100,000	\$90,000
Up to \$10M	\$150,000	\$140,000	\$110,000	\$100,000
Up to \$11M	\$160,000	\$150,000	\$120,000	\$110,000
Up to \$12M	\$170,000	\$160,000	\$130,000	\$120,000
Up to \$13M	\$180,000	\$170,000	\$140,000	\$130,000
Up to \$14M	\$190,000	\$180,000	\$150,000	\$140,000
Up to \$15M	\$200,000	\$190,000	\$160,000	\$150,000
Up to \$16M	\$225,000	\$200,000	\$180,000	\$160,000
Up to \$17M	\$225,000	\$215,000	\$200,000	\$170,000
Up to \$18M	\$225,000	\$225,000	\$215,000	\$180,000
Up to \$19M	\$225,000	\$225,000	\$225,000	\$200,000
Up to \$20M	\$225,000	\$225,000	\$225,000	\$215,000
Over \$20M	\$225,000	\$225,000	\$225,000	\$225,000

⁴ Upon renewal of a General Licence, if the security is paid out using cash or bonds, only the difference between the security already provided and the amount of the new security must be paid.

If you do not provide an individual security policy, the amount shown must be made available in cash or paid by cheque, postal money order, or bank draft. The OPC president holds the trust money, which are deposited in an account with a financial institution. The amounts accumulated in this account may be placed in investments deemed sound, as defined in the Civil Code of Québec, or with the *Caisse de dépôt et placement du Québec*. The income from this investment is paid to the trust and used for such purposes as management fees.

2.2.4 How to terminate the security?

The travel agent or the **surety** may terminate the security by notifying the OPC president in writing at least 90 days in advance. Even when expired, the security remains in full effect for obligations undertaken while it was in force for a period of three years following its official cancellation date. This time period may be extended in the case where a customer has filed a complaint against you within the prescribed deadline.

! Did you know that...

It is in a traveler's best interest to book through a licenced travel agency in Quebec, Ontario, or British Columbia. In Quebec, if a problem arises, the licence ensures that the traveler is indemnified or reimbursed from the travel agent's trust account, the individual security, and FICAV.

2.3 COMPENSATION FUND

2.3.1 What is the purpose of the Compensation Fund?

Customers benefit from an additional source of protection. Under the Act, the Compensation Fund for Customers of Travel Agents (FICAV) is to be used to indemnify or reimburse customers, or to ensure their departure or repatriation, in cases where a travel agent's individual security is insufficient. Even if the individual security is sufficient, in the event where the supplier fails to provide the service, or where the customer is unable to benefit from the service for a reason outside the customer's control, it is provided that FICAV be used for the purpose of indemnification, reimbursement, or ensuring the departure or repatriation of a customer. FICAV is also used to pay administrative fees and expenses of the provisional administrator, i.e. the person appointed to look after customer accounts in the event of an agency closure. Consequently, Ms. Fairbrother would be protected by FICAV if Fancyfree Agency Inc. has exhausted its individual security.

It is therefore in a traveler's best interest to book through a travel agency that is licenced in Quebec. If a problem arises, the licence ensures that the traveler is compensated or reimbursed from the travel agent's trust account, the individual security provided, or FICAV.

2.3.2 Who must contribute to FICAV?

Contributions to the Compensation Fund for Customers of Travel Agents (FICAV) are made by travel agency customers. FICAV contributions are mandatory. The travel agent or travel counsellor dealing directly with customers is responsible for collecting the required contribution amounts that accumulate in the fund. However, customers getting a discount are not required to pay the contribution and you do not have to collect it (see the explanation on discount in section 2.3.5).

There is one exception: diplomats and diplomatic personnel are exempt from paying the FICAV contribution. They must provide a copy of their exemption certificate, which is issued by the OPC president upon request from the Ministère des Relations Internationales. Individuals who are exempt are not eligible for FICAV benefits.

2.3.3 What is the amount of the contribution?

Your customer pays a percentage of the total cost, not including GST and QST, of tourist services purchased through your agency as a contribution to FICAV. This does not include travel insurance or travel accessories (e.g. purchase of tourist maps and travel guides).

However, this contribution, which is currently 0.10%, must be calculated on the following tourist services billed by the travel agency:

- Hotel room or car rental bookings, even if the customer has the option to make a last-minute cancellation without charge
- Airport fees and airfare, i.e. all taxes other than GST and QST
- All tourist services paid by the travel agency directly to the **service provider** and charged on the customer's credit card
- Tourist services charged to foreign customers not residing in Quebec

The Regulation respecting travel agents provides that the contribution percentage varies depending on the surplus accumulated⁵ in the Fund, as indicated in Table 2.2.

! Did you know that...

Each year, the OPC is allowed to use \$250,000 or 5% of the investment income from FICAV, whichever is greater, to organize information and education activities for consumers.

⁵ The surplus accumulated represents the Fund's total income minus the total expenditures accumulated since its establishment in 2004. The Fund's revenues come from travel agent customer contributions and *Caisse de dépôt et placement du Québec* investment earnings.

Table 2.2

Contribution to FICAV	
Accumulated FICAV surplus	Percentage collected from tourist services sold
Up to \$75 million	0.35% (or \$3.50 per \$1,000 in purchases)
Up to \$100 million	0.20% (or \$2.00 per \$1,000 in purchases)
More than \$100 million	0.10% (or \$1.00 per \$1,000 in purchases)

! Did you know that...

When adjustments are made to the FICAV contribution amount, the OPC notifies all travel agents by email. In addition, press releases are sent to the media, in particular newspapers and trade magazines.

Fancyfree Agency Inc. charged Ms. Fairbrother \$4.41 for her contribution to FICAV (i.e. 0.10% multiplied by the cost of a \$4,407.36 vacation package, before GST and QST.)

In situations where you are not required to collect the FICAV contribution because of the accumulated surplus in the fund, the amount of the contribution must nevertheless be indicated on the invoice given to the customer. On the line below, you must subtract the same amount and mark "Credit applicable" (See Topic 7).

2.3.4 What is your role?

You must remit the amounts collected from your customers, less 5% which you retain for management fees.

If your tourist service sales amount to \$5 million or less,

- You must make payments twice a year, within 30 days of the end of each semester (period of six consecutive months) of your fiscal year.

If your tourist service sales exceed \$5 million,

- You must make payments 4 times a year, within 30 days of the end of each quarter (period of 3 consecutive months) of your fiscal year.

The penalty for failing to remit the contributions or the report within the set deadline is the greater of the following two amounts: \$50 or 10% of the amount owed. You may also be subject to **penal charges** for breach of the Regulation.

As already mentioned, the travel agent may not have to collect the contribution to the fund because of surplus accumulated as of March 31 of a given year. In this case, the report and contributions collected before the end of this period, must be remitted to the OPC no later than February 28 of the following year.

How is the contribution remitted to the OPC?

The amount is remitted to the OPC either by cheque or electronically, along with a statement signed by the licence holder or an **executive officer**, indicating

- The sales subject to contribution (the cost of tourist services purchased at your agency before GST and QST, excluding travel insurance and travel accessories)
- The total amount of FICAV contributions paid by customers
- The amount remitted

The report can be produced using a paper form or an online service, whose address is available on the *Office de la protection du consommateur* website.

2.3.5 FICAV contribution remittance

Based on contributions accumulated in the fund, investment earnings, and indemnities granted to customers, the surplus can exceed \$125 million. In this case, travel agency customers benefit from FICAV's good financial health.

When the fund's surplus as of March 31 (end of its fiscal year) is equal to or greater than \$125M, the OPC informs travel agents that their customers can be credited their FICAV contribution as per their invoice, as of the following January 1.

On the customer's invoice, you must indicate the amount of the contribution. On the following line, the same amount is subtracted and the note "Credit applicable" marked. The amount of the credit is identical to the amount of the contribution (see section 2.3.3). The credit cancels the customer's contribution to FICAV. However, it does not reduce customer protection, in particular through the Compensation Fund for Customers of Travel Agents.

In the event where, as of March 31, the surplus accumulated became equal to or less than \$75M, the OPC informs travel agents that their customers will no longer benefit from a credit as of the following January 1. Customer contributions to FICAV must therefore resume (see section 2.3.3).

! Did you know that...

An OPC inspector may visit your agency, at any reasonable hour, to review any document, book, record, or account containing information relating to your business operations.

2.4 ACCOUNTING

2.4.1 Bookkeeping

In order to comply with administrative regulations, you must keep your accounting records up to date by entering

- All cash, cheque, credit card, and debit card payments received, as well as payments made by any other means
- All expenditures made from the trust account
- The trust account total balance and, shown separately, the balance of each customer account

You must be able to show your books, registers, and accounts for each establishment located in Quebec at all times.

An OPC inspector or investigator may visit your agency, at any reasonable hour, to review any document, book, record, or account containing information relating to your establishment's business operations.

On request of the OPC president, you must provide interim financial statements including a trust account statement. A review engagement report and other information or documents relating to your travel agent operations may also be requested.

Table 2.3

Interim financial statements and trust account statement

Turnover	Submission deadline
Up to \$10 million	No submission required
Between \$10 and \$20 million	Within 45 days following the end of each HALF of the fiscal year
More than \$20 million	Within 45 days following the end of each QUARTER of the fiscal year

2.5 PENALTIES AND OFFENCES

The Act and the Regulation respecting travel agents provide for fines in the case of specific violations. Your **penal liability** consists in submitting to a penalty as prescribed by the legislation. The following check-list allows you to assess your level of compliance and indicates the corresponding fines that you may be facing. The table can be used as a memory aid.

Administration of funds

Penal liability	Compliant	Non-compliant	First offence	Repeated offence
Have you notified the OPC of the opening or closing of the trust account?			\$600 to \$6,000 (for a natural person) \$1,000 to \$40,000 (in other cases)	\$1,200 to \$12,000 (for a natural person) \$2,000 to \$80,000 (in other cases)
Do you deposit the money paid by customers in a trust account?			\$600 to \$15,000 (for a natural person) \$2,000 to \$100,000 (in other cases)	\$1,200 to \$30,000 (for a natural person) \$4,000 to \$200,000 (in other cases)
Do you withdraw money from the trust account for situations specific to a particular customer?			\$600 to \$15,000 (for a natural person) \$2,000 to \$100,000 (in other cases)	\$1,200 to \$30,000 (for a natural person) \$4,000 to \$200,000 (in other cases)
Do you withdraw money from the trust account only by cheque, transfer, or bank transfer?			\$600 to \$15,000 (for a natural person) \$2,000 to \$100,000 (in other cases)	\$1,200 to \$30,000 (for a natural person) \$4,000 to \$200,000 (in other cases)
Do you withdraw amounts from the trust account without exceeding those provided by your customer?			\$600 to \$15,000 (for a natural person) \$2,000 to \$100,000 (in other cases)	\$1,200 to \$30,000 (for a natural person) \$4,000 to \$200,000 (in other cases)

Administration of funds (continued)

Penal liability	Compliant	Non-compliant	First offence	Repeated offence
Do you use the trust account only for one or several of the following purposes?			\$600 to \$15,000 (for a natural person)	\$1,200 to \$30,000 (for a natural person)
• Pay suppliers on behalf of the customer • Reimburse or pay service fees incurred on behalf of the customer • Reimburse amounts owed to the customer • Collect your commissions			\$2,000 to \$100,000 (in other cases)	\$4,000 to \$200,000 (in other cases)
Do you make sure that the trust account is not overdrawn or showing a deficit?			\$600 to \$15,000 (for a natural person)	\$1,200 to \$30,000 (for a natural person)
			\$2,000 to \$100,000 (in other cases)	\$4,000 to \$200,000 (in other cases)
Do you make sure that only authorized persons conduct transactions in the trust account?			\$600 to \$15,000 (for a natural person)	\$1,200 to \$30,000 (for a natural person)
			\$2,000 to \$100,000 (in other cases)	\$4,000 to \$200,000 (in other cases)
Do you keep your accounting books and records up to date?			\$600 to \$6,000 (for a natural person)	\$1,200 to \$12,000 (for a natural person)
			\$1,000 to \$40,000 (in other cases)	\$2,000 to \$80,000 (in other cases)
Do you remit FICAV contributions to the OPC on time?			\$600 to \$6,000 (for a natural person)	\$1,200 to \$12,000 (for a natural person)
			\$1,000 to \$40,000 (in other cases)	\$2,000 to \$80,000 (in other cases)

Fancyfree Agency Inc. PLEADS GUILTY

The *Office de la protection du consommateur* reports that Fancyfree Agency Inc. pleaded guilty to using trust account funds to pay for business operation expenses and personal accounts (*RTA, s. 25*). The Agency used the funds to pay the rent and telephone expenses. The company will have to pay a penalty totaling \$3,000.

Being familiar with the responsibilities and obligations of travel agents, you will be able to secure your customers' trust in you as a reliable travel agent. Once you comply with the requirements outlined in this section, you can move forward in the process of obtaining the licence that you need to operate a travel agency.

Now it's your turn to assess your knowledge of the material covered in this section.

Test yourself			
After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Define individual security, trust account, and Compensation Fund for Customers of Travel Agents (FICAV)			
2. Understand the purpose of the individual security, trust account, and Compensation Fund for Customers of Travel Agents (FICAV)			
3. Determine the amount of individual security to be provided and how to go about it			
4. Calculate the contribution amount to be collected for the Quebec Travel Agency Customer Compensation Fund (FICAV), where necessary			
5. Produce accounting records			
6. Cite the penalties for offences due to non-compliance with the law			
Total			

Keep up the hard work! Review this topic or go on to the next section.

Answers Test your knowledge

1. **False.** The customer has done business with a travel agent holding a travel agent licence in Quebec. She is therefore protected by the **surety**. If the security amount is insufficient, Ms. Fairbrother will be reimbursed or compensated by FICAV. (*RTA, s.28 and 43.13*)
 2. **False.** The counsellor is not the travel agent licence holder; therefore, he cannot be held liable. The licensee is required to provide individual security. This security makes it possible to reimburse the amounts collected for tourist services that were not delivered to the customer. (*RTA, s.28(1)(b)*)
 3. **True.** Under the Act, FICAV must be used to compensate or reimburse Ms. Fairbrother should the individual security of Fancyfree Agency Inc. be exhausted. (*RTA, s.43.13*)
 4. **False.** The regulations specify that the trust account must be used exclusively to administer amounts paid by customers. Fancyfree Agency Inc. revenues are deposited in a current bank account. (*RTA, ss.23 and 25*)
 5. **False.** Despite the fact that the security ends with the closing of the travel agency, it remains available for the purpose of compensating customers for a period of three years. (*RTA, ss.31.7 and 33*)
 6. **False.** Travel agents are authorized to withdraw the amount of their commission only after suppliers have been paid. (*RTA, s.23(2)(e)*)
- Result: _____ /6



Supplementary readings and exercises

- How should the money collected on the sale of a tourist service be administered? Answer: *TAA, s.33 and RTA, s.22.*
- Define the term “**fund**” within the meaning of the Regulation? Answer: *RTA, s.21.*
- A travel agent claims: “Administering FICAV incurs additional management expenses for my business.” Is this true or false? Explain. Answer: *RTA, s.40.*
- Do you need to hold the amount required for the individual security in cash? Justify your answer. Answer: *RTA, s.30.*
- What are the powers of the provisional administrator with respect to using the **funds** held in trust? Answer: *TAA, s.14.3.*

3 OPERATING AN ESTABLISHMENT WITH A LICENCE

By the end of this section, you will be able to

- Identify the intended users of a travel agency licence
- Differentiate the various types of travel agent licences
- Distinguish the required procedures for obtaining or renewing a general licence
- Complete a licence application
- Understand the grounds and types of recourse available in the event of a licence refusal, suspension, or cancellation
- Demonstrate your knowledge of the penalties and offences associated with failure to comply with the Act and the Regulation
- Explain the legal **liability** associated with performing the duties of a travel agent

A travel agent licence or travel counsellor certificate must be obtained in order to perform the duties of a travel agent, such as operating a business that organizes travel and sells tourist services. This section looks at the conditions, obligations, and procedures involved in the issuing and renewal of a general or restricted licence, as well as the reasons for the refusal to issue a licence, for licence suspension, and cancellation. The penalties and types of recourse following an offence are also addressed.

Before going any further, let's test your knowledge of this topic.

Context

Mr. Fortunato has long loved his career as a travel counsellor. At a certain point in his life, he decided to own and operate his own travel agency. To achieve his goal, he seized the opportunity presented by his employer, the Four Suns Agency, offering to sell him the company's assets. Mr. Fortunato is now starting the process of becoming a travel agency owner. Can you help him?

This section refers to the following legal provisions:

Travel Agents Act (*CQLR, chapter A-10*)

- Division I – Definitions and application (ss. 2 and 3)
- Division II – Licences and certificates (ss. 4 to 11.1)
- Division III – Suspension, cancellation or refusal to issue or renew licences; proceeding before the Administrative Tribunal of Québec (ss. 12 to 13.2)
- Division III.1 – Provisional administration (ss. 14 to 14.5)
- Division IV – Obligations of a travel agent (s. 37)
- Division V – Inspection (s. 35.1)
- Division VI – Regulations (s. 36)
- Division VII – Penal provisions (ss. 37 to 40.1)

Regulation respecting travel agents (*CQLR, chapter A-10, r. 1*)

- Division I.1 – Exceptions (ss. 1.1 and 1.2)
- Division II – Classes of travel agent licences (s. 2)
- Division III – Classes of restricted licences (s. 3)
- Division IV – Licences (ss. 4 to 8 and 8.2 to 11)
- Division IV.1 – Travel counsellors (s. 11.1)
- Division IV.2 – Operation of an establishment at home (s. 11.10)
- Division V – Obligations of travel agents (ss. 12, 13.1, and 13.1.1)
- Division XV – Penal (s. 47)

? Test your knowledge

True or false?

1. Mr. Fortunato must have a travel agent diploma from the Department of Education to apply for a general travel agent licence. _____
2. A person must be at least 18 years old to apply for a travel agent licence. _____
3. The Association des agents de voyages du Québec is the body authorizing Mr. Fortunato to apply for a travel agent licence. _____
4. A person must have acquired two years of full-time work experience as a travel counsellor to obtain a travel agent licence. _____
5. Mr. Fortunato can have his employer's licence transferred to him in order to take over operating the Four Suns Agency. _____
6. The general licence fee is calculated according to the number of employees working for the travel agency. _____

Answers are found at the end of this section.

3.1 THE ISSUING OF A LICENCE

3.1.1 Who needs a licence?

Does your job include renting or booking accommodation or transportation services, or **organizing trips** for your customers? In this case, you are performing travel agent operations, when needed. Under the Act (*TAA*, s. 2), a travel agent is a person, a partnership, or an association that, on account of a third party or on account of its members, engages in or offers to engage in or issues vouchers for or offers to issue vouchers for any of the following operations:

- the booking or reservation of lodging accommodation, e.g. selling overnight stays in a hotel to your customers or those of another agency;
- the booking or reservation of transportation services, e.g. selling airplane tickets to your customers or those of another agency;
- the arranging of travel services, e.g. signing agreements with tourist service **suppliers** to plan and coordinate package trips or tours in order to sell them to your customers or those of another agency.

Whether you perform any of these operations or all three, the Travel Agents Act obliges you to have a travel agent licence issued by the president of the *Office de la protection du consommateur*. A single licence will be issued to you. If you operate more than one business establishment, you must ask for a duplicate for each additional **establishment**. The president remains the owner of the licence; he or she can therefore withdraw, cancel, or refuse to renew the licence.

What distinguishes a travel agent from a travel counsellor?

Travel counsellors act on behalf of a travel agent holding a Quebec general travel agent licence. They perform travel agent operations as part of their duties, but only for the travel agency that they work for. For this reason, they must hold a counsellor certificate, be affiliated with an agency that holds a general licence, and respect the following conditions:

- Have an employment contract (examples of which can be found in Appendix 1) with a single travel agent
- Work in one of the establishments operated by their employer (a travel agent)
- Not receive customers in their home, unless the agency has obtained a duplicate licence for that establishment
- Collect funds from their customers and deposit them in the travel agency trust account
- Provide a receipt on behalf of the agency that complies with regulations (see Topic 7)
- Advertise using the agency's contact information while providing their own mobile telephone number, if they wish

! Did you know that...

A travel agent must maintain an up-to-date list of travel counsellors employed by his or her agency and of counsellors with whom the travel agent has signed an exclusive service contract (including outside agents). The travel agent must also make sure that these travel counsellors are holders of a certificate (see details in Topic 4).

3.1.2 Who does not need to obtain a licence?

There are certain situations where travel agent operations are conducted that do not require a travel agent licence. For example:

- An association (e.g. a sports association), a company (e.g. a partnership), or a legal entity (e.g. an incorporated company) does not need a travel agent licence to organize occasional⁶ trips within Quebec. However, the length of such group trips must not exceed 72 hours if only group members participate, or 48 hours if there are non-member participants.
- A person operating a tourist accommodation establishment governed by the Act respecting tourist accommodation establishments (*CQLR, chapter E-14.2*) who offers proximity services in addition to accommodation services in his or her establishment (e.g. museum visits, golf, etc.) is exempt from the requirement to hold a licence.
- A carrier whose transportation services can be leased or booked does not need to obtain a travel agent licence either.

You will find in section 3 of the Act and section 1.1 of the Regulation the list of cases for which a licence is not required.

⁶ The term "occasional" is important in this context. In fact, if such an activity is carried out on a regular basis, every year for example, this exemption does not apply.

3.1.3 Licence classes and fees

The OPC president issues two classes of licences:

- **General licence**
- **Restricted licence**

Depending on your commercial activities, you must apply for a licence class corresponding to your case.

The general travel agent licence allows you to offer any of the tourism services listed in section 3.1.1.

You're an adventure tourism producer, an outfitter, or a regional tourism association? The restricted licence allows you to offer certain tourism services that are complementary to your main activities under certain conditions. This licence enables the holder to deal directly with the general public, with members of a particular group, or through another travel agent with a general licence. There are three classes of restricted licences:

- **Restricted licence for adventure travel organizers**

This licence allows an adventure tourism organizer in Quebec to organize and sell packages that include ancillary accommodation services in addition to his or her own services. These accommodation services must be offered in establishments governed by the Act respecting tourist accommodation establishments (*CQLR, c E-14.2*). To obtain this licence, the organizer cannot offer transportation tickets as part of the package and the activities planned must only take place in Quebec.

- **Restricted licence for outfitting operations**

This licence authorizes an outfitter to offer, in addition to its outfitting services, a shuttle service from the airport of destination to the outfitter's location, as well as accommodation near the airport, both after arrival and before departure.

- **Restricted licence for a regional tourism association**

This licence authorizes a regional tourism association recognized under the Act respecting the Ministère du Tourisme (*CQLR c M-31.2*) to market tourist accommodation establishments and tourist attractions in its region, as well as packages not including transportation within its administrative boundaries.

For information on obtaining or renewing a restricted licence, please visit the OPC website at <https://www.opc.gouv.qc.ca/commercant/permis-certificat/agentsdevoyages/permis/renouvellement/documents>. Special attention must be paid to the documents required for an application for a restricted licence, which are different from those needed for an application for a general licence.

Cost of an initial licence application (general and restricted)

The cost of the initial application for a licence is based on the number of months for which it is issued. The first month is the month of the filing of the application. The last month is the seventh month following the end of your fiscal year. For example, a travel agent who applies for a licence on October 1, 2017, and whose fiscal year ends on December 31, 2017, must calculate the cost of his or her licence over a 10-month period, because this licence would have to be renewed on August 1, 2018.

Be careful! Travel agents wishing to apply for a licence less than three months before the end of their business's first fiscal year will have to add 12 months to the calculation above. Therefore, the initial licence is always issued for a period varying between 10 and 22 months.

The cost of the initial licence is calculated by multiplying the number of months (from the licence application date to the renewal date) by the monthly cost. You must pay the fees in a single payment.

Table 3.1

Cost of the initial licence application	
General licence	\$76 per month*
Restricted licence	\$38 per month*

* The costs indicated are those in effect for 2018. The amount is adjusted annually on July 1, based on the Canadian Consumer Price Index. Every year, the *Office de la protection du consommateur* publishes a notice in the *Gazette officielle du Québec* indicating licence costs (www3.publicationsduquebec.gouv.qc.ca/gazetteofficielle.en.html)

If your licence application involves more than one establishment (branch), additional charges apply for each establishment. For detailed information on the cost of an initial licence application, please visit the OPC website at <http://www.opc.gouv.qc.ca/commercant/permis-certificat/agentsdevoyages/permis/demande/tarifs>. Remember that your licence does not have an expiry date, but it must be renewed every year, no later than two months before the first day of the eighth month following the end of your fiscal year (*RTA*, s. 5).

Example: The Four Suns Agency's general licence

On February 1, 2018, Benito Fortunato, manager of the Four Suns Agency, applied for a general licence for the very first time. The agency's initial fiscal year was slated to end on October 30, 2018. The period of validity of Mr. Fortunato's initial licence extends from February 1, 2018 to June 1, 2019 (i.e. 7 months from October 30, 2018). Given that the duration of this licence is 16 months, he had to pay \$1,216 (\$76 multiplied by 16 months).

! Did you know that...

Every year, the *Office de la protection du consommateur* publishes a notice in the *Gazette officielle du Québec* indicating licence costs.

3.1.4 Initial general travel agent licence

You will be able to obtain a general travel licence if you satisfy the various requirements. If you fail to provide all the information and documents, your licence application will be refused. Don't forget that you are responsible for informing the OPC of any changes to the information or documents submitted in support of the licence application within 15 days of the change. This may be a change of managers, **investors**, the fiscal year-end, documents or signatories of the **trust account**, your address, etc. For more details, see section 12 of the Regulation. You will find the forms to notify the Office of these changes at <http://www.opc.gouv.qc.ca/commerçant/permis-certificat/agence/permis/modification>.

The general licence can be issued in your name. In this case, you must work in the **principal establishment**. The licence can also be issued to the person, association, or company that operates the travel agency. In this case, you must obtain from the person or entity operating the agency a written authorization to apply for a licence and demonstrate your role within the organization. You are also required to have as your main activity the duty of managing the principal establishment. As licence holder, your name will appear on the licence in addition to the agency's name. You must also be at least 18 years old.

How do you go about filing your first application?

First, the person applying for the general licence must hold a travel agency manager certificate. In order to obtain the licence, the person must have passed, within the last five years, the travel agent manager examination.⁷ This examination is taken on site, at a location determined by the *Institut de tourisme et d'hôtellerie du Québec*. After having passed the examination, the applicant must fill out the "Demande de permis d'agent de voyages" (travel agent licence application) form (see the example starting on page 36). The form is provided by the OPC and it can be found at <https://www.opc.gouv.qc.ca/commerçant/permis-certificat/agents-devoyages/permis/demande>. The applicant must then send the completed form to the OPC, making sure to pay the prescribed duties (see Table 3.1) and to include the following supporting documents with his or her mailing.

⁷ The person applying for a restricted licence is not required to take the examination or hold this certificate.

To obtain the following document, please refer to an accountant:

- The opening balance sheet, showing working capital of at least \$5,000. This financial statement must include an auditor's certificate or a review engagement report.

To obtain the following documents, please refer to your financial institution (see Topic 2 for more details):

- The opening documents and signature log for each trust account
- A security

To obtain the following document, please refer to your management board (see Topic 2 for more details):

- Where applicable, a copy of the resolution provided by the company's board of directors authorizing you to apply for a licence on its behalf

To obtain the following document, please refer to your municipality:

- If you conduct travel-related activities at home, a photocopy of a certificate of occupancy issued by your municipality or a letter authorizing you to conduct these activities at home.

Are you applying for a licence in order to continue operating an existing agency as a new legal entity? If so, you must also attach the financial statements, including the former travel agent's trust account statements, showing the figures as of the date of your licence application. Mr. Fortunato, who is taking over his employer's active business assets, must complete the travel agent licence application presented below. In this example, the amount of the security that has to be provided and the minimum working capital required will have to match the turnover of the former agency.



Specimen: Travel Agent Licence Application Form (French-language version)

Office
de la protection
du consommateur

Québec

Demande de permis d'agent de voyages

Réservé à l'Office	Réservé à l'Office
N° de permis :	
N° de commerçant :	
NEQ :	
Examiné par :	Date :

1

Section 1 : Type de demande

Type de permis :	☒ Général ☐ Restreint de pourvoyeur ☐ Restreint d'organisateur de voyages de tourisme d'aventure ☐ Restreint d'association touristique régionale
Traitement prioritaire :	☐ Oui ☒ Non

Note : Des frais supplémentaires s'élevant à 50 % du coût du permis sont exigés pour un traitement prioritaire.

2

Section 2 : Renseignements sur le requérant

Nom : Lachance	Prénom : Lucky
Adresse du domicile (numéro, rue) : 77, de la Colline	
Ville : Québec	Province : Québec Code postal : G1R 4T9
Téléphone : 418 658-1148, poste 411	Télécopieur : 418 658-1147
Date de naissance (aaaa-mm-jj) : 1970-07-21	Courriel : llachance@net.com

Permis général seulement : le requérant doit réussir un examen de gérant d'agences de voyages avant de demander un permis. Pour obtenir de l'information à ce sujet, visitez la page portant sur l'examen, dans le site Web de l'Office de la protection du consommateur.

Numéro d'identifiant CCV utilisé lors de l'inscription à l'examen (15 caractères, débutant par « CCV20 ») : **CCV201612326983**

Section 3 : Immatriculation légale du commerçant

Nom de l'entité légale au Registraire des entreprises du Québec, s'il y a lieu : 4203565 CANADA inc.
Numéro d'entreprise du Québec (NEQ) : 2579145298
Date de fin d'exercice financier : 30 octobre 20XX
Autres noms qui doivent figurer sur le permis : Agence 4 Soleils

3

Veuillez inscrire ci-dessous l'adresse de l'établissement principal et, dans le cas où le requérant exploite plus d'un établissement, l'adresse des autres établissements à l'annexe A. Veuillez prendre note que tous les établissements que le requérant exploite doivent être immatriculés au Registraire des entreprises du Québec, s'il y a lieu.

Adresse de l'établissement principal (numéro, rue, bureau) : 1324, des Jardins
Ville : Québec Province : Québec
Code postal : G1R 6P7 Téléphone : 418 658-4455, poste 225
Courriel : 4soleils@net.com Télécopieur : 418 658-4452

4

Office de la protection du consommateur • 400, boul. Jean-Lesage, bureau 450, Québec (Québec) G1K 8W4
Téléphone 418 643-1484 • Télécopieur 418 646-4891 • infopermis@opc.gouv.qc.ca

2019-04-03 • 1

- 1 Your licence does not have an expiry date, but it must be renewed every year, no later than two months before the first day of the eighth month following the end of your fiscal year (*RTA*, s. 5).
- 2 See Section 3.1.3 Licence classes and fees (*RTA*, s. 6(a)).
- 3 The NEQ is the number assigned to companies registering with the enterprise registrar in order to simplify dealings between companies and the various Quebec government departments and agencies.
- 4 A travel agent may operate an establishment at his or her home or the home of a travel counsellor on the conditions presented in Appendix D of the Travel Agent Licence Application Form (*RTA*, s. 11.10).



Specimen: Travel Agent Licence Application Form (cont'd)

Office
de la protection
du consommateur

Demande de permis d'agent de voyages

Section 4 : Déclaration et certification

A. Les établissements où l'agent de voyages fera des affaires sont-ils conformes à la réglementation municipale relative aux usages?	☒ Oui ☐ Non	1
B. Avez-vous comme principale activité celle d'exercer des fonctions de gérance à l'établissement principal de la personne, l'association ou la société au bénéfice de laquelle le permis est demandé?	☒ Oui ☐ Non	2
C. Au moment de la demande, la personne, la société ou l'association s'est-elle conformée aux dispositions relatives à la publicité légale, si elle est constituée en vertu des lois du Québec?	☒ Oui ☐ Non	3

Pour toute réponse positive aux déclarations suivantes, veuillez joindre un document explicatif en annexe comportant la signature du requérant de permis.

D. Avez-vous déjà été condamné :		
- pour escroquerie, pour faux ou pour opération frauduleuse en matière de contrat de commerce?	☐ Oui ☒ Non	4
- pour une infraction à la Loi sur les agents de voyages?	☐ Oui ☒ Non	5
Si oui, précisez :		
E. Un dirigeant ou un bailleur de fonds a-t-il déjà été condamné, ou été dirigeant ou bailleur de fonds d'un agent de voyages qui a été condamné :		
- pour escroquerie, pour faux ou pour opération frauduleuse en matière de contrat de commerce?	☐ Oui ☒ Non	6
- pour une infraction à la Loi sur les agents de voyages?	☐ Oui ☒ Non	7
Si oui, précisez :		
F. Avez-vous déjà été titulaire d'un permis, ou occupé une fonction de dirigeant ou de bailleur de fonds pour un agent de voyages qui a été la cause du paiement d'une réclamation par l'un des fonds du cautionnement collectif ou par le Fonds d'indemnisation des clients des agents de voyages, et qui n'a pas remboursé ce fonds?	☐ Oui ☒ Non	8
Si oui, précisez :		

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2019-04-03 • 2

- 1 You must fill out Appendix D. Required under the Regulation respecting travel agents, ss. 6(f) and 11.10.
- 2 Required under the Regulation respecting travel agents, s. 6(l) and (m)
- 3 Required under the Regulation respecting travel agents, s. 6(n)(vi)
- 4 Required under the Regulation respecting travel agents, s. 6(h)

- 5 Required under the Regulation respecting travel agents, s. 6(i)
- 6 Required under the Regulation respecting travel agents, s. 6(n)(iv)
- 7 Required under the Regulation respecting travel agents, s. 6(n)(ii)
- 8 Required under the Regulation respecting travel agents, s. 6(j)



Specimen: Travel Agent Licence Application Form (cont'd)

Office
de la protection
du consommateur

Demande de permis d'agent de voyages

Section 4 : Déclaration et certification (suite)

G. Un dirigeant ou bailleur de fonds a-t-il déjà été titulaire d'un permis, ou occupé une fonction de dirigeant ou de bailleur de fonds pour un agent de voyages qui a été la cause du paiement d'une réclamation par l'un des fonds du cautionnement collectif ou par le Fonds d'indemnisation des clients des agents de voyages, et qui n'a pas remboursé ce fonds?

☐ Oui ☒ Non

1

Si oui, précisez :

H. Avez-vous fait faillite au cours des 5 années précédant la demande ou occupé une fonction de dirigeant ou de bailleur de fonds pour un agent de voyages qui a fait faillite au cours des 5 années précédentes?

☐ Oui ☒ Non

2

Si oui, précisez :

I. Un dirigeant ou un bailleur de fonds a-t-il fait faillite à titre d'agent de voyages ou à titre de dirigeant ou de bailleur de fonds d'un agent de voyages qui a fait faillite, au cours des 5 années précédentes?

☐ Oui ☒ Non

3

Si oui, précisez :

Certification

JE DÉCLARE que les renseignements fournis dans la présente demande et dans toutes les pièces ci-annexées sont véridiques et complets.

Je reconnais que l'agent de voyages doit, dans les 15 jours de l'événement, aviser le président de l'Office de la protection du consommateur par écrit de tout changement aux renseignements fournis et aux documents transmis.

4

Requérant de permis :

LUCKY LACHANCE

[en lettres moulées]

Signature du requérant de permis :

Lucky Lachance

Date : 30 octobre 20XX

À tout moment, des pièces justificatives peuvent être demandées pour valider les renseignements présentés dans les déclarations.

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2019-04-03 • 3

1 Required under the Regulation respecting travel agents,
s. 6(n)(v)

2 Required under the Regulation respecting travel agents,
s. 6(k)

3 Required under the Regulation respecting travel agents,
s. 6(n)(iii)

4 Required under the Regulation respecting travel agents,
s. 12



Specimen: Travel Agent Licence Application Form (cont'd)

Office
de la protection
du consommateur

Demande de permis d'agent de voyages

Annexe A : Renseignements sur les établissements

Inscrire l'adresse de tous les établissements que le requérant exploite au Québec et pour lesquels un duplicata de permis est demandé. S'assurer que les renseignements fournis ci-dessous sont conformes à ceux déclarés au Registraire des entreprises du Québec.

(Si l'espace est insuffisant, veuillez joindre une annexe.)

1

Nom utilisé :	
Adresse (numéro, rue, bureau) :	
Ville :	Province :
Code postal :	Courriel :
Téléphone :	Télécopieur :

Nom utilisé :	
Adresse (numéro, rue, bureau) :	
Ville :	Province :
Code postal :	Courriel :
Téléphone :	Télécopieur :

Nom utilisé :	
Adresse (numéro, rue, bureau) :	
Ville :	Province :
Code postal :	Courriel :
Téléphone :	Télécopieur :

Nom utilisé :	
Adresse (numéro, rue, bureau) :	
Ville :	Province :
Code postal :	Courriel :
Téléphone :	Télécopieur :

Nom utilisé :	
Adresse (numéro, rue, bureau) :	
Ville :	Province :
Code postal :	Courriel :
Téléphone :	Télécopieur :

Nom utilisé :	
Adresse (numéro, rue, bureau) :	
Ville :	Province :
Code postal :	Courriel :
Téléphone :	Télécopieur :

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2019-04-03 • 4

1 M. Lachance only operates one establishment.
(RTA, s. (6)(e))



Specimen: Travel Agent Licence Application Form (cont'd)

Office
de la protection
du consommateur

Demande de permis d'agent de voyages

Annexe B : Identification des dirigeants et bailleurs de fonds

Inscrire le nom, la date de naissance, l'adresse du domicile, le numéro de téléphone, la fonction et le pourcentage de participation des dirigeants et bailleurs de fonds (associés et administrateurs). S'assurer que les renseignements fournis ci-dessous sont conformes à ceux déclarés au Registraire des entreprises du Québec.

(Si l'espace est insuffisant, veuillez joindre une autre annexe.)

Prénom : Lucky	Nom : Lachance
Adresse du domicile (numéro, rue, appartement) :	77, de la Colline
Ville : Québec	Code postal : G1R 4T9 Province : Québec
Téléphone : 418 658-1148, poste 411	Date de naissance (aaaa-mm-jj) : 1970-07-21
Fonction dans l'entreprise : Président-directeur général	Pourcentage de participation dans l'entreprise : 70%

Prénom : Joanne	Nom : Labonne
Adresse du domicile (numéro, rue, appartement) :	101, des Tulipes
Ville : Québec	Code postal : G1R 6P7 Province : Québec
Téléphone : 418 658-5421	Date de naissance (aaaa-mm-jj) : 1970-03-23
Fonction dans l'entreprise : Vice-présidente	Pourcentage de participation dans l'entreprise : 30%

Prénom :	Nom :
Adresse du domicile (numéro, rue, appartement) :	
Ville :	Code postal : Province :
Téléphone :	Date de naissance (aaaa-mm-jj) :
Fonction dans l'entreprise :	Pourcentage de participation dans l'entreprise :

Prénom :	Nom :
Adresse du domicile (numéro, rue, appartement) :	
Ville :	Code postal : Province :
Téléphone :	Date de naissance (aaaa-mm-jj) :
Fonction dans l'entreprise :	Pourcentage de participation dans l'entreprise :

Prénom :	Nom :
Adresse du domicile (numéro, rue, appartement) :	
Ville :	Code postal : Province :
Téléphone :	Date de naissance (aaaa-mm-jj) :
Fonction dans l'entreprise :	Pourcentage de participation dans l'entreprise :

Prénom :	Nom :
Adresse du domicile (numéro, rue, appartement) :	
Ville :	Code postal : Province :
Téléphone :	Date de naissance (aaaa-mm-jj) :
Fonction dans l'entreprise :	Pourcentage de participation dans l'entreprise :

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Téléphone 418 643-1484 • Télécopieur 418 646-4891 • infopermis@opc.gouv.qc.ca

2019-04-03 • 5

1 M. Lachance has a business partner who has contributed funds to finance the activities of the 4 Suns Agency.

2 Required under the Regulation respecting travel agents, RTA, s. 6(1)(n)(i)



Specimen: Travel Agent Licence Application Form (cont'd)

Office
de la protection
du consommateur

Québec

Demande de permis d'agent de voyages

Annexe C : Déclaration d'ouverture d'un compte en fidéicommis

1

L'agent de voyages doit informer l'Office de la protection du consommateur de l'ouverture, de la fermeture et du transfert d'un compte en fidéicommis, ainsi que de tout changement de signataires. (Si l'espace est insuffisant, veuillez joindre une annexe.)

Le pourvoyeur qui verse un cautionnement supplémentaire n'est pas tenu d'ouvrir un compte en fidéicommis; il n'a pas à remplir cette annexe. Le montant de ce cautionnement est présenté dans le site Web de l'Office, sur la page portant sur les tarifs applicables à une demande de permis.

Renseignements sur le compte en fidéicommis

Nom de l'agence de voyages : **4203565 CANADA inc.**N° de l'institution financière (3 chiffres) : **832**N° de transit de l'institution (5 chiffres) : **26601**N° du compte (7 chiffres) : **05-586-60**Nom de l'institution financière : **Banque Secure**Devise : ☒ Dollars canadiens ☐ Dollars américains ☐ Autre devise (spécifiez) :Adresse de l'institution financière (numéro, rue, bureau) : **2458, de la Monnaie**Ville : **Québec**Province : **Québec**Code postal : **G7R 6P3**Courriel : **alain.poupart@bs.com**Téléphone : **418 555-2222**Télécopieur : **418 555-2221**

Important : Veuillez joindre une copie des documents d'ouverture et de la fiche de signature de chaque compte en fidéicommis.

Personnes autorisées (dirigeant ou membre du personnel) à effectuer les transactions bancaires dans le compte en fidéicommis

Titulaire de permis : **Lucky Lachance**Adresse personnelle (numéro, rue, appartement) : **77, de la Colline**Ville : **Québec**Province : **Québec**Code postal : **G1R 4T9**Date de naissance (aaaa-mm-jj) : **1970-07-21**Téléphone : **418 658-1148**Télécopieur : **418 658-1147**Autre signataire : **Joanne Labonne**Type : ☐ Signataire seul ☒ Cosignataire ☐ Autre type (spécifiez) :Adresse personnelle (numéro, rue, appartement) : **101, des Tulipes**Ville : **Québec**Province : **Québec**Code postal : **G1R 6P7**Date de naissance (aaaa-mm-jj) : **1976-03-23**Téléphone : **418 658-5421**

Télécopieur :

Autre signataire :

Type : ☐ Signataire seul ☐ Cosignataire ☐ Autre type (spécifiez) :

Adresse personnelle (numéro, rue, appartement) :

Ville :

Province :

Code postal :

Date de naissance (aaaa-mm-jj) :

Téléphone :

Télécopieur :

Certification

J'autorise l'Office de la protection du consommateur à vérifier en tout temps l'état du compte en fidéicommis.

Titulaire ou requérant de permis : **LUCKY LACHANCE**Signature : *Lucky Lachance*Date : **30 octobre 20XX**Office de la protection du consommateur • 400, boul. Jean-Lesage, bureau 450, Québec (Québec) G1K 8W4
Téléphone 418 643-1484 • Télécopieur 418 646-4891 • infopermis@opc.gouv.qc.ca

2019-04-03 • 6

1 Required under the Regulation respecting travel agents,
RTA, s. 6(p)



Specimen: Travel Agent Licence Application Form (cont'd)

Office
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du consommateur

Québec

Demande de permis d'agent de voyages

Annexe D : Attestation de conformité à la réglementation municipale relative aux usages

AVIS

Pour chacun des établissements pour lesquels un permis est demandé, vous devez remplir une attestation de conformité dûment signée par le requérant du permis.

Si l'une des déclarations ci-dessous est fausse, veuillez préciser tout renseignement pertinent en annexe.

JE DÉCLARE avoir vérifié auprès de la Ville ou de la Municipalité que l'établissement situé au :

1324, des Jardins

Québec

G1R 6P7

(Numéro, rue, bureau)

(Ville)

(Code postal)

respecte la réglementation municipale relative aux usages.

JE DÉCLARE que mon établissement d'agent de voyages respecte effectivement la réglementation municipale relative aux usages. Sur demande, je pourrai fournir à l'Office de la protection du consommateur le certificat obtenu du greffier de la Ville ou de la Municipalité.

JE DÉCLARE être informé que la délivrance du permis d'agent de voyages, par l'Office de la protection du consommateur, ne me dispense pas de respecter la réglementation municipale relative aux usages.

J'AUTORISE, le cas échéant, l'Office de la protection du consommateur à vérifier la conformité de la présente déclaration d'attestation de conformité auprès de la Ville ou de la Municipalité concernée.

Dans le cas d'un agent de voyages exploitant un établissement à son domicile ou au domicile d'un conseiller en voyages seulement :

JE DÉCLARE qu'une pièce du domicile est réservée à cette activité.

JE DÉCLARE que les numéros de téléphone, de télécopieur ainsi que l'adresse électronique utilisés pour les activités d'agents de voyages sont au nom de l'agent de voyages et sont différents des numéros et de l'adresse électronique personnels du propriétaire du domicile.

Note : Pour les requérants de permis exploitant une agence de voyages à domicile, veuillez joindre un certificat ou une lettre de confirmation de la Ville pour l'exploitation de cet établissement.

Nom : LACHANCE

Prénom : LUCKY

Signature du requérant de permis : *Lucky Lachance*

Date : 30 octobre 20XX

À tout moment, des pièces justificatives peuvent être demandées pour valider les renseignements présentés dans les déclarations.

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2019-04-03 • 7

1 Required under the Regulation respecting travel agents, RTA, s. 6(f)

2 Required under the Regulation respecting travel agents, RTA, s. 11.10(b)

3 Required under the Regulation respecting travel agents, RTA, s. 11.10(c)

4 Required under the Regulation respecting travel agents, RTA, s. 11.10(a)



Specimen: Travel agent licence application (French-language version)

Office
de la protection
du consommateur
Québec

MISE EN GARDE

À L'ATTENTION DU DÉTENTEUR DE PERMIS :

Ce permis doit être affiché à la vue du public.

4203565 CANADA INC.
1324 DES JARDINS
QUÉBEC QC H2J 1Z2

Office
de la protection
du consommateur
Québec

DUPLICATA

PERMIS D'AGENT DE VOYAGES

GÉNÉRAL

DÉTENTEUR/DÉTENTRICE :
LACHANCE, LUCKY

DATE D'ENTRÉE EN VIGUEUR :
20XX-02-01

NUMÉRO DE PERMIS : 700000

PERMIS RECONDUIT JUSQU'AU :
20XX-03-01

4203565 CANADA INC.
1324 DES JARDINS
QUÉBEC QC H2J 1Z2

AUTRES NOMS DU COMMERÇANT
AGENCE 4 SOLEIL

Lachance
Présidente

! Did you know that...

You must display your licence
in full view of customers in all
of your establishments.

After having obtained your licence (or duplicate), you must display it in such a way that your clients can see it in all of your establishments.

You are also required to maintain an up-to-date list of travel counsellors employed by your agency and those with whom the agency has signed an exclusive service contract (including outside counsellors). The list must include the name, certificate number, and certificate expiry date for each travel counsellor. You must also ensure that your counsellors hold a certificate (see details in Topic 4): you are not permitted to employ counsellors or sign service contracts with individuals who are not holders of a valid certificate. Finally, when your contractual relationship with a travel counsellor ends, you must inform the OPC president thereof within five days of the termination of the contract.

3.1.5 General travel agent licence renewal

Is your agency operating on an ongoing basis? If so, you must renew your licence annually and file the required documents for this purpose at least two months before the **anniversary date** of your licence. If you operate more than one establishment, you must renew your duplicate licences at the same time. Just like you, Mr. Fortunato will have to apply for a licence renewal if he decides to continue operating his agency for a second year.

Here's how to go about renewing your licence:

- Confirm that the information and documents regarding your most recent licence application are up to date. Approximately four months before your licence is due for renewal, you will receive the “Renouvellement de permis” (licence renewal) form containing the information that you provided when you applied for your licence.
- Include with the renewal form the duties payable to the Minister of Finance (see Table 3.2).
- Provide the following documents (available from a member of a recognized Canadian professional accounting order): your financial statements from the last fiscal year, including the trust account balance sheet, and an auditor's certificate or a review engagement report. Financial statements must comprise the following information:
 - The amounts of tourist services sales subject to contribution to the Compensation Fund for Customers of Travel Agents
 - The amount of tourist services sales carried out through the **intermediary** of another travel agent
 - The amount collected from customers residing outside Quebec (if you are a travel agent providing services through a travel organization located outside Quebec)

- The balance sheet showing a minimum amount of working capital, excluding accounts payable and accounts receivable existing between the travel agent and a person, an association, or a company that the agent is bound to or that is under the agent's control (see Table 3.3)
- The security amount adjustment if justified by your turnover (see Table 2.1 in Topic 2 of this guide)

Table 3.2

Cost of general licence renewal ⁸ based on turnover	
Turnover	Cost*
Up to \$0.5 million	\$344
Up to \$2 million	\$459
Up to \$5 million	\$631
Up to \$10 million	\$860
Up to \$20 million	\$1,146
More than \$20 million	\$1,490

* The costs indicated are those in effect for 2018. The amount is adjusted annually on July 1, based on the Canadian Consumer Price Index. Every year, the *Office de la protection du consommateur* publishes a notice in the *Gazette officielle du Québec* indicating licence costs (www3.publicationsduquebec.gouv.qc.ca/gazetteofficielle.en.html)

Table 3.3

Minimum working capital required based on turnover	
Turnover	Minimum working capital
Up to \$1 million	\$5,000
Up to \$3 million	\$7,500
Up to \$5 million	\$10,000
Up to \$10 million	\$15,000
Up to \$25 million	\$25,000
Up to \$50 million	\$50,000
Up to \$75 million	\$75,000
Up to \$100 million	\$100,000
More than \$100 million	\$150,000

8 For more details concerning the cost of renewing a licence, please visit the OPC website at (in French only) <http://www.opc.gouv.qc.ca/commerçant/permis-certificat/agence/permis/renouveler-un-permis/tarifs>

3.2 DUPLICATE LICENCE AND LICENCE TRANSFER

3.2.1 Duplicate licence

Do you own or operate other business establishments in addition to your principal establishment? If the answer is yes, you must obtain, for a fee, a duplicate licence to display in each of your establishments. As with the general licence for your principal establishment, the cost thereof is re-assessed each year on July 1, based on the Canadian Consumer Price Index.

3.2.2 Licence transfer

You can apply for a licence transfer if the licensee

- Has died
- Has resigned
- Has been dismissed
- No longer complies with the requirements of the Act for licensees

In any of these situations, you have a maximum of 10 days to submit the form provided by the OPC president which can be found on the OPC website (in French only: https://www.opc.gouv.qc.ca/fileadmin/media/documents/commercant/permis-certificat/agence/AV_Changement_de_titulaire.pdf).

The information to be provided through this form consists of all the updates to the licence application form. The cost represents 50% of the price paid at the general licence application or last renewal thereof, including the duplicate to be displayed in each establishment. You must also provide a copy of the resolution of the company's board of directors authorizing the new licensee to apply for the licence.

3.3 LICENCE REFUSAL, SUSPENSION, OR REVOCATION

3.3.1 Grounds

- Have you, as holder of a travel agent licence, committed an offence under the Act or the Regulation respecting travel agents?
- Have you ceased to satisfy the mandatory conditions for obtaining a licence?
- Have you made a false declaration or modified information in order to obtain or renew your licence?
- Have you performed travel agent operations in such a way that you cannot carry through your obligations honestly and competently in the public interest?
- Does your financial situation prevent you from meeting the obligations arising from your travel agent operations?
- Have you failed to draft or maintain a valid **corporate charter**?
- Have you officially, partially or totally, liquidated your principal establishment?
- Have you closed your principal establishment?
- Have you respected the rules for applying for a licence transfer?
- Have you violated any of the conditions or obligations provided for in the Act or the Regulation respecting travel agents?
- Have you failed to meet a **voluntary undertaking** of yours or an **extended undertaking** under the Consumer Protection Act?

If your answer to any of these questions is “yes”, your licence may be refused, cancelled, or suspended by the OPC. In such cases, its president will send you a notice indicating his or her intention and the reasons justifying the decision, as well as the corrections that would make your application acceptable. Upon receiving the notice, you have 10 days to forward your comments to the OPC president if you believe that your licence should be issued or that it should not be cancelled or suspended.

3.3.2 Recourses

You don't agree with a given decision? The OPC president may decide to reject your explanations and maintain his or her decision regarding your licence. You can challenge this decision if you feel that such a step is appropriate.

In this case, you must file your appeal with the Administrative Tribunal of Québec. The cost of an appeal against a decision of the OPC president in connection with the Travel Agents Act is approximately \$80. The required form and a description of the entire recourse process are found on the Administrative Tribunal of Québec website at <http://www.taq.gouv.qc.ca/en>. The duration of the process and the process itself from the time your application is received until the Tribunal's decision are variable.

It is important to know that under the Act respecting administrative justice (*CQLR chapter J-3, Division IV, s. 36*) the Administrative Tribunal of Québec hears appeals against decisions relating to the travel agent licence, and the travel agency manager and travel counsellor certificates. Under this Act, it is possible to request a review of unfavourable decisions regarding the licence and certificate required to perform your duties.

3.3.3 Provisional administration

The OPC president can appoint a competent person to temporarily administer your principal establishment with a view to terminating current business, if your obligations and responsibilities are not fulfilled. This provisional appointment ensures that your customers are protected.

3.3.4 Penalties and offences

Penalties and offences fall under the responsibility of the *Office de la protection du consommateur* and the Director of Criminal and Penal Prosecutions. To specifically oversee the application of the Travel Agents Act, inspectors or investigators monitor compliance with various aspects of the Act and the Regulation. These investigators report offences and can recommend bringing **penal charges**. The following checklist enables you to assess your degree of compliance and the fines to which you may be exposed. Please refer this section as a memory aid.

Licence				
Penal liability	Compliant	Non-compliant	First offence	Repeated offence
Have you performed travel agent operations without holding a licence?			\$600 to \$15,000 (for a natural person) \$2,000 to \$100,000 (in other cases)	\$1,200 to \$30,000 (for a natural person) \$4,000 to \$200,000 (in other cases)
Have you notified the OPC president of any change in the declaration of the fiscal year-end date?			\$600 to \$6,000 (for a natural person) \$1,000 to \$40,000 (in other cases)	\$1,200 to \$12,000 (for a natural person) \$2,000 to \$80,000 (in other cases)
Have you notified the OPC president of any change in the trust account opening documents and signature log?			\$600 to \$6,000 (for a natural person) \$1,000 to \$40,000 (in other cases)	\$1,200 to \$12,000 (for a natural person) \$2,000 to \$80,000 (in other cases)
Have you notified the OPC president of any change in a document filed with the Enterprise Register?			\$600 to \$6,000 (for a natural person) \$1,000 to \$40,000 (in other cases)	\$1,200 to \$12,000 (for a natural person) \$2,000 to \$80,000 (in other cases)
Do you provide air transportation tickets for trips whose point of departure or arrival is located in Canada or the United States without the carrier holding flight licences and approvals for these countries?			\$600 to \$6,000 (for a natural person) \$1,000 to \$40,000 (in other cases)	\$1,200 to \$12,000 (for a natural person) \$2,000 to \$80,000 (in other cases)
Do you keep an updated list of travel counsellors in your employ or with whom you have signed an exclusive contract?			\$600 to \$6,000 (for a natural person) \$1,000 to \$40,000 (in other cases)	\$1,200 to \$12,000 (for a natural person) \$2,000 to \$80,000 (in other cases)

The Office maintains a list of all travel agent licensees on its website. Customers can find information such as how to contact you, whether you have a valid general licence, and copies of formal complaints received by the OPC made, for example, by customers dissatisfied with a service received. The business of operating a travel agency is possible only by means of a licence.

Now it's your turn to assess your knowledge of the material covered in this section.

 Test yourself			
After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Identify the intended users of a travel agency licence.			
2. Differentiate the various types of travel agent licences.			
3. Differentiate the procedures for obtaining and renewing a general licence.			
4. Fill out a licence application.			
5. Understand the grounds for refusing, suspending, or cancelling a licence and the types of recourses available if a licence is refused, suspended, or cancelled.			
6. Cite the offences and penalties associated with a failure to comply with the Act.			
7. Grasp the legal liability associated with performing the duties of a travel agent.			
Total			

Keep up the hard work! Review this topic or go on to the next section.

Answers Test your knowledge

1. **False.** Mr. Fortunato is required to hold a travel agency manager certificate obtained upon passing an examination taken less than five years ago. The examination tests knowledge of the legislative and regulatory provisions applicable to the travel industry and to the management of a travel agency (*RTA*, s. 6(1)(g)).
2. **True.** You must be of legal age (18 years old) to obtain a licence, whether the application is made for yourself or on behalf of any other natural person, association, partnership, or legal entity (*TAA*, s. 6).
3. **False.** It is the OPC president who issues the travel agent licence. The **applicant** must satisfy the conditions laid out in the Act and the Regulation (*TAA*, s. 11).
4. **False.** Holding a travel agency management certificate is a required. The certificate must be obtained upon passing an examination taken less than 5 years ago (*RTA*, s. 6(1)(g)).
5. **False.** Mr. Fortunato is buying the assets of his employer, including the Four Suns Agency name, furniture, office lease, customer contracts, and more. In this case, he must reapply for a licence since the agency that will continue operations is a new legal entity. If the Four Suns Agency is an incorporated company, Mr. Fortunato would be able to purchase the proprietary equity, i.e. the assets and liabilities of the company, which would remain the same legal entity (*RTA*, s. 8.4).
6. **False.** The number of employees does not influence the licence cost. The cost depends on the turnover appearing in the financial statements (*RTA*, s. 4(1)(b)).

Result: _____ /6

Supplementary readings and exercises

Answer the following questions by referring directly to the relevant sections of the Act and the Regulation respecting travel agents (*CQLR*, chapter A-10 and *CQLR*, chapter A-10, r. 1).

- Under what conditions does the Travel Agents Act not apply when the travel agent books a hotel room for a tourist? Answer: *RTA*, s. 1.1 (1)(g)
- Explain why a travel agency sales representative doesn't require a travel counsellor certificate. Answer: *TAA*, s. 4(3)
- What is the amount of the fee required by the OPC for a travel agent licence transfer? Answer: *RTA*, s. 4(1)(e)
- Can the holder of a restricted licence sell an all-inclusive package in the Dominican Republic to a customer? Answer: *RTA*, s. 3
- Under the Travel Agents Act, what is the maximum fine in case of a recurrent offence? Answer: *TAA*, s. 39

4 PRACTICING WITH A CERTIFICATE

By the end of this section, you will be able to

- Identify who requires a certificate
- Understand the purpose of the examination required for certification
- Differentiate the necessary steps to obtaining or renewing a certificate
- Understand the grounds for refusing, suspending, or cancelling a certificate
- Identify the penalties and offences associated with a failure to comply with the Act and the Regulation
- Understand the legal **liability** associated with the duties of travel agency managers and travel counsellors

This section addresses certification, in particular the conditions, obligations, and procedures that apply thereto, in regard to both travel agency managers and travel counsellors. You will learn how to obtain and renew a certificate.

Before going any further, let's test your knowledge of this topic.

Context

The following is an extract from the *Association des agents de voyages du Québec* (Quebec association of travel agents) website (French only: aavq.ca/services). The AAVQ has supported the professionalization of this sector since 2011. The link *Renseignez-vous sur un agent de voyages* (Getting information about a travel agent) leads to the relevant section of the *Office de la protection du consommateur* website.

"The *Association des agents de voyages du Québec* is a non-profit association, whose membership is free for everyone. Its **mandate** is to defend your rights before lawmakers.

Quebec travel agencies generate a turnover of more than \$5 billion and provide employment for over 12,000 people. The AAVQ actively promotes and defends its members' interests both within the industry and with government authorities. In addition, it initiates a range of actions aimed at enhancing its members' professionalism in order to meet the expectations of the modern consumer.

This section refers to the following legal provisions:

Travel Agents Act (*CQLR, chapter A-10*)

- Division I – Definitions and application (s. 2)
- Division II – Licences and certificates (ss. 4 and 8)
- Division III – Suspension, cancellation or refusal to issue or renew licences; proceeding before the Administrative Tribunal of Québec (s. 13.2)
- Division V – Inspection (ss. 35 and 35.1)
- Division VI – Regulations (s. 36)
- Division VII – Penal provisions (ss. 37 to 40.1)

Regulation respecting travel agents (*CQLR, chapter A-10, r. 1*)

- Division I.1 – Exceptions (s. 1.2)
- Division IV – Licences (s. 6)
- Division IV.1 – Travel counsellors (ss. 11.1 to 11.9)
- Division IV.3 – Travel agency manager (ss. 11.11 to 11.13)
- Division V – Obligations of travel agents (ss. 13.1 and 13.1.1)
- Division XV – Penal (s. 47)

Mission

- Ensuring fair representation for all Quebec travel agents;
- Promoting and defending AAVQ member interests both within the industry and with government authorities;
- Enhancing member professionalism in order to meet the expectations of the modern consumer. [Our translation]"

? Test your knowledge

True or false?

1. Only new travel counsellors and outside agents require a certificate. _____
2. You can submit your observations to the *Office de la protection du consommateur* following a notice informing you of the Office's intention to cancel or suspend your certificate. _____
3. Your certificate ceases to be valid if you are dismissed by your employer or if you terminate your employment. _____
4. The examination is mandatory for all travel counsellors. _____
5. General travel agency licence holders must have certification. _____
6. The certificate must be visibly displayed. _____
7. Once obtained, a certificate is valid forever. It has no expiry date. _____
8. The cost of the certificate varies according to the length of time it is in force. _____

Answers are found at the end of this section.

! Did you know that...

A student can do an internship in an agency WITHOUT holding a certificate.

! Did you know that...

If you are an outside counsellor, you need a travel counsellor certificate. Consequently, you must be bound by contract to ONE SINGLE employer and you may NOT receive customers in your home, unless you have obtained a duplicate licence.

4.1 OBTAINING A CERTIFICATE

4.1.1 Who is required to hold a certificate?

Are you a travel counsellor who is in the employ of a travel agent or has entered into a service contract with a travel agent? Do you deal directly with customers over the telephone, online, or in person? Do you hold a **travel agent** licence? Under the Act, you are required to hold a certificate in order to perform these duties. In fact, all managers holding a travel agent licence as well as all travel counsellors in the province of Quebec must obtain a certificate, which is an official document issued by the *Office de la protection du consommateur*. Like Ontario, Quebec wants to ensure that workers in the travel industry are aware of the obligations and responsibilities connected with their profession. Accordingly, travel agent licence holders must make certain that their staff possess this mandatory certificate. However, this requirement does not apply to student interns working at the agency.

If you are an outside travel counsellor, you also need a certificate. Consequently, you may be bound by contract to one employer only and you may not receive customers at home unless the travel agent operates an establishment at your residence, for which a duplicate licence has been issued.

Initial certificate

In order to obtain a travel counsellor certificate or a travel agency manager certificate, the applicant is required to pass an examination. This exam focuses specifically on the knowledge of legislative and regulatory provisions applicable to the travel industry. The conditions and procedures regarding the exam and the issuing of the certificate are posted on the *Office de la protection du consommateur* website at <https://www.opc.gouv.qc.ca/en/merchant/licenses-certificates/counsellor/certificate/request>. You must request your initial certificate within two years of passing the exam.

Failing to satisfy the conditions or to provide the required information and payment may result in your application being dismissed. Once issued, your certificate is valid for a period of one year. It is your responsibility to inform the OPC of any change in your personal contact information (e.g. civic address, telephone number, or e-mail address) no later than 15 days following the modification. It is important to note that an employment contract or an exclusive service contract is mandatory for an employee to obtain a certificate and for an employer to hire a counsellor. An example of an employment contract is provided in Appendix 1.

! Did you know that...

After you pass the examination, you have a maximum period of 2 years to apply for your certificate.

! Did you know that...

An exclusive employment contract is mandatory for an employee to obtain a certificate and for an employer to hire a counsellor. You will find a sample employment contract in the appendix.

Typical example



Specimen: Travel counsellor certificate (French-language version)

Office de la protection du consommateur Québec

Certificat de conseiller en voyages

Renseignements sur la certification

Numéro de dossier	CCV201712345678
Titulaire	M. MARCO POLO
Statut du certificat	Valide
Période de validité	20 janvier 20XX - 19 janvier 20XX

Agent de voyages auquel le titulaire est lié

Numéro de permis	700000
Nom de l'agence	AGENCE 4 SOLEIL
Adresse	1324 DES JARDINS QUÉBEC (Québec) H2J 1Z2

Données en date du 2019-04-08 15:29:14

Ce certificat est délivré par le président de l'Office de la protection du consommateur.
Toute personne peut en vérifier la validité au [opc.gouv.qc.ca](https://www.opc.gouv.qc.ca).



Did you know that...

A certificate will be issued to you if you meet the following conditions: having passed the examination, having paid the certificate issue duties, and having submitted the information required under the Regulation, such as the information concerning the travel agent that you are bound to. If you are no longer bound to a travel agency, your certificate will be suspended. It will become valid again if you re-establish such a bond within two years.

Certificate renewal

The certificate is renewed every year on the anniversary of the initial issue date. Each year, the counsellor receives a notice by email two months prior to this date. Yearly renewal is necessary to keep the certificate active. However, renewal does not require that you take the exam again. The renewal fee is posted online at <http://www.opc.gouv.qc.ca/en/merchant/licenses-certificates/counsellor/certificate/request>. This amount must be paid each year on the anniversary of your certificate issue date. Remember to update the data in your file! The OPC will send you a reminder to your personal email if your file is not up to date.

Your certificate is valid if the following conditions are met:

- You have passed the examination;
- You have paid the fees (initial certificate or renewal);
- You are bound to a travel agency. Wherever this is not the case, your certificate will be suspended. It will become valid again if within two years you re-establish such a bond;
- You have provided the required information, including your name, personal address, and personal and professional telephone numbers.

If you stop working for more than two years (to go back to school or try another career, for example), you will not be able to renew your certificate. You will have to take the examination again and apply for a new certificate.

4.2 REFUSAL, CANCELLATION, AND SUSPENSION

4.2.1 Grounds

- In the last five years, have you committed an offence under the Act or the Regulation respecting travel agents?
- In the last five years, have you been found guilty of fraud, forgery, or fraudulent operations in contractual or commercial matters?
- Have you made a false declaration or falsified information to obtain or renew your certificate?
- Have you failed to comply with any of the obligations laid out in the Act or the Regulation respecting travel agents?

If you answered “yes” to any of these questions, your certificate can be refused, cancelled, or suspended by the OPC. The same is true if the president has reasons to believe that you do not operate in a truthful and competent manner.

In these cases, the president of the OPC sends a notice explaining his or her intention, the grounds for the decision, and the corrections required to regularize your file. Upon receiving this notice, you have a maximum of 10 days to submit comments.

However, the OPC president may dismiss your explanations and maintain the refusal to issue, or the decision to suspend or cancel your certificate.

4.2.2 Recourses

In the event where the OPC president maintains his or her decision despite your observations, you can challenge this decision by filing an appeal with the Administrative Tribunal of Québec within 30 days of receiving the notice, along with the required fee. The required form, as well as a complete description of the recourse process, are found on the Administrative Tribunal of Québec website. The duration of the process and the process itself from the time your application is received until the Tribunal’s decision may vary.

4.2.3 Penalties and offences

Penalties and offences are under the responsibility of the *Office de la protection du consommateur* and the Director of Criminal and Penal Prosecutions. In order to ensure compliance with the Travel Agents Act, inspectors and investigators verify that the different aspects of the Act and Regulation have been respected. Investigators and inspectors report offences and can recommend bringing **penal charges**. Acting as a counsellor without holding a certificate can result in fines ranging from \$600 to \$15,000 for natural persons and \$2,000 to \$100,000 in other cases. Amounts are doubled in the event of a repeated offence. Failing to inform the president, within 15 days, of a change affecting the information contained in an application to obtain or renew a certificate can result in fines ranging from \$600 to \$6,000 for a natural person, and \$1,000 to \$40,000 in other cases, which are doubled in the event of a repeated offence.

4.3 RESPONSIBILITY RELATED TO HOLDING A CERTIFICATE

Your certificate attests to your awareness of the legislative and regulatory provisions applicable to the travel industry.

Furthermore, the OPC makes available online a list of all certified travel agency managers and travel counsellors. Your certificate allows you to officially appear on this list as a person authorized to do business with customers.

As a certificate holder, your responsibility extends beyond familiarity with the Act and the Regulation respecting travel agents. Different pieces of legislation designed to ensure consumer protection supplements the Act and the Regulation. Having this document allows you to officially do business with customers, as explained in the second module of this guide.

Now it's your turn to assess your knowledge of the material covered in this section.

Test yourself			
After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Identify who requires a certificate;			
2. Understand the purpose of the examination required for certification;			
3. Differentiate the necessary steps to obtaining or renewing a certificate;			
4. Understand the grounds for refusing, suspending, or cancelling a certificate;			
5. Identify the penalties and offences associated with a failure to comply with the Act and the Regulation;			
6. Understand the legal liability associated with the duties of travel agency managers and travel counsellors.			
Total			

Keep up the hard work! Review this topic or go on to the next section.

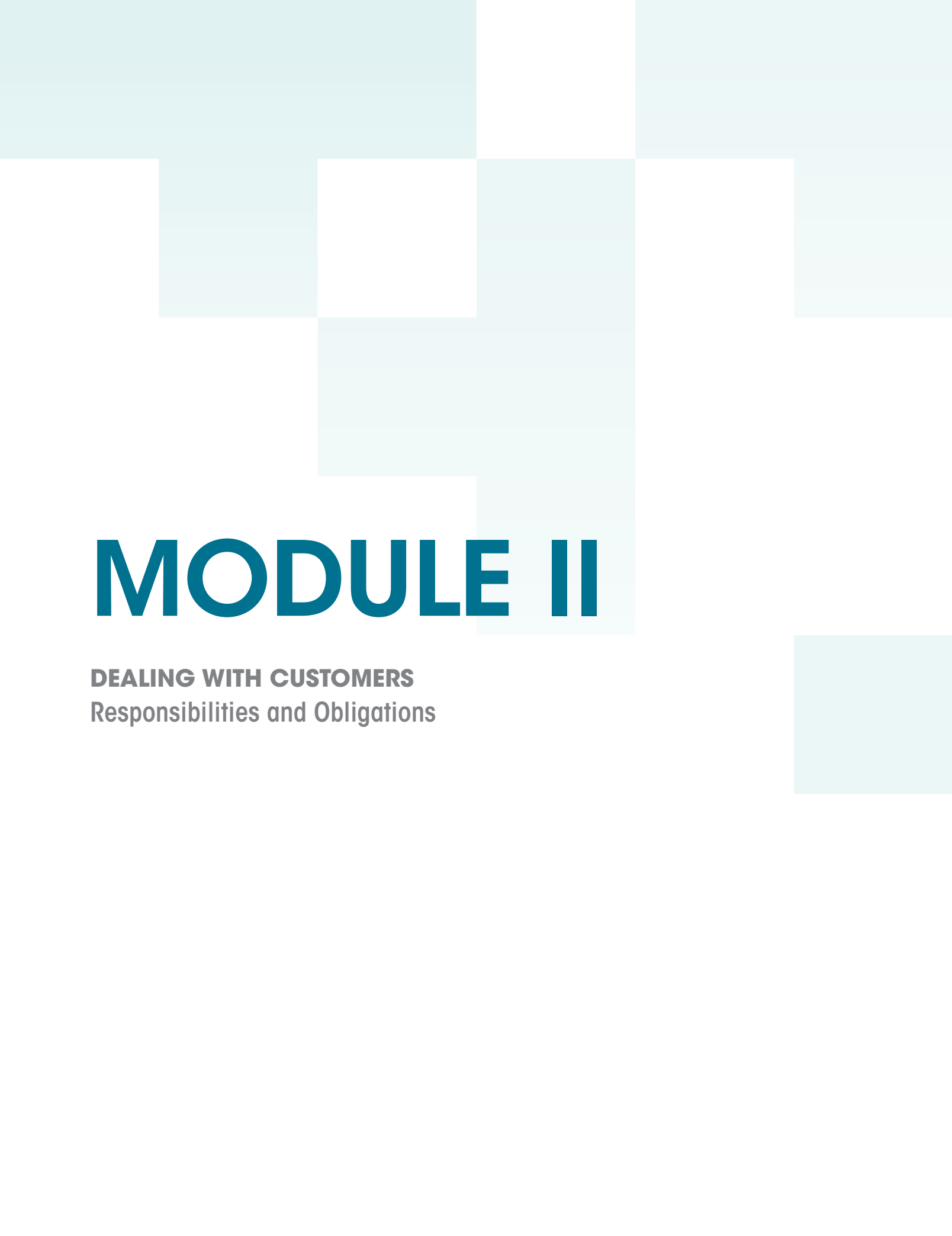
Answers Test your knowledge

1. **False.** All travel counsellors, as well as outside agents, must hold a certificate. (*TAA*, s. 4)
 2. **True.** Upon receipt of the OPC president's notice, you have 10 days to submit your observations. However, the OPC president may maintain the decision, despite your explanation. The president will inform you in writing of his or her reasoned decision. (*RTA*, s. 11.8)
 3. **True.** Your travel counsellor certificate is valid only while you are employed by a licence holding travel agent. Where this is no longer the case, your certificate is suspended. It becomes valid again, without you having to sit the examination again, once you start new employment or sign a new exclusive contract, if you do so within two years of the termination of your previous bond. (*RTA*, s. 11.9)
 4. **True.** Under the Act, all travel counsellors must pass an examination and obtain a certificate. (*RTA*, s. 11.2(1)(a))
 5. **True.** Holders of a general travel agent licence must also hold a travel agency manager certificate. (*RTA*, s. 6(1)(g))
 6. **False.** Counsellors must be able to produce their certificates upon request when working at a location other than the travel agent's establishment. (*TAA*, s. 4(4))
 7. **False.** Your certificate is valid for a period of one year and its renewal is subject to the following conditions: paying the annual renewal fee, providing the information required under the Regulation, and avoiding the situations described in section 11.7 of the Regulation. (*RTA*, ss. 11.2, 11.4, 11.5, and 11.7)
 8. **False.** The cost of the certificate is not related to its period of validity. The cost is based on a validity period of one year, regardless of whether the certificate is actually valid or not (*RTA*, s. 11.5)
- Result: _____ /8

Supplementary readings and exercises

Answer the following questions by referring directly to the relevant sections of the Act and the Regulation respecting travel agents (*CQLR*, chapter A-10 and *CQLR*, chapter A-10, r. 1).

- What is the difference between a licence holder and a certificate holder? Answer: *TAA*, ss. 4 and 8; *RTA*, s. 11.1
- How are travel counsellor operations defined under the TAA? Answer: *TAA*, ss. 2 and 4
- What information should travel counsellors provide when applying for the issue or renewal of a certificate? Answer: *RTA*, s. 11.4
- Within what time frame should travel counsellors notify the OPC of changes in the information contained in their application for the issuing or renewal of a certificate in order to avoid penalties? Answer: *RTA*, s. 11.6



MODULE II

DEALING WITH CUSTOMERS
Responsibilities and Obligations

5 ADVERTISING YOUR PRODUCT OR SERVICE

By the end of this section, you will be able to

- Recognize an advertisement that complies with regulations
- Distinguish the characteristics of written advertisements from those of printed advertisements
- Create an advertisement that complies with regulations
- Take your liabilities and obligations into account
- Identify the penalties corresponding to offences

Advertising is an essential tool for marketing a tourist service. However, it is important to ensure compliance with the laws and regulations in force. In this section, we examine the mandatory features of written and printed advertising.

Before going any further, let's test your knowledge of this topic.



Context

Four Suns Agency has negotiated unbeatable prices for the *Hôtel du Grand Palais* in Paris. The owner has decided to run the ad presented on page 64 in the local newspaper to boost sales in the coming weeks.

This section refers to the following legal provisions:

Travel Agents Act (*CQLR, chapter A-10*)

- Division VI – Regulations (s. 36)
- Division VII – Penal provisions (ss. 37 to 40.1)

Regulation respecting travel agents (*CQLR, chapter A-10, r. 1*)

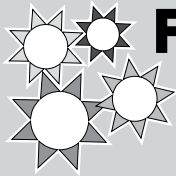
- Division V – Obligations of travel agents (s. 13.2)
- Division VI – Advertising (ss. 14 to 16)
- Division XV – Penal (s. 47)

Consumer Protection Act (*CQLR, chapter P-40.1*)

- Ss. 41, 215 et seq.; 278, 311, and 312



Non-compliant advertisement



Four Suns Agency

**Places
are limited!**

PARIS MUSEUMS

\$2,499.99

15 days/14 nights



Included:

- Round-trip flight Montreal-Paris
- Hôtel du Grand Palais 5-star
- Airport-hotel shuttle service (arrival and departure)
- Handling of 2 suitcases per person (arrival and departure)
- All breakfast meals
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST
- FICAV contribution

Price valid for new bookings only

Four Suns Agency Inc.
1324, des Jardins Street, Quebec City (Quebec) G1R 6P7
Telephone: 418 658-4455 • Email: 4soleils@net.com

? Test your knowledge

Based on your current knowledge of advertising regulations, identify the five mistakes that the Four Suns Agency made in their advertisement.

1. _____

2. _____

3. _____

4. _____

5. _____

Answers are found at the end of this section.

5.1 GENERAL RULES TO BE RESPECTED

Does your strategy call for advertising in a magazine or newspaper, in French, English, or other languages? Do you prefer to use inserts, brochures, leaflets, or storefront window displays? Do you focus on your own website or on the site provided by your suppliers? All of these forms of advertising are governed by the Consumer Protection Act and the Regulation respecting travel agents. The Regulation respecting travel agents applies to all forms of advertising. In the Consumer Protection Act, “‘advertiser’ designates a person who prepares, publishes or broadcasts an advertisement or who causes an advertisement to be prepared, published or broadcast.”

The Consumer Protection Act regulates all contracts entered into by consumers and merchants to the extent that it

- Provides for a basic conventional warranty given gratuitously with the purchase of all goods and services.
- Provides special protection for certain types of contracts (credit contracts, distance contracts, and contracts for the sale of prepaid cards).
- Identifies business activities that require a permit.
- Regulates advertising aimed at children under 13 years of age.
- Prohibits merchants from engaging in misleading representations.



Did you know that...

The Canadian Radio-television and Telecommunications Commission (www.crtc.gc.ca) is the public agency responsible for regulating radio and television advertising.

5.1.1 Required content

In all forms of advertising, you must

- Include the mention “Quebec licensee” (designating the travel agent publishing the advertisement as well as any other travel agent or counsellor cited in the advertisement);
- Highlight the total price of products and services payable before departure and indicate separately the service fees charged by the travel agency. The Regulation respecting travel agents states that the advertised price must be printed in characters twice as large as any other amount mentioned;
- Specify whether the price shown in the advertisement includes taxes (GST and QST) and indicate the amount of the customer’s contribution to FICAV. If the contribution is not included, you must nevertheless specify that the amount thereof is \$1 per \$1,000 purchase. In situations where you are not required to collect the FICAV contribution because of the accumulated surplus in the fund, it is recommended to state in your advertisements that the contribution is included in the amount and that it is not charged. Displaying the total price of a product or service is mandatory, because it provides a figure with no surprises for customers. In addition, section 224(1)(c) of the Consumer Protection Act prohibits merchants from selling a product or service at a higher price than the price advertised;
- Indicate the time period during which the trip can be purchased at the advertised price;
- Indicate the price in relation to occupancy. Thus, it is made clear that the price displayed relates to the mentioned occupancy type only. It is also possible to indicate a price range based on single, double, triple, or quadruple occupancy types (the wording “starting at” may be used in the advertisement if the proposed trip is available at the time of publication);
- List the services (transportation, accommodation, meals, etc.) included in the advertised package;
- Indicate the name of the scheduled air **carrier** at the time of publication;
- Specify the duration of the advertised trip;
- Include important information such as the fact that the trip will be available at the advertised price only for set departure and return dates or that there is ongoing renovation work at the hotel, including work completion date;
- Indicate if space for the advertised trip is limited, as well as the number of places available at the advertised price. The merchant could be held liable for failing to include this information. In the event of a dispute, the court may order the defendant to offer a similar trip of equal or greater value at the advertised price;
- Include your business contact information (full address, not just a post office box)
- Comply with the rules of the country toward which you are directing your advertising.



Information in compliance with the Regulation

Brochures generally contain the following information, in compliance with the Regulation:

"Certain conditions apply. The prices advertised in this brochure include all taxes and service charges. The prices shown exclude the FICAV contribution, which is \$1.00 per \$1,000 of tourist products or services purchased. Prices may vary due to an increase in the exchange rate or a fuel surcharge imposed by the carrier. Refer to the general conditions found at the end of this brochure."



Conviction for failure to comply with advertising rules

Press release

Vacation Bound Ltd. Travel Agency Found Guilty
Quebec City, January 13, 2017

"The *Office de la protection du consommateur* is announcing that the Vacation Bound Ltd. travel agency (...) was found guilty of charges pursuant to the Regulation respecting travel agents. The agency has been ordered to pay fines totaling \$3,760.

In October 2014, the Office charged the travel agency with having published advertisements that did not comply with sections 14.1 and 15 of the Regulation. These advertisements failed to provide information on whether the prices advertised included the applicable taxes. The Office also charged the agency with not having disclosed the name of the air carrier for a package trip or the period during which package deals were available at the advertised price.

The Office wishes to point out that printed advertising from a travel agency must contain certain items of information, such as transportation, accommodation, and meal services included in the package, the name of the scheduled air carrier at the time of publication, the duration of the trip, as well as how long the trip will be available at the advertised price."

5.1.2 Prohibited Content

Title II, Business Practices of the Consumer Protection Act states that in any form of advertising, it is PROHIBITED to:

- Include the statement "prices are subject to change without notice."
It is therefore prohibited to charge a higher price than the one advertised. However, the price may be modified in a contract under certain

! Did you know that...

It is widely known that children can influence their parents' choice of a vacation. Did you know that the Consumer Protection Act clearly prohibits you from directing your advertising at children under the age of 13?

! Did you know that...

You are prohibited from using ads suggesting to customers that payment for the advertised trip can be made by a cheque issued in their name by a municipality, or the Quebec or Canadian governments?

circumstances, such as when a fuel surcharge (see Topic 7) is imposed by a carrier or in the event of an increase in the exchange rate;

- Include the statement “prices are valid at the time of printing” (to be valid, such a practice must specify the beginning and the end of the price validity period);
- Indicate the amount per instalment to be paid without including the total price of the tourist product or service (e.g. an advertisement promoting a package trip payable in 10 monthly payments of \$99 must also indicate the total price of \$990). Your customer must know the exact total amount to be paid;
- Not specify the credit applicable at the end of a period “with no interest or fees” if the amount owed is not paid in full;
- Claim that the product or service advertised is offered at a discounted price if this is not the case (e.g. the wording “special offer” suggests that the price offered is actually lower than the usual price);
- Make false statements (e.g. attribute a non-existent benefit to a product or service by using the wording “book early” without actual benefits for the customer, or the wording “last minute specials” to suggest falsely that the price is lower than the usual price);
- Publish a misleading advertisement (e.g. including a photograph of a cabin that is more luxurious than the one actually offered at the advertised price);
- Present illegible or incomprehensible information;
- Distort the meaning of information, an option, or a testimonial obtained with a view to incorporating it into future advertising. The information you report must be accurate!;
- Include a travel counsellor's personal contact information. Only the cell phone number may be used in an advertisement on behalf of the travel agent to whom the counsellor is bound by an employment contract or an exclusive service contract;
- Claim to be certified, approved, recommended, sponsored, affiliated, or associated with a third party (e.g. claiming to be associated with a religious organization without their consent in order to solicit customers to book your pilgrimage package);
- Suggest to customers that payment for the advertised trip can be made with an endorsed cheque, issued in his or her name by a municipality or by the Quebec or Canadian governments;
- Discredit the goods or services offered by a competitor;
- Run advertisements specifically targeting children under the age of 13.

5.1.3 Compliant written and printed advertising

The checklist on next page will help you to verify the compliance of each item of the advertisements that you publish in newspapers.

Checklist: Written and printed advertising

All written and printed advertisements published by my agency must include the following mandatory information:

Mandatory	Compliant	Non-compliant
- The mention "Quebec licensee" - List of included transportation services		
- Name of the scheduled air carrier at the time of publication - Category of accommodation included		
- Price in relation to occupancy type - Travel dates where advertised prices apply		
- Included meals - Trip duration		
- Indication that the advertised trip has a limited number of spaces and indication of the number of places available at the advertised price - Time period during which the trip is available at the advertised price (for example, if booked before October 31, 20XX)		
- Full contact details of the travel agent - A single TOTAL price for the advertised tourist product or service, including all fees, duties, and taxes, as well as customer contribution to FICAV, AND the indication that taxes and the FICAV contribution are included;		
OR		
- The total price of tourist services payable, including fees and duties, printed in a type that is twice as large as the type used to indicate the cost of any components displayed; - Clear mention of whether or not taxes (GST and QST) are included (at least 10-point Helvetica font); - Clear mention of whether or not the FICAV contribution is included (at least 10-point Helvetica font). If the contribution is not included in the price total, you must nevertheless specify that the amount thereof is \$1 per \$1,000 purchase. In situations where you are not required to collect the FICAV contribution because of the accumulated surplus in the fund, it is recommended to state in your advertisements that the contribution is included in the amount and that it is not charged (see Topic 2).		

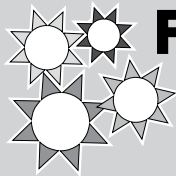
The following is an example of an advertisement that is consistent with the rules. Compare the two examples and circle the non-compliant items in the advertisement on page 71.

Did you know that...

You've discovered the lookout located at Highway Exit 54 and you think it would be a great place to put up an advertisement for your company? Contact the *Ministère des Transports* (www.transports.gouv.qc.ca/en), which issues the permit required for advertisement display near service areas, lookouts, and along roads maintained by this government department. This process is governed by the Roadside Advertising Act (*CQLR, c. P-44*).



Compliant advertisement



Four Suns Agency

**Book
now!**

PARIS MUSEUMS

\$2,499.99

per person in double occupancy

- 15 days/14 nights
- July 31 to August 14 20XX



Included:

- Round-trip flight Montreal-Paris with Air France
- Hôtel du Grand Palais 5-star
- Airport-hotel shuttle service (arrival and departure)
- Handling of two suitcases per person (arrival and departure)
- All breakfast meals
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST
- FICAV contribution

Space is limited (150 seats available)

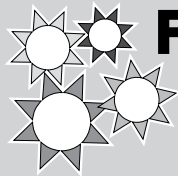
Price is valid for new bookings only

Four Suns Agency Inc.
1324, des Jardins Street, Quebec City (Quebec) G1R 6P7
Telephone: 418 658-4455 • Email: 4soleils@net.com

Québec licensee



Non-compliant advertisement



Four Suns Agency

**Places
are limited!**

PARIS MUSEUMS

\$2,499.99

15 days/14 nights



Included:

- Round-trip flight Montreal-Paris
- Hôtel du Grand Palais 5-star
- Airport-hotel shuttle service (arrival and departure)
- Handling of 2 suitcases per person (arrival and departure)
- All breakfast meals
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST
- FICAV contribution

Price valid for new bookings only

Four Suns Agency Inc.
1324, des Jardins Street, Quebec City (Quebec) G1R 6P7
Telephone: 418 658-4455 • Email: 4soleils@net.com

! Did you know that...

If you want to include a contest, hold a draw, or offer a gift, prize, or discounted article in your advertisement, all conditions and procedures for winning must be specified. For information on how to comply with these rules, please visit the *Régie des alcools, des courses et des jeux* website at www.racj.gouv.qc.ca/en.

! Did you know that...

If, for your advertisement to be published on your website home page and in the regional weekly you use, without authorization, in part or in whole, written material from a travel magazine, a picture found on the Internet, and you add an excerpt from a movie or a video clip, and a catchy tune, you may end up in court! The Copyright Act (*R.S.C., 1985, c. C-42*) governs the use of material protected by intellectual property rights. The available criminal and **civil remedies** can result in penalties ranging from injunctions to fines and even a prison sentence!

5.2 INTERNET ADVERTISING

Advertising on your website is also subject to the rules mentioned above. However, clarification is required regarding transactional websites, where trips can be purchased online. Inasmuch as on these sites price adjustments are easier and made in real time, there is an additional requirement under the Regulation respecting travel agents. In this case, the following mandatory notice must appear prominently on the homepage along with the indication that you are a Québec licensee: “Prices advertised on our website are valid if you purchase services during the same session. If you log off, prices may be different the next time you log on to our website.”

In addition, the same rules apply if you wish to include a contest, hold a draw, or offer a gift, a prize, or a discounted article in your advertisement. Regardless of whether your advertisement is published online or not, all conditions and procedures for winning must be specified. Don’t take any chances! Information on how to comply with these rules is available on the *Régie des alcools, des courses et des jeux* website (www.racj.gouv.qc.ca/en).

5.3 LIABILITIES AND OBLIGATIONS

Where advertising is concerned, your liability is far from trivial. As travel agents, you do not control every component of your customers’ purchase. You sell or organize products and services based on the offerings of various suppliers. You are thus an essential intermediary between your customer and the purchased product or service. However, although you may have little control over the complete chain of supply leading to delivery of the tourism product or service sold, under section 41 of the Consumer Protection Act, you are held liable. You are required to validate all information appearing in your advertisement prior to publishing, since you, together with the supplier involved, are severally liable if the services rendered are not consistent therewith. Notwithstanding section 41, it is important to note that the liabilities and obligations of the various intermediaries are ultimately determined by the Court.

If you act as reseller of a previously advertised tourist service, it is your responsibility to ascertain that the published information is truthful and compliant with prevailing legislation. Accordingly, you should validate the information contained in brochures and other documents produced by another travel agent or a supplier before using them. If your customer files charges regarding any aspect of the document, you and the third party from whom you obtained the product or service sold to the customer will be held liable.

Selling a non-compliant package from another travel agent is equivalent to endorsing the product yourself! In reference to the advertisement shown above, it would be a shame to be held responsible for incorrect information concerning the supposed five-star rating of *Hôtel du Grand Palais* for example if it's actually a two-star establishment!

5.4 PENALTIES AND OFFENCES

Customers have countless choices when purchasing travel services. In order to enable customers to compare their choices and make informed decisions, all necessary information should be made available to them. Your advertisements are an essential tool to achieve this objective. Consequently, failure to respect rules governing advertisements is severely punishable by law. Inspectors and investigators from the OPC ensure that laws are being followed, as do your customers, who are increasingly well informed about their rights. In addition, consumers can file complaints with the OPC, which may result in a lawsuit.

MANAGER

What happens if you violate a provision of the Regulation respecting travel agents in regard to advertising? For a first offence, fines vary between \$600 and \$6,000 for a natural person, and between \$1,000 and \$40,000 in other cases. If you repeat the offence, these amounts are doubled! The president of the OPC can demand access to any advertisement that you or your advertising agency run, as well as proof of its veracity. The Consumer Protection Act also seeks to discourage you from undertaking illicit practices. For an individual (Mr. Fortunato or a counsellor at his agency), the fines for a first offence range between \$600 to \$15,000, and for subsequent offences between \$1,200 and \$30,000. If a legal entity (Four Suns Agency) is found guilty, the fine is steeper: \$2,000 to \$100,000 for a first offence and between \$4,000 and \$200,000 for repeated offences! Hence the importance of complying with the law and reviewing your ad carefully before putting it out there.

Regardless of the medium used, your advertisement constitutes a commitment to your future customers. While you seek to stand out, it is also paramount to respect the established legal framework. Advertising is in fact a commitment that can jeopardize the future of your business. Don't try to sell at all costs!

Now it's your turn to assess your knowledge of the material covered in this section.

! Did you know that...

If your customers book by way of your website, it is your responsibility to protect their personal information. Your website must disclose your company's policy regarding the use, processing, and protection of requested information. Sections 8 and 27 of the Act respecting the protection of information in the private sector (*CQLR, c. P-39.1*) requires you to grant access to a customer's file (online, for example) upon the customer's request. Customers to whom such access is refused can appeal to the *Commission d'accès à l'information*.

! Did you know that...

If you receive a commending email from a customer, pleased with the service offered by your escort guide in Asia, and you decide to include this testimonial in your next advertisement – watch out! Be sure to convey the customer's message faithfully. The Consumer Protection Act prohibits you from distorting the meaning of a report, opinion, or testimonial.

After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Recognize an advertisement that complies with regulations;			
2. Distinguish the features of written and printed advertisements;			
3. Create an advertisement that is consistent with the rules;			
4. Take liabilities and obligations into account;			
5. Identify the penalties associated with offences.			
Total			

Keep up the hard work! Review this topic or go on to the next section.

Answers Test your knowledge

- Wrong wording. The advertisement must include the mention "Quebec licensee." (*RTA*, s. 14)
- The occupancy rate is not indicated with the advertised price. (*CPA*, s. 228)
- The number of places available at the advertised price is not indicated. (*CPA*, ss. 231)
- The name of the scheduled air carrier at the time of publication is not provided. (*RTA*, s. 15(a))
- The trip dates must be included in order for the advertised price to be valid. (*RTA*, s. 15(b))

Result: _____ /5

6

DEALING WITH CUSTOMERS

By the end of this section, you will be able to

- Identify the various obligations assumed by travel agents;
- Distinguish between civil and penal **liabilities**;
- Cite the supplementary forms of customer protection;
- Assume the role of insurance contract distributor.

Travel agents or counsellors are directly involved with customers from their first encounter until after the customers return from their trip in the context of informing, organizing package deals, and selling tourism services. This topic looks at essential legal aspects of your relationship with customers.

Before going any further, let's test your knowledge of this topic.

Context

Raya, a travel counsellor at Interstellar Travel, has been given an important assignment. She has been asked to represent the agency at a business meeting with executive officers of a multinational company in order to market an incentive trip to Australia. The customer is seeking assistance in finding attractive travel options to reward his employees. To stand out from its competitors, Interstellar Travel has joined forces with various Australian suppliers to organize a unique itinerary (bus, hotels, attractions, and activities). Raya has prepared accurate descriptions of the itinerary and attractions, as well as a full price breakdown and specifics on the contract terms and conditions. Aside from the documents, this information will also be presented verbally at a meeting with the customer. Before her presentation, Raya makes sure that she has covered all aspects involved in this trip in order to enable the customer to make an informed choice.

Answer the questions that this potential customer might ask Raya.

This section refers to the following legal provisions:

Travel Agents Act (*CQLR, chapter A-10*)

- Division III.2 – Fonds d'indemnisation des clients des agents de voyages (s. 30.4)
- Division VI – Regulations (s. 36)

Regulation respecting travel agents (*CQLR, chapter A-10, r. 1*)

- Division X – Individual security and indemnity fund (s. 28)
- Division XII – Indemnity fund (s. 43.7)

Consumer Protection Act (*CQLR, chapter P-40.1*)

- Ss. 2, 10, 16, 40, 42, and 54.14

Civil Code of Québec (*CQLR, chapter CCQ-1991*)

- Ss. 1458, 1470, 1523, 1525, 1693, 1694, 2098, and 2100

Act respecting the distribution of financial products and services (*CQLR, chapter D-9.2*)

- Ss. 408 and 429 et seq.

Loi sur la distribution de produits et services financiers (*RLRQ, chapitre D-9.2*)

- Art. 408 et 429 et suivants

Carriage by Air Act (*R.S.C., 1985, chapter C-26*)

- Schedule VI, art. 19

? Test your knowledge

True or false?

1. Interstellar Travel could be held liable for the use of outdated equipment by its scuba-diving supplier. _____
2. For this group trip organized by Interstellar Travel, Raya has an obligation to provide assistance, such as a guide for instance. _____
3. Should Interstellar Travel not deliver one of the services provided in the contract and should a court ruling grant the customer an indemnity, the individual security will be used to pay this indemnity. _____
4. If the customers have a flight delay depriving them of two days of planned activities in Australia, they cannot file a lawsuit on these grounds. _____
5. Customers are entitled to compensation if discrepancies are found between the verbal description of the package presented by the representative and the actual tour product delivered at destination. _____
6. In the event that Interstellar Travel concludes this sale by telephone, Raya must specify any additional fees that might be charged by Australian suppliers. _____

Answers are found at the end of this section.

6.1 OBLIGATIONS AND LIABILITIES OF TRAVEL AGENTS

With respect to contracts between travel agents and their customers, the legislation distinguishes two levels of contractual obligations: the **obligation of means** and the **obligation of result**. These obligations, explained below, imply that travel agents are subject to civil liabilities. Under the Civil Code of Québec, you bear **civil liability** in relation to your duty to customers. In addition, the Consumer Protection Act specifies that a “written or verbal statement made by the representative of a merchant or of a manufacturer respecting goods or services is binding on that merchant or manufacturer.” Therefore, by virtue of its civil liability, Interstellar Travel is responsible for the information provided by Raya, its travel counsellor.

Under the Civil Code of Québec and the Consumer Protection Act, travel agents’ civil liability refers to their obligation to provide services as stipulated in the contract. The Travel Agents Act and the Consumer Protection Act govern the travel sector in regard to penal matters, and travel agents are liable for infringements to these laws. Finally, under the Travel Agents Act, if you are operating an agency, you are required to hold a valid permit in order to avoid **penal sanctions**, i.e. a fine. You must therefore answer for your own actions and the actions of your employees!

MANAGER

What are obligations of means and obligations of result as applied to your role as a merchant?

- An **obligation of means** entails using the necessary means to achieve the result stipulated in the contract and to employ prudence and diligence (i.e. the degree of care in regard to customer requests), but without guaranteeing the outcome. A business offering a safari holiday in Kenya has an obligation of means towards its visitors: it must make every effort to ensure that they can safely observe animals wandering freely in the wild, but it cannot be held responsible if animals are discreet and difficult to observe, unless this fault can be attributed to the supplier. In a formal complaint, the dissatisfied customer would have to prove that you and your supplier did not use the necessary means to honor your commitment.
- The **obligation of result** is more consequential than the obligation of means. In fact, it requires the supplier to achieve a result or risk a penalty, unless prevented by force majeure, which is an unforeseeable and irresistible event, as defined in section 2100 of the Civil Code of Québec. This type of obligation, as its name indicates, is based on the result or outcome stipulated in the contract. In other words, your customers expect you to provide exactly what they purchased. For example, the obligation of result of a carrier is to transport people or cargo. Both carrier and travel agent incur **joint and several liability** for any delay or damage inflicted on the passengers or property being transported.

It is important to remember that courts generally apply the obligation of result to travel agent-customer contracts. For example, in the case of force majeure, such as a hurricane, that would require travelers to cut short their stay, suppliers in charge of repatriating them must meet their obligation of result. Since the trip was shortened, the travel agent only partially fulfilled his or her obligations and the customer should be reimbursed for the undelivered portion of the trip (i.e. hotel nights not used).

Example



Joint and several liability of the travel agent and his supplier

The **plaintiff** (customer) is claiming \$5,685.38 in **damages** from Bon Voyage Agency and Airlines Inc. for alleged delays during a trip purchased from Bon Voyage. His itinerary included a Montreal-Venice-Montreal round trip, with stops in London and Rome. Having suffered inconvenience and time loss resulting from the disappearance of his return flight reservation from the computer system, the customer is claiming living expenses, prepaid hotel expenses for the period he was in transit, and compensation for loss of enjoyment of his vacation.

Claiming that it had done all that was necessary to book a seat on another flight, the air carrier invoked the Montreal convention provisions, as well as specific ticket conditions, to contest the claim.

In the example presented above, Airlines Inc. is citing Article 19 of the Convention for the Unification of Certain Rules for International Carriage by Air, also referred to as the Montreal Convention, which states that “the carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.”

On the other hand, in this specific example, the court might not be convinced that all reasonable and necessary steps were taken to avoid prejudice to the customer. Thus, Airlines Inc. might be obliged to compensate the **plaintiff** for damages resulting from delays. By virtue of the nature of the contract, Bon Voyage Agency was jointly and severally responsible and could therefore also be found liable.

The possibility that the court might settle the matter in this way calls attention to the fact that agreements with customers are binding on the travel agent jointly and severally with suppliers or tour operators. It also shows that the air carrier is governed by international conventions. As an integral part of the Carriage by Air Act (*R.S.C., 1985, c. C-26*), the Montreal Convention establishes uniform rules for international air carriage of passengers, baggage, and cargo. Accordingly, air carriers must state their terms in compliance with the law.

According to **case law**, travel agents are held liable in cases of non-compliance in the following areas as they relate to the obligations of means or result:

- Choice of **service providers**
- Assistance
- Information
- Compliance
- Safety

What do these obligations entail?

6.1.1 Choice of service providers

In choosing **service providers**, whether you serve as an intermediary or an organizer, you are working with suppliers to provide customers with services as stipulated in the contract. You must ensure that these suppliers are competent, reliable, and able to provide the services promised in the contract. You could be held liable for arranging flights on a carrier that infringes local, national, or international regulations, or for booking with **suppliers** using outdated equipment.

6.1.2 Assistance

If you are selling tours of Peru or package holidays to Fiji Islands, for example, you must book a guide, local representative, or local supplier who is able to assist customers whenever the need arises. This is particularly important with respect to travel packages to countries where language, customs, and laws differ from ours.

6.1.3 Information

You must disclose all known, important, and necessary information to guide your customer's decision. Once a package trip is purchased, your responsibility to inform the customer extends until the end of his or her trip. For example, it is your duty to adequately inform your customer about mandatory travel documents (passport, visa, and so on), required vaccinations and insurance; to recommend having on hand a letter of consent from the parents or guardians of a child traveling alone before departure; to contact your customer ahead of time if changes are made to his or her initial flight schedule; or once on site, to ensure communication through your local representative in the event of a hurricane requiring an emergency evacuation.



Did you know that...

The Consumer Protection Act provides that in case of doubt or ambiguity, a contract must be interpreted in favour of the consumer. The conditions indicated by suppliers, whatever the medium used (Internet, brochure, ticket, etc.), must therefore be clearly worded.

Example



Duty to inform

Raphael, a travel counsellor, has booked flights comprising “illegal connections” (not respecting the mandatory time between connecting flights) although fully aware of the risks that his customers were facing as a result. The carrier was not involved in the itinerary choice. Despite systematic refusals by the booking systems, Raphael kept after the supplier, insisting upon approval of the flight itinerary. As a result, his customers were refused boarding on a connecting flight, because their luggage had been delayed. Prudent and diligent professionals cannot ignore their responsibility to inform customers of the risks associated with the itinerary sold. The customers can claim compensation from the travel agency because of its employee’s incompetence and carelessness.

6.1.4 Compliance

You have a duty to provide your customers with a service that is consistent with the description made thereof in the contract. The Consumer Protection Act provides that in case of doubt or ambiguity, the contract must be interpreted in favour of the consumer. The conditions indicated by suppliers, regardless of the type of medium used (Internet, brochure, leaflet, and so on) must be worded clearly. Special attention must be paid to commitments stipulated in the contract, on the website, or in the reference brochure of the product sold. Stating that a hotel is located “on the beach” when in fact a main road separates it from the beach, is a valid ground for the customer to bring legal action against you!

6.1.5 Safety

The tourist services to be provided to your customers must not threaten their health, safety, or life. Before agreeing to purchase a trip, your customers must be forewarned of situations that could compromise their safety. As a merchant, you must specify all known hazards that are in any way life-threatening or that could jeopardize travelers’ health (e.g. avian flu epidemic) and safety (e.g. riots).

6.2 SUPPLEMENTARY CUSTOMER PROTECTION

As explained in Topic 2, the Travel Agents Act provides three levels of customer protection: the **trust account**, the **individual security**, and the Compensation Fund for Customers of Travel Agents (FICAV). The latter can be used in cases such as agency closure, the defaulting of a travel agent or service provider (transportation and accommodation, for example), a natural disaster, or political unrest. Two types of supplementary protection are also available: travel insurance and insurance provided with some credit cards.

In order to avoid any inconveniences, you should inform your customers of the advantages of having travel insurance and making the purchase by credit card. These protections sometimes provide reimbursement of incurred damages other than those covered by FICAV.

6.2.1 Insurance

What do you say to a customer asking to cancel his or her trip due to health problems or the death of a loved one? Without insurance, your customers can find themselves in a precarious situation. A thoughtful travel agent always explains the reimbursement policy coverage prior to accepting customer deposits at the time of booking. These reimbursements, generally incomplete, can be supplemented by insurance products. For customers who are unable to travel, must interrupt their trip, or require health care, this precautionary step will make it possible to cover the remainder of the cost. By selling insurance to customers, you are acting as a “distributor” within the meaning of the Act respecting the distribution of financial products and services (*CRLQ, c. D-9.2*). In this capacity, you have an obligation to inform your customers or be subject to the penalties provided for in the Act.

You are therefore required to

- Inquire whether the customer is already insured prior to offering insurance coverage, and prompt him or her to verify if in doubt;
- Offer a copy of the booklet presenting the insurance product prior to the sale;
- Describe the type of coverage and indicate clearly what it includes;
- Inform the customer of your insurance product commission if it exceeds 30% (likewise, the insurer must provide this information at the request of the *Autorité des marchés financiers*);

! Did you know that...

Are you familiar with the *Autorité des marchés financiers*? This is a government agency that oversees compliance with the Act respecting the distribution of financial products and services (*CRLQ, c. D-9.2*) which governs, among other matters, the sale of travel insurance.

- Keep confidential all information of a medical nature or associated with customers' lifestyle if required to fill out a form. You are not allowed to keep a copy of the form;
- Inform customers of claim procedures and time limits;
- Inform the customer of the deadline to be met by the insurer for the payment of the amounts insured;
- Inform the customer of the procedure to follow and time limits for initiating it in case the insurance claim is refused in violation of policy provisions;
- Respect the customer's choice. You are not allowed to exert abusive pressure or use dishonest methods of persuasion in sales;
- Indicate in writing, as required by the *Autorité des marchés financiers*, that an insurance contract can be terminated, at the customer's request, within 10 days of signing.

6.2.2 Credit cards

It should also be noted that credit-card companies offer customer protection as well. In fact, most card issuers offer guarantees, travel insurance, and compensation in specific cases. For example, when sales are made in person, customers may be entitled to a refund on condition that the tourism product or service was not provided.

In the specific case of distance contracts (completed by telephone or over the Internet), the Consumer Protection Act provides a remedy referred to as **chargeback**, which is a reimbursement procedure whereby customers ask the credit card issuer to reverse a sales transaction. This procedure applies in cases where the service or product purchased was not provided.

Dealing with customers is a key aspect of your business. It entails having to be well acquainted with the customers and the products offered for sale, as well as with the obligations and liabilities associated with potential transactions. The travel industry is a closely monitored sector that requires its representatives to be well informed in order to market their products to well protected customers.

Now it's your turn to assess your knowledge of the material covered in this section.

Test yourself			
After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Identify the various obligations assumed by travel agents;			
2. Distinguish between civil and penal liabilities;			
3. Cite the supplementary forms of customer protection;			
4. Assume the role of insurance contract distributor.			
Total			

Keep up the hard work! Review this topic or go on to the next section.

Answers Test your knowledge

- True.** The choice of **service providers** is associated with the obligation of result. (*CPA*, ss. 10 and 16)
- True.** The obligation to provide assistance implies arranging for local assistance to be made available during your customer's trip. According to section 2100 of the Civil Code of Québec, "the contractor and the provider of services are bound to act in the best interests of their client, with prudence and diligence. Depending on the nature of the work to be carried out or the service to be provided, they are also bound to act in accordance with usual practice and the rules of art, and, where applicable, to ensure that the work done or service provided is in conformity with the contract. Where they are bound to produce results, they may not be relieved from **liability** except by proving superior force."
- True.** The individual security is used to compensate customers who have obtained a judgment against the travel agent, the agent's employee, or travel counsellor with whom the agent has a contractual bond, exclusive of **punitive damages**, to the extent that Interstellar Travel cannot pay further to the judgment rendered (*RTA*, s. 28). Since the individual security cannot be used to cover punitive damages, the owner must compensate customers from the agency's own **funds**, which are distinct from the trust account funds.
- False.** The group can file suit. Article 19 of the Montreal Convention states that the carrier is responsible for damages resulting from a delay unless the carrier can prove that all reasonable measures were taken to avoid this situation. The customer can also ask to be reimbursed the cost of the two activity days lost from the Compensation Fund for Customers of Travel Agents (*RTA*, s. 43.7(1)(b))
- True.** Pursuant to the **obligation of compliance**, the description of products and services, whether written or verbal, must accurately correspond to the tourism product or service provided. (*CPA*, ss. 16, 40, and 42)
- True.** When a travel contract is signed, given the obligation to inform incumbent upon travel agents, they must inform customers of any supplementary expense that may be charged by suppliers that they are aware of.

Result: _____ /6



Supplementary readings and exercises

- Act respecting the distribution of financial products and services (*CQRL, c. D-9.2*)
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/D-9.2>
- Carriage by Air Act (*R.S.C., 1985, chapter C-26*)
<http://laws-lois.justice.gc.ca/eng/acts/C-26>
- Société québécoise d'information juridique –Judgements
<http://soquij.qc.ca/fr/english>
To learn more about decisions handed down by various authorities in matters relating to the travel industry.

7 PREPARING THE CUSTOMER'S DEPARTURE

By the end of this section, you will be able to

- Explain the information contained in an invoice;
- Apply invoicing rules;
- Describe the terms and conditions set forth in a sales contract;
- Provide the required information when signing a distance contract;
- Explain the circumstances under which price modification is permitted;
- Cite the grounds permitting the cancellation of a trip;
- Identify the offences associated with a failure to comply with the legislation and the corresponding penalties.

When a customer makes a booking, you must prepare a contract (invoice and receipt) in accordance with the customer's requests and the terms and conditions of suppliers involved in providing the purchased products and services. Once the booking is made, you must put together the documentation required for the trip and give it to the customer prior to departure. As part of this preparation, you will sometimes have to work through special situations, including instances of force majeure, while you continue to comply with the applicable laws and regulations. Preparing a customer's departure is a key operation in the work of travel agents and counsellors. Accomplishing your duties with care at this stage will help you to avoid potential problems.

Before you start reading, let's test your knowledge of this topic.

Context

Oil prices: Air Canada introduces a \$10 fuel surcharge

Excerpt from the consumer affairs program "Argent" which aired on March 8, 2011 (our translation).

Air Canada has increased fares on domestic flights to mitigate the effects of rising oil prices caused by the current uprisings in the Middle East.

This section refers to the following legal provisions:

Travel Agents Act (CQLR, chapter A-10)

- Division III.2 – Fonds d'indemnisation des clients des agents de voyages (s. 30.5)
- Division V – Inspection (ss. 35 and 35.1)
- Division VI – Regulations (s. 36)
- Division VII – Penal provisions (ss. 37 to 40.1)

Regulation respecting travel agents (CQLR, chapter A-10, r. 1)

- Division V – Obligations of travel agents (s. 13.2)
- Division VI – Advertising (s. 16)
- Division VII – Accounting (s. 18)
- Division VIII – Special provisions (ss. 19 and 20)
- Division XII – Indemnity fund (s. 43.10)
- Division XV – Penal (s. 47)

Consumer Protection Act (CQLR, chapter P-40.1)

- Ss. 2, 41, and 54.4

Civil Code of Québec (CQLR, chapter CCQ-1991)

- Ss. 1470, 1523, 1525, 1693, 1694, and 2098

The airline introduced a \$10 fuel surcharge per flight for an economy class seat. For a round trip, travelers will have to disburse an additional \$20. In business class, the surcharge is \$15 per flight.

The surcharge applies to domestic flights and those bound for the United States. The tax was previously implemented to international flights only. "Like all airlines, Air Canada is very sensitive to variations in oil prices," indicated Peter Fitzpatrick, the airline's spokesperson. Fuel represents Air Canada's single largest expense, which amounted to \$2.65 billion last year.

"For every \$1 rise in the price per barrel, Air Canada's fuel expenses go up \$25 million over one year," added Mr. Fitzpatrick. WestJet, Air Canada's major rival, has not introduced a fuel charge yet but instead, the company has already increased its fares by \$5 to \$10 three times this year. According to WestJet, the volatility of oil prices precludes the development of long-term fare strategies. Porter Airlines has not announced a surcharge either. Nevertheless, a spokesperson has indicated that this regional airline "is evaluating market conditions in terms of oil prices and competition."

Canadian airlines are actually following a trend that began south of the border. Ticket prices at United Airlines, Continental, and U.S. Airways rose by about \$10 this week. At Delta, increases were between \$10 and \$14.

All Canadian carriers introduced fuel surcharges when the oil price per barrel soared to \$110 in 2008, and they withdrew them once prices dropped."

? Test your knowledge

True or false?

Since the airline price increase story was published, the phone at Four Suns Agency has been ringing off the hook! Customers are calling to inquire whether they will have to pay a surcharge before their departure. What do you tell them?

1. Travel agents can ask customers to pay an extra fee 40 days prior to departure, as a result of a fuel surcharge imposed by the carrier. _____
2. A **tour operator** may impose a surcharge on customers 40 days prior to departure following a 4% Mexican Peso devaluation. _____
3. Travel agents may request an additional charge from their customers 20 days prior to departure following an increase of the Quebec sales tax (QST) if the balance has not yet been paid. _____

4. Travel agents may not claim an additional charge in the event of a \$136 increase on the price of a tour of Western Canada, originally offered at \$1,700, due to a fuel surcharge, in addition to a 1% increase in the Quebec sales tax (QST).

5. Travel agents are not required to indicate reimbursement conditions in the invoice if they are outlined in the brochure given to the customer that the customer used in order to choose the service. _____
6. Prior to departure, travel agents can cancel their customers' stay in the event of a situation of **force majeure** at destination that would require the airline to cancel its flights.

Answers are found at the end of this section.

7.1 DOCUMENT DELIVERY

7.1.1 Invoice or receipt

The invoice (or receipt) is an important document. It bears witness to any funds owed by the customer in exchange for tourist services, as well as the obligations and conditions associated therewith. It is also needed for issuing the sales tax collection reports required by the government.

The invoice (or receipt) functions as a travel **service contract**. Under the Civil Code of Québec, a business or service contract is an agreement “by which a person, the contractor or the provider of services, as the case may be, undertakes to carry out physical or intellectual work for another person, the client or to provide a service, for a price which the client binds himself to pay.” As a merchant, you must comply with the provisions of the Consumer Protection Act (*CQLR, chapter P-40.1*), which also governs service contracts. This contract creates substantial obligations for the customer and the agency, as discussed previously under Topic 6 of this guide.

Billing Guide

You must produce an invoice upon receipt of funds from the customer, whether it is a partial deposit or the final payment. These invoices must be pre-numbered and used consecutively. You must keep a copy of each invoice, should an inspector or investigator ask to see them. You must also give your customer a copy.

The invoice must include the following information:

- Day, month, and year of the transaction;
- Customer name and address, i.e. the name of each traveler as well as the address of one customer on file, whether or not the travelers reside at the same address;
- Description of the tourist service provided or to be provided: you must either list and describe each of the services or give the customer a copy of the **tour operator**’s brochure and indicate the product name in the invoice (for example, group tour, Discovering French Wines, Horizon Vacations Tour – 14 days). The price of the tourist service provided or to be provided must also be included, along with the corresponding description, clearly stating the applicable taxes;
- Compensation Fund for Customers of Travel Agents contribution amount and percentage (see Topic 2);
- The amount of the “Credit applicable” in the event where the Compensation Fund for Customers of Travel Agents contribution was not collected (because of the surplus accumulated in the fund). The amount of the credit must be negative, and it must correspond to the amount of the contribution to the fund indicated on the previous line (see Topic 2);

! Did you know that...

The airport “tax” as well as overnight stays at a hotel must be included in the tourist services description.

- Amounts received and balance payable: a deposit or the balance payable according to the travel agent’s or supplier’s terms and conditions of payment;
- Next to the amount received and the balance payable, you must include the following: “Tourist services paid but not received, may be reimbursed by the *Fonds d’indemnisation des clients des agents de voyages*. It is administered by the *Office de la protection du consommateur*. For more information: www.ficav.gouv.qc.ca.»
- Indication that the amounts collected from the customer by the travel agent have been deposited in a trust account (see Topic 2 of this guide);
- Conditions for reimbursement or non-reimbursement of paid amounts: state this information in writing or give customers a copy of the supplier or tour operator’s brochure stating the conditions for reimbursement and describing in detail the tourism product sold, along with the receipt.
- Family name and given name of the travel counsellor who concluded the sale with the customer.

To apply these billing rules, complete exercise 1, found in the Supplementary readings and exercises segment of this section.

Terms and conditions

Under section 1523 and 1525 of the Civil Code of Québec and section 41 of the Consumer Protection Act, your obligation as travel agent is solidary with that of the service provider. Since agency and service provider terms and conditions are mutually binding, it is important to be well acquainted with them. This is in your and your customer’s best interests! The terms and conditions generally correspond to the headings below and they are governed by the Consumer Protection Act, the Travel Agents Act, and the regulations that implement these acts.

- Price – Includes information on the selected product as described in the brochure. This heading usually lists hotel and room amenities according to category, service type, and number of meals, as well as activities, air transportation, transfers, and at-destination representation services.
- Time period for price validity – Date up to which the price of services and the applicable taxes are valid.
- Payment terms for booking confirmation – Deadlines for making the deposit and final payment.
- Cancellation conditions – Deadlines and related charges.
- Conditions for booking changes – Deadlines and related charges.

! Did you know that...

If your customer, a business traveler, makes a booking two nights prior to departure for Los Angeles, you must inform him or her verbally of the reimbursement and non-reimbursement conditions pertaining to the purchase. You must also send his or her travel documents as early as possible before the departure date.

- Air carrier conditions – Check-in, seat assignment, schedule changes, connection flights, baggage limit, and other information, as appropriate.
- Accommodation conditions – Assignment of room categories, and check-in and check-out times.
- Procedures relating to travel documents – Passports, visas, and tourist maps.

Below are two examples of websites that include information which is useful to customers and consistent with the intent of the law:

Example



Notice on the website of a travel agency

IMPORTANT!

If you do not understand the terms stipulated, please consult a counsellor at www.voyagesarabais.com or any other person of your choice in order to clarify the point at issue before booking.

By booking you acknowledge that you understand and agree to the general conditions listed below.

Example



Notice on the website of a service provider

CANCELLATION CHARGES (www.transatholidays.com)

For any cancellation, whatever the cause, the following charges apply:

Tour packages and flights:

- 46 days or more prior to the departure date: \$300 per person
- 45 to 22 days prior to the departure date: 50% of the total tour package cost per person, including taxes and service charges
- 21 days or less prior to the departure date: 100% of the total tour package cost per person, including taxes and service charges

Indirect flights: 100% non-reimbursable.

! Did you know that...

Under section 1523 and 1525 of the Civil Code of Québec and section 41 of the Consumer Protection Act, your obligation as travel agent is solidary with that of the service provider. In other words, the terms and conditions listed in the service provider's brochure are binding on the travel agent.

7.1.2 Travel documents

What documents must you give your customer prior to departure?

The Regulation respecting travel agents provides that you must give the customer all documents associated with products and services booked and paid in advance, such as transport documents (plane tickets, train tickets, etc.), itinerary, and **vouchers** (for accommodations, transfers, and activities).

When must you give the required travel documents to the customer?

No later than seven (7) days prior to departure. However, there is an exception for customers using your services less than 7 days prior to departure. In this case, section 19 of the Regulation respecting travel agents applies: travel documents must be provided as early as possible prior to the customer's departure.

7.2 DISTANCE CONTRACT

When doing business with customers without being physically present (e.g. by telephone or online), you are entering into a distance contract. This type of contract needs to be reviewed in detail since it is very common in the travel industry. Using the following checklist, assess your level of compliance with the provisions of the Consumer Protection Act that apply to such transactions. In this context, you are required to provide certain items of information to the customer before he or she makes the purchase. If this is a written offer, posted on a website for example, you must make it possible for your customer to save and print the information you provide.

Checklist

Distance contract

BEFORE concluding a distance contract, I make sure to mention

Compliant

Non-compliant

- Agency name and any other name used

- Agency address

- Agency telephone number, and fax number and email as applicable

- Detailed description of each product or service listed in the contract, including their characteristics

- Price breakdown for each product or service and related charges, any duties applicable by law, such as taxes, and the FICAV contribution amount

- Description of any supplementary fees that may be charged by suppliers

- Total price and terms of payment

Distance contract (cont'd)		
BEFORE concluding a distance contract, I make sure to mention	Compliant	Non-compliant
• Currency in which the payment is required (if not Canadian)		
• Cancellation policy		
• Date to which services were rendered		
• Any other restrictions or conditions applicable to the contract		
• Possibility to accept or refuse the offer, and to correct errors		

! Did you know that...

Revenu Québec can provide answers to any questions you might have regarding invoicing your customers and changes in the Quebec sales tax (QST) and the goods and services tax (GST).

Two features differentiate distance contracts from booking in person:

- When customers book by email (remotely and in writing), you are not required to inform them verbally of the terms relating to potential price changes before the transaction. However, you must ensure that this clause appears in the documents and is brought to their attention before the transaction.
- When customers book by telephone (remotely and orally), you are not required to inform them in writing of the price change clause before the transaction, on condition that a copy of the contract containing the clause is forwarded to them within 15 days of the booking.

7.3 PRICE CHANGES

As is the case for other business sectors, prices of tourism services are affected by fuel price fluctuations and exchange rate variations. This begs the question whether the tourist service price indicated on the invoice can be changed. The answer is yes, if you inform your customers before completing the sale, verbally and in writing (by including a clause in the contract), about the reasons that may justify additional charges. As travel agent or counsellor, you are required to inform your customer of this possibility.

On what grounds could you change a given price?

- A fuel surcharge imposed by a carrier is a legitimate reason.
- An exchange rate increase can also justify the price change to the extent that the exchange rate applicable 45 days prior to the service delivery date has risen by more than 5% since the date on which the contract was signed.

What are your deadlines for making a price change?

- Price increases are allowed up to 30 days prior to departure. Past this deadline, contract modifications affecting price are not permitted.

Is there a maximum amount that you can request as a surcharge?

- No, but the customer may refuse any increase greater than 7% of the price of products listed on the invoice, excluding the Quebec sales taxes (QST) and the goods and services tax (GST).

What options can be considered in the event where customers exercise their right to refuse the change?

- Customers may refuse a price increase equal to or greater than 7%. In this case, you can provide full and immediate reimbursement OR offer substitute services.

7.4 CANCELLATION

You can cancel a customer's trip by providing notice at least seven (7) days prior to departure. However, there must be a valid reason for doing so (safety issues or other conditions). In the event of a force majeure, the cancellation may be made less than seven days prior to departure. Furthermore, the agent is liable for damages for canceling a trip if the related advertising failed to indicate the minimum number of travelers required to ensure departure ("guaranteed departure").

7.4.1 Force majeure

Force majeure refers to an event that is unforeseeable and irresistible (impossible to avoid), such as a strike, lock-out, bankruptcy, fire in a hotel, terrorist attack, hurricane, flood, earthquake, epidemic, or aircraft breakdown. However, such events are not automatically considered instances of force majeure; this depends on the circumstances associated with each situation. For example, an air carrier strike is not always a case of force majeure since such events are often publicized well in advance. Natural disasters such as hurricanes are generally, but not systematically, considered a case of force majeure. In fact, it would not be considered force majeure if it had been forecast two days prior to a trip or occurred a week beforehand, allowing the host infrastructures to resume operations. The same is true for cases of political instability. In this type of cancellation, the supplier is obliged to reimburse your customer on condition that the supplier has been paid and has not fulfilled its primary obligation (i.e. transporting, accommodating, guiding the traveler, etc.). Certain suppliers may, with the customer's consent, offer a product or service equal to or better than what had been initially booked. Your customer may also choose to claim compensation from FICAV, in particular for the cost of paid but unused services. The following examples are intended to help you better understand the point in question.



Natural disaster

Eruption of the Eyjafjallajökull volcano

Source: *Office de la protection du consommateur*

April 16, 2010 – The eruption of a volcano under a glacier in Iceland had repercussions reaching Quebec yesterday, when some ten flights were cancelled at Montreal's Trudeau Airport. In Europe, the thick cloud of volcanic ash paralyzed air transport in the northern part of the continent, keeping a large number of aircraft on the ground. The airspace of 24 European countries was closed.

The situation also disrupted air traffic between Montreal and Europe. Air Canada had to cancel all its flights to and from the European airports of London/Heathrow, Paris/Charles-de-Gaulle, and Frankfurt, Germany.

At Transat, flights between Canada and the United Kingdom were delayed until further notice. (...) In addition to flight cancellations, passengers may see their connections to other departures affected. The situation may also have repercussions on southbound flights.

It seems that most tour operators and air carriers are already offering to refund tickets or to replace cancelled flights at no extra charge.

The reimbursement of additional expenses incurred due to the cancellations (hotel, meals, taxi, etc.) will be decided on a case-by-case basis.

The airline industry bases its response on the Montreal Convention, which does not provide for other forms of compensation during "extraordinary circumstances," as is currently the case with the eruption of a volcano.

Question:

Your customer, who has been waiting for hours at the airport, realizes that his trip is compromised. The airline has announced that flights are cancelled indefinitely. The customer is calling the agency to find out what his rights are. What are the available options.

The airline is obliged to refund the customer. You can also offer the option of applying the future credit to an alternate destination. However, you must specify that all meals and long-distance calls are at the customer's expense. Please, refer to Topic 6, which presents the Montreal Convention in connection with the conditions applying to air carriers.

If your customer doesn't get a refund through the airline company or his insurance, for example, he can claim compensation covering certain costs (cancelled flights, services not received, meals and accommodation, etc.) through the Travel Agency Customer Compensation Fund.

7.5 PENALTIES AND OFFENCES

Make sure to avoid fines! Inspectors and investigators monitor compliance with various aspects of the Act and the Regulation respecting travel agents. Where offences are discovered, they can recommend **penal charges**. The following checklist can help you to assess your level of compliance and find out what fines you are exposed to in the event of an infringement of the law. In addition, a licensee can have his or her licence suspended or cancelled by the president of the *Office de la protection du consommateur*. Please refer to the material covered in this section to refresh your memory on this topic.

Checklist

Penal liability	Compliant	Non-compliant	First offence	Repeated offence
Have you included all the necessary items on the invoice?			\$600 to \$6,000 (for a natural person)	\$1,200 to \$12,000 (for a natural person)
			\$1,000 to \$40,000 (in other cases)	\$2,000 to \$80,000 (in other cases)
Have you reimbursed customers who opted for a refund following a price increase?			\$600 to \$6,000 (for a natural person)	\$1,200 to \$12,000 (for a natural person)
			\$1,000 to \$40,000 (in other cases)	\$2,000 to \$80,000 (in other cases)

This topic deals mainly with the invoicing required to confirm the sale of a tourist service by a travel agent or a travel counsellor. At this point, you are engaged in a commercial transaction with your customer. The invoice (or receipt) is a binding contract for the remainder of the customer service process.

Now it's your turn to assess your knowledge of the material covered in this section.

 Test yourself

After reading this section, I am able to	Totally 	Partially 	Minimally 
1. Explain the information contained in an invoice;			
2. Apply invoicing rules;			
3. Describe the terms and conditions set forth in a sales contract;			
4. Provide the required information when signing a distance contract;			
5. Explain the circumstances under which price modification is permitted;			
6. Cite the grounds permitting the cancellation of a trip;			
7. Identify the offences associated with a failure to comply with the legislation and the corresponding penalties.			
Total			

Keep up the hard work! Review this topic or go on to the next section.

 Answers Test your knowledge

- 1. True.** To the extent that all the conditions outlined in section 13.2 of the Regulation have been met, in particular informing the customer verbally or in writing before concluding the contract and inserting a clause in the contract that either allows a price increase or mentions the possibility of such an increase (announced more than 30 days prior to the date on which the services must be provided). (*RTA, s. 13.2*)
- 2. False.** The exchange rate has not increased by more than 5% between the date of the sale and the 45th day before the departure. (*RTA, s. 13.2(1)(a)(i)*)
- 3. False.** If the Quebec sales tax rate increases within 30 days before departure, the travel agent is not permitted to charge the amount thereof to the customer. (*RTA, s. 13.2(1)(a)(iii)*)
- 4. True.** When the price increase exceeds 7%, the travel agent cannot force the customer to pay the corresponding amount. The customer has the choice of paying the requested increase, demanding an immediate full refund, or accepting replacement services similar to those initially booked, offered by the travel agent. (*RTA, s. 13.2(1)(a)(ii)*)

- 5. True.** Travel agents are exempt from entering this information on the invoice if they attach the brochure describing the services purchased or another written message outlining the conditions for reimbursement. (*RTA, s. 18*)
- 6. True.** When, for a reason of force majeure, travel agents cannot perform their obligation to provide a service, they can cancel the contract and refund the customer or offer replacement services, which the customer is not obligated to accept. (*RTA, s.20; CCQ, ss. 1693 and 1694*)

Result: _____ /6



Supplementary readings and exercises

EXERCISE 1: Applying billing rules

Read the situation below involving Four Suns Agency and complete the standard invoice including each of the headings shown in the Billing guide section. The answer for this exercise is provided in Appendix 2.

Background: Sale of a vacation package

At Mr. Fortunato's Four Suns Agency, a new counsellor, Ruth Wright has received a couple and offered them a vacation package provided by ABC Tours. After she went over the product, following the detailed description in the **supplier's** brochure, the customers bought the package including a double occupancy seven-night stay at the Coco Beach Vacation Resort in Punta Cana, Dominican Republic.

Vacation dates: December 19 to December 26, 20XX

Flight itinerary:

- 19 December, departure from Montreal (YUL), 3:45 p.m., arrival 8:55 p.m., Airiel, Flight 972, Economy class (Y)
- 26 December, departure from Punta Cana (PUJ) 3:30 p.m., arrival 8:55 p.m., Airiel, Flight 973, Economy class (Y)

Fare: \$1,508.00 per person in double occupancy + \$668.00 in other charges

The customers have refused insurance.

Customer names: Mr. Joe and Ms. Jane Murphy
10, Village Road, St-Lac, Quebec, G9P 3P6

To conclude the sale in the absence of Mr. Fortunato, the counsellor must prepare the invoice indicating the administration and document issue charges as specified in the agency's standard procedure.

Please complete the invoice below.



Exercise – Completing a standard invoice

INVOICE							
Four Suns Inc.Agency 1324, des Jardins Street Québec (Quebec) G1R 6P7 Telephone: 418 658-4455, Ext. 225 Fax: 418 658-4452 Email: foursuns@net.com				Date: Invoice No. 120000 File No.: GST No.: QST No.:			
Client(s): Address:							
Counsellor:							
DESCRIPTION	Product No.	Quantity	Price	Other charges	GST	QST	TOTAL
1.							
OTHER:							
2.							
OTHER:							
3.							
OTHER:							
					TOTAL:		
					Deposit:		
					Balance due:		
ITINERARY:							
Date	Departure	Departure time	Destination	Arrival time	Flight	Class	
OTHERS:							

CONCLUSION

Operating a travel agency and dealing with customers are serious responsibilities. This commercial activity, like every other, requires a good understanding of the applicable laws and regulations on the part of agency owners and their employees. Ignorance of these rules can result in embarrassing situations which can be easily avoided. No company wants to be famous for its mistakes! Why tarnish a reputation that takes years of hard work to build by infringing the substantial body of law governing the travel industry? As a travel agency manager or a travel counsellor, it is your duty to be well acquainted with the legislation that pertains to your activity. The purpose of this guide has been just that. Now it's your job to apply what you've learned!



APPENDICES

Travel Counsellor Employment Contract (French-language version)

Le « DATE » *

« PRÉNOM et NOM »
« ADRESSE »
« VILLE » (Québec)
« CODE POSTAL »

Objet: Contrat de conseiller en voyages avec « NOM DE L'EMPLOYEUR »

« MONSIEUR OU MADAME »,

Cette lettre confirme les termes de notre contrat exclusif concernant votre emploi chez « NOM DE L'ENTREPRISE », sise au « ADRESSE DE L'ENTREPRISE ».

A – Poste

Vous êtes embauché(e) à titre de conseiller(ère) en voyages. Votre statut sera celui d'un(e) vendeur(se) à commission salarié(e) à temps plein, à raison de 35 heures par semaine. À ce titre, vous relevez du (de la) soussigné(e).

B – Terme

Votre entrée en fonction se fera le « DATE » et comprend une période de probation de trois mois.

C – Rémunération

Votre rémunération hebdomadaire est fixée au taux horaire de « \$ » plus « % » des revenus produits par les commissions. Le paiement des commissions sera versé une fois que les montants à recevoir et à payer, en lien avec le dossier-client, auront été réglés. Les déductions à la source seront retenues sur votre paie conformément à la Loi.

D – Dépenses

Toutes les dépenses relatives à votre poste sont soumises à la politique de l'entreprise.

* Complete the request information highlighted in blue.

Travel Counsellor Employment Contract (cont'd)

E – Vacances annuelles

Une année complète de travail vous donne droit à dix (10) jours de vacances.

F – Confidentialité et conflits d'intérêts

Il est convenu qu'en acceptant le poste de conseiller(ère) en voyages chez « NOM DE L'EMPLOYEUR », vous vous engagez à une entente d'exclusivité et à traiter l'information acquise dans le cours normal de votre fonction de manière confidentielle en tout temps et en tout lieu. Il est aussi convenu qu'en acceptant votre poste, vous vous engagez à dénoncer au (à la) soussigné(e) toutes les situations pouvant constituer un conflit d'intérêts.

G – Obligations

Entendu que le ou la conseiller(ère) en voyages :

- est lié(e) par contrat de travail exclusivement avec « NOM DE L'ENTREPRISE »;
- ne reçoit pas de clients à domicile;
- perçoit les fonds d'un client pour le compte de « NOM DE L'ENTREPRISE »;
- remet à un client dont il perçoit les fonds un reçu conforme;
- fait de la publicité exclusivement au nom de « NOM DE L'ENTREPRISE »;
- détient le certificat officiel de conseiller(ère) en voyages délivré par l'Office de la protection du consommateur.

Lu et accepté,

« PRÉNOM ET NOM DE L'EMPLOYÉ »

Date

« PRÉNOM ET NOM DE L'EMPLOYEUR »

Date

* Complete the request information highlighted in blue.



Answers – Exercice 1

INVOICE							
Four Suns Inc. Agency				Date: xx-yy-2xxx			
1324, des Jardins Street				Invoice No.: 120000			
Québec (Quebec) G1R 6P7				File No.: 000089			
Telephone: 418 658-4455, Ext. 225				GST No.: 15936847			
Fax: 418 658-4452				QST No.: 1352684712			
Email: foursuns@net.com							
Customer(s): Ms. Jane Murphy				Address:			
Mr. Joe Murphy				10, Village Road			
				St-Lac (Quebec) G9P 3P6			
Counsellor: Ruth Wright							
DESCRIPTION	Product No.	Quantity	Price	Other charges	GST	QST	TOTAL
1.	409520	2	\$1,508.00	\$668.00			\$4,352.00
DETAILS: Hotel Coco Beach package – all-inclusive – double occupancy – description and conditions as per ABC Tours brochure							
2.		1	\$4.35	\$0.00			\$4.35
Credit applicable		-1	\$(4.35)	\$0.00			\$(4.35)
DETAILS: Compensation Fund for Customers of Travel Agents (FICAV) (0.10% of tourist services)							
3.	410259	2	\$50.00	\$0.00	\$5.00	\$9.98	\$114.98
DETAILS: Administration and document issue charges							
Tourist services paid but not received can be reimbursed by the Compensation Fund for Customers of Travel Agents, which is a financial protection plan administered by the <i>Office de la protection du consommateur</i> . Visit https://www.opc.gouv.qc.ca/en/ficav for more details.						TOTAL: \$4,471.33 Deposit: \$4,471.33 Balance due: \$0	
ITINERARY:							
Date	Departure	Departure time	Destination	Arrival time	Flight	Class	
Dec 19	YUL (Montreal) QC	3:45 p.m.	PUJ (Punta Cana) Dom. Rep.	8:55 p.m.	Airiel	972 Y	
Dec 26	PUJ (Punta Cana) Dom. Rep.	3:30 p.m.	YUL (Montreal) QC	6:50 p.m.	Airiel	973 Y	
OTHER:							
You can use this space to include the following mandatory information:							
1. Conditions:							
Cancellation charges before departure: non-reimbursable							
Cancellation charges after departure: 100% non-reimbursable							
(See the conditions in the ABC Tours brochure)							
2. The funds collected by Four Suns Agency are deposited in a trust account.							
3. Travel insurance refused: Signature: _____							



Answers – Exercise 1 (cont'd)

INVOICE (cont'd)

Explanation of the calculations of the FICAV, GST, and QST

The FICAV contribution is calculated as follows:

You sell a package at \$4,352.00.

Price of tourism products including other charges \$4,352.00.

$$\text{FICAV } (0.10\% \times \$4,352.00) = \$4.35 \quad (\$4,352.00 + \$4.35) = \$4,356.35$$

Applicable discount (FICAV equivalent) = -\$4.35

Sub-total: \$4,352.00

Other (administration and document issue charges): \$100.00

GST (\$100 × 5%) + \$5.00

QST [(\$100 × 9.975%) + \$9.98

Sub-total ((\$100 + \$5 + \$9.98) = **\$114.98**

Total: (\$4,352.00 + \$114.98) = **\$4,466.98**

- 1 Keep a copy and give one copy to the customer. (RTA, ss. 18(1) and (3))
- 2 Enter billing date. (RTA, s. 18(2)(a))
- 3 Use consecutively pre-numbered invoices and keep one copy in numerical sequence for inspection purposes. (RTA, s. 18(1))
- 4 If you have to collect GST and QST, you must register for the GST and QST by completing the Registration Form (LM-1) provided by Revenu Québec. (www.revenuquebec.ca/en)
- 5 Enter the last and first name of all customers as well as the address of one of the customers (s. 18.2b)
- 6 Enter the family name and given name of the counsellor who concluded the sale. (RTA, s. 18(2)(h))
- 7 Businesses and employers have the mandate to collect taxes where applicable. In this exercise, the tourism products and services are not taxable (GST-QST). For additional information, please visit www.revenuquebec.ca/en.
- 8 Indicate the amount of the FICAV contribution, which applies only on tourist products before applicable taxes (excluding administration and document issue fees, insurance, travel guides, etc.). The total of tourist products for this invoice: \$4,352.00 (RTA, s. 18(2)(g)). The FICAV contribution amount may be claimed in addition to or included in the price charged for the product. Wherever you don't have to collect the contribution because of accumulated surplus in the fund, the amount thereof must nevertheless be included in the invoice that you give to the customer. On the following line, you must indicate the "credit applicable," the amount of which is equivalent to the contribution above. (See Topic 7)
- 9 The 0.10% rate that is used to calculate the FICAV contribution is provided for illustration purposes only. To find out the actual rate that must be used to produce customer invoices, see section 2.3.3 of this guide.
- 10 Specify the amount received and the balance owing, if any. (RTA, s. 18(2)(c))
- 11 Include this information or give the customer the brochure along with the invoice. (RTA, ss. 18(2)(f), 18(4), and 16)
- 12 Inform the customer that these amounts are held in a trust. (RTA, s. 18(2)(e))
- 13 Insurance provides compensation for amounts not reimbursed. (See Topic 6 of this guide)
- 14 When tourist services are taxable, the amount of the FICAV contribution, if it applies, is also taxable. In this exercise, the tourist products and services are not taxable (GST-QST); therefore, the FICAV contribution is not taxable either. For additional information, please visit www.revenuquebec.ca/en.

GLOSSARY

A

Act: In the strict legal sense, a written, general, and permanent rule of law, passed in the National Assembly.

Anniversary date: For travel agents, the first day of the 8th month after the end of the travel agent's fiscal year.

Appeal: In the strict legal sense, right or action to enter an appeal before a jurisdictional or administrative authority in order to obtain the cancellation or review of a legal decision or administrative act.

Applicant: Person who submits a request in a motion.

C

Carrier: Any person or company that operates a commercial business consisting of the transportation of travelers.

Case law: Set of decisions rendered by the courts.

Chargeback: Crediting the credit card account of a consumer with the amount payable by a merchant who has failed to reimburse a purchase.

Civil law: Branch of private law that contains the fundamental rules governing individuals, the family, property, and obligations. It constitutes the law that usually applies to relations between individuals.

Civil liability: Obligation of a person to repair the harm caused to another by his or her own fault or by the act or fault of another person, or by the act of things in his or her custody.

Civil remedy: Recourse available under civil law.

Class action: Procedure that enables a person to assert before the courts not only his or her own rights but also those of a group of individuals without having received from them a **mandate** to represent them, when their claims are sufficiently similar to justify combining them in the same lawsuit.

Corporate charter: A legal document creating a company or a stock corporation, issued by the government at the request of the shareholders and specifying the shareholders' rights and obligations.

Customer: Any person receiving tourism services from a travel agent, excluding any direct or indirect supplier of a travel agent.

D

Damages: Money paid as compensation for damage to the victim of an act performed by a person whose civil **liability** was incurred OR amount of money that a **debtor** must pay to his or her creditor for failure to perform or for negligent performance or delay in performance of the debtor's obligation.

Debtor: Person who is required to fulfill an obligation towards another person.

E

Establishment: Place of business, located in Quebec, that is distinct from any other and is equipped with autonomous facilities.

Executive officer: A director, member of a partnership, person exercising duties of management, as well as any person who in fact performs such duties on behalf of an association, corporation, or person.

Extended undertaking: In cases where several members of an industry sign an identical voluntary undertaking, the government may extend this undertaking to the whole industry.

F

Force majeure: Unforeseeable or irresistible event from a cause that is external to the debtor and that frees the debtor of his or her obligation.

Funds: Includes cash, cheques, or other negotiable instruments, as well as any amount representing the monetary equivalent of all or part of a payment by credit card or debit card, or of any other form of payment.

G

General licence: Licence that authorizes a person dealing with the general public or the members of a particular group, directly or through another travel agent, to perform the operations outlined in section 2 of the Travel Agents Act.

Gross income: The total amount paid or payable for the benefit of the travel agent.

Guilty plea: Declaration in which a defendant admits being guilty of the charge brought against him or her.

I

Implementing regulation: Regulation intended to ensure the implementation of a statute. It is based on a statute, whose provisions it may not contradict.

Individual security: Contract by which a person, the **surety**, assumes an obligation to a creditor, at no charge or for remuneration, to fulfill the obligation of the **debtor** if the debtor fails to fulfill it. Individual security may also refer to a deposit of money or securities intended to guarantee future claims.

Intermediary: Person whose work consists in bringing together two or more persons to conclude an agreement.

Investor: The word "investor" refers to all shareholders of a travel agent. However, in the case of a travel agent whose shares are listed on a stock exchange, "investor" refers only to a shareholder holding 10% or more of voting shares.

J

Joint and several liability: Liability of more than one person, where each person is legally responsible for the others' actions.

L

Liability: Obligation of a person to answer for his or her actions or to repair the harm caused to another by his or her own fault or by the act or fault of another person or by the act of things in his or her custody.

M

Mandatory: Person to whom a **mandate** is conferred by another person.

Mandate: Contract by which a person, the **mandator**, gives the power to be represented in the execution of a legal transaction with a third party to another person, the **mandatory**, who by accepting this office, undertakes to perform it.

Mandator: Person who confers a **mandate** on someone else.

O

Obligations: In the broad sense, synonym of duties imposed in general by law or contract.

Obligation of compliance: Obligation to deliver goods or provide a service in accordance with the description thereof in the contract.

Obligation of means (or obligation of diligence): Obligation by which the debtor is required only to apply all possible means to achieve a specific result without necessarily obtaining said result.

Obligation of result: Obligation by which the **debtor** is required to achieve a specific result and is held liable therefore, unless the debtor can prove the existence of a fortuitous event.

Organizing trips: The negotiation of various rates with suppliers of tourism services in order to combine the components purchased (accommodation, transportation, meals, tours, etc.) and manage all the steps in the organization and sale of the trip.

P

Penal charges: Legal procedures filed against a presumed offender under a provincial law or a municipal bylaw.

Penal liability: Obligation of a person to answer for his or her infringement of the rules established to protect public peace and order in society and, where applicable, to suffer the penalty prescribed by law.

Penal sanction: Sanction imposed by law on the perpetrator of an offence.

Plaintiff: Person who brings an action.

President: President of the *Office de la protection du consommateur*.

Principal establishment: Main establishment at which the licensee performs his or her operations.

Prosecutor: Person who, in penal matters, is authorized to seek a legal remedy from an individual.

Provisional administrator: Person appointed by the president of the *Office de la protection du consommateur* to temporarily manage or terminate the business of a travel agent, if the situation so requires.

Punitive damages: Damages awarded to a victim not in compensation for the harm actually incurred, but to punish the malicious conduct or the intention to harm of its perpetrator.

R

Recourse: The right or the act of appealing to a judicial or administrative authority to

overturn or review a prior ruling or administrative decision.

Regulation: Normative legislation, general and impersonal in nature, enacted by an executive power pursuant to an enabling statute, which is enforceable when in effect (for example, a government regulation or a municipal bylaw).

Restricted licence: Permit allowing a person to deal with the general public or with members of a particular group, directly or through another travel agent holding a general licence, to perform the operations covered by the class of the restricted licence issued for the account or benefit of said travel agent.

Rights: By extension, any prerogative or fundamental right recognized by objective law to the members of a society in general.

S

Service contract: A business or service contract is a contract by which a person, the contractor or the provider of services, as the case may be, undertakes to carry out physical or intellectual work for another person, the customer, or to provide a service, for a price which the customer commits to pay.

Service provider: In a service contract, the person who undertakes to provide a service to another for a price which the other person undertakes to pay.

Supplier: Person who provides merchandise or services to another person.

Surety: Person who agrees to take responsibility for the fulfillment of an undertaking of a **debtor** if that debtor defaults.

T

Tour operator: Person who negotiates various rates with suppliers of tourism products and combines the purchased components (accommodation, transportation, tours, etc.) to create a package that the operator offers to wholesale travel agents, retailers, and consumers (at the retail price, base price, or preferential price, as appropriate).

The tour operator manages all steps in the organization and sale of the package. A retail or wholesale travel agent or a host tourism agency can be a tour operator.

Travel agent: A person, partnership, or association that, on behalf of a third party or of its members, engages in or offers to engage in, or issues vouchers for, any of these operations: a) the booking or rental of lodging accommodation; b) the booking or rental of transportation services; or c) organizing trips.

Trust account: Account opened with a financial institution, in which are deposited sums of money remitted to a person authorized to hold them on behalf of another and to use them for the specific purposes laid down.

Trustee: Person who administers a trust and who must accordingly act with integrity, good faith, diligence, and competence in

the best interests of the beneficiary that the trustee represents.

Turnover: Total amount of money paid or payable by the customers of the travel agent, including the amounts paid directly to another agent or to a supplier.

V

Voluntary undertaking: Under the Consumer Protection Act, when the OPC president deems that a merchant has infringed the legislation, whose implementation is monitored by the Office, the president may accept a voluntary undertaking by this merchant to apply the corrective measures listed in the undertaking.

Voucher: Document that informs the supplier of a tourism service that the holder of the voucher is authorized to exchange it for the service in question.

MEDIAGRAPHY

Main laws and regulations referred to

- Civil Code of Québec (*CQLR*, c *CCQ-1991*),
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/CCQ-1991>.
- Carriage by Air Act (*R.S.C.*, 1985, chapter C-26),
<http://laws-lois.justice.gc.ca/eng/acts/C-26>.
- Act respecting the distribution of financial products and services (*CQLR*, chapter D-9.2),
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/D-9.2>.
- Consumer Protection Act (*CQLR*, chapter P-40.1),
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/P-40.1>.
- Act respecting the Québec sales tax (*CQLR* c T-0.1),
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/T-0.1>.
- Travel Agents Act (*CQLR*, chapter A-10),
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-10>.
- Regulation respecting the Québec sales tax (*CQLR* c T-0.1, r 2),
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/T-0.1,%20r.%202>.
- Regulation respecting travel agents (*CQLR*, chapter A-10, r. 1),
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/A-10,%20r.%201>.

Main websites referred to

- Autorité des marchés financiers,
<https://lautorite.qc.ca/en/general-public>.
- Les Publications du Québec,
<https://www.publicationsduquebec.gouv.qc.ca/cspq/en>.
- Department of Justice Canada, <http://www.justice.gc.ca/eng>.
- Ministère de la Justice du Québec, <https://www.justice.gouv.qc.ca/en>.
- Office de la protection du consommateur,
<https://www.opc.gouv.qc.ca/en/home>.
- Société québécoise d'information juridique – Jugements, in french only,
<http://citoyens.soquij.qc.ca>.

Complementary references

- JOLIN, Louis, *Droit du tourisme au Québec*, Montréal, Presses de l'Université du Québec, 4th edition, 2018, 180 p.
- REID, Hubert, Ad. E., *Dictionnaire de droit québécois et canadien*, Montréal, Wilson et Lafleur, 5th edition, 2015, 902 p.

Laws and Regulations

Applicable to the

TRAVEL INDUSTRY

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