In this work, the masculine gender is used as representative of both sexes without discrimination against men and women, and for the sole purpose of simplifying the text.

Trademarks are mentioned or illustrated in this book. The publisher emphasizes that he has received no income or benefits as a result of the presence of these brands. The latter are set out at the request of the authors to support the educational or scientific purpose of this book.
Among the projects entrusted to the ITHQ’s Centre d’expertise et de recherche en hôtel-lerie et restauration (CER), was the one submitted by the Office de la protection du consommateur (OPC) which consisted in producing this study and reference guide intended for travel professionals.

Outcome of our first collaboration with the OPC, this Guide is an achievement of which the ITHQ can rightly be proud. It strengthens the ITHQ standing in developing training and certification services using information technologies. Through internet, travel industry professionals have now access to crucial information related to their field regardless of their location in Québec.

This manual provides a perfect response to the current needs of the industry by presenting travel agency management guidelines as well as compiling information on legislative and regulatory components pertaining to this sector of economic activity. This is particularly true for all travel agents and counsellors considering that a knowledge exam is now required by law.

Laws and Regulations Applicable to the Travel Industry: Textbook for Travel Professionals is an essential pedagogical aid for all instructors, whether it be in training institutions, business consultation workshops or self-paced 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, who have done outstanding work.

Lucille Daoust
General Director
Institut de tourisme et d’hôtellerie du Québec
The Office de la protection du consommateur is proud to present the very first edition of this Study Guide, produced in collaboration with the Institut de tourisme et d’hôtellerie du Québec. The Travel Agents Act now requires travel industry professionals to pass a knowledge exam on the Act and Regulations governing the sale of tourism goods and services.

Successful completion of this examination will prove that you possess the necessary knowledge and skills to offer services in accordance with laws and regulations applying to this industry. Amidst other topics, you will become familiar with pricing, internet transactions requirements as well as the Travel Agent Customers’ Compensation Fund. This study guide will thereby assist you in carrying out efficiently the functions of this stimulating and rewarding profession.

Starting on July 1, 2012, Québec travellers will have additional peace of mind: Travel professionals will have passed an examination on laws and regulations governing the sale of tourism goods and services. I hope this Guide will be of use while preparing for the exam, a mandatory step in obtaining or renewing your certificate.

**Louis Borgeat**
President
Office de la protection du consommateur
CONTENTS

FOREWORDS ........................................................................................................ iii
A WORD FROM THE AUTHORS ........................................................................ ix
TOPIC OUTLINE ................................................................................................ xi

MODULE 1 — OPERATING A TRAVEL AGENCY:
Responsibilities and Obligations ................................................................. 1

TOPIC 1 — DEALING WITH LAWS AND
AUTHORITIES CONCERNED ........................................................................... 3

1.1 MINISTÈRE DE LA JUSTICE
(Justice Department) ....................................................................................... 5
  1.1.1 What is its role? ..................................................................................... 5
  1.1.2 What are the most important
      recent amendments to the Act and Regulation? .................................. 7
  1.1.3 What is the role of the Civil Code
      of Quebec in the travel sector? .............................................................. 8

1.2 OFFICE DE LA PROTECTION
DU CONSOMMATEUR ................................................................................. 8
  1.2.1 What is its role? ..................................................................................... 8
  1.2.2 What are the laws under its jurisdiction? .............................................. 11
  1.2.3 What is the role of the president of
      the Office de la protection de consommateur? ..................................... 12
  1.2.4 Travel Agents Advisory Committee .................................................... 13

TOPIC 2 — ADMINISTER FUNDS. .................................................................... 17

2.1 TRUST ACCOUNT ...................................................................................... 18
  2.1.1 What is it for? ....................................................................................... 18

2.2 INDIVIDUAL SECURITY ............................................................................. 19
  2.2.1 Who must provide this security? .......................................................... 19
  2.2.2 How is this security provided? ............................................................. 20
  2.2.3 How much to provide? ........................................................................ 20

2.3 COMPENSATION FUND ............................................................................ 22
  2.3.1 What is it for? ....................................................................................... 22
  2.3.2 Who has to contribute to FICAV? ........................................................... 22
  2.3.3 How much is the contribution? ............................................................. 22
  2.3.4 What is your role? .............................................................................. 23

2.4 ACCOUNTING ............................................................................................. 23
  2.4.1 Bookkeeping ....................................................................................... 23

2.5 PENALTIES AND VIOLATIONS ................................................................. 24
<table>
<thead>
<tr>
<th>TOPIC 3 — OPERATING WITH A LICENCE</th>
<th>29</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 THE ISSUE OF A LICENCE</td>
<td>30</td>
</tr>
<tr>
<td>3.1.1 Who needs a licence?</td>
<td>30</td>
</tr>
<tr>
<td>3.1.2 Licence classes and costs</td>
<td>31</td>
</tr>
<tr>
<td>3.1.3 First licence</td>
<td>33</td>
</tr>
<tr>
<td>3.1.4 Licence renewal</td>
<td>42</td>
</tr>
<tr>
<td>3.2 DUPLICATES AND LICENCE TRANSFER</td>
<td>43</td>
</tr>
<tr>
<td>3.3 LICENCE REFUSAL, SUSPENSION OR REVOCATION</td>
<td>44</td>
</tr>
<tr>
<td>3.3.1 Grounds</td>
<td>44</td>
</tr>
<tr>
<td>3.3.2 Recourse</td>
<td>45</td>
</tr>
<tr>
<td>3.3.3 Provisional administration</td>
<td>45</td>
</tr>
<tr>
<td>3.3.4 Penalties and offences</td>
<td>45</td>
</tr>
<tr>
<td>TOPIC 4 — PRACTICE WITH A CERTIFICATE</td>
<td>49</td>
</tr>
<tr>
<td>4.1 OBTAINING A CERTIFICATE</td>
<td>50</td>
</tr>
<tr>
<td>4.1.1 Who is required to have a certificate?</td>
<td>50</td>
</tr>
<tr>
<td>4.2 REFUSAL, CANCELLATION OR SUSPENSION</td>
<td>51</td>
</tr>
<tr>
<td>4.2.1 Grounds</td>
<td>51</td>
</tr>
<tr>
<td>4.2.2 Recourse</td>
<td>52</td>
</tr>
<tr>
<td>4.2.3 Penalties and offences</td>
<td>52</td>
</tr>
<tr>
<td>4.3 LIABILITY FOR POSSESSION OF A CERTIFICATE</td>
<td>52</td>
</tr>
<tr>
<td>MODULE 2 — DEALING WITH CUSTOMERS: Responsibilities and Obligations</td>
<td>55</td>
</tr>
<tr>
<td>TOPIC 5 — PUBLICIZE YOUR PRODUCT OR SERVICE</td>
<td>57</td>
</tr>
<tr>
<td>5.1 GENERAL RULES TO BE RESPECTED</td>
<td>59</td>
</tr>
<tr>
<td>5.1.1 Required content</td>
<td>59</td>
</tr>
<tr>
<td>5.1.2 Prohibited Content</td>
<td>61</td>
</tr>
<tr>
<td>5.1.3 Compliant written or printed advertising</td>
<td>63</td>
</tr>
<tr>
<td>5.2 INTERNET ADVERTISING</td>
<td>66</td>
</tr>
<tr>
<td>5.3 LIABILITIES AND OBLIGATIONS</td>
<td>66</td>
</tr>
<tr>
<td>5.4 PENALTIES AND OFFENCES</td>
<td>67</td>
</tr>
<tr>
<td>TOPIC 6 — DEALING WITH CUSTOMERS</td>
<td>69</td>
</tr>
<tr>
<td>6.1 OBLIGATIONS AND LIABILITIES OF THE TRAVEL AGENT</td>
<td>70</td>
</tr>
<tr>
<td>6.1.1 Choice of service providers</td>
<td>73</td>
</tr>
<tr>
<td>6.1.2 Assistance</td>
<td>73</td>
</tr>
<tr>
<td>6.1.3 Information</td>
<td>73</td>
</tr>
<tr>
<td>6.1.4 Compliance</td>
<td>74</td>
</tr>
<tr>
<td>6.1.5 Safety</td>
<td>74</td>
</tr>
</tbody>
</table>
A WORD FROM THE AUTHORS

This Guide focuses on providing preparatory material 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 to be published in Québec, our primary concern has been to make it helpful and easily understandable. As unexpected as it may be, laws and regulations are explained in simple and straightforward terms. Throughout the Guide, the text is addressed directly at you. Your current workplace practices or upcoming job-related duties are challenged with Test Your Knowledge evaluation grids. To ensure a direct link between your functions as a travel professional and the regulations governing travel agency operations, topics are presented in chronological order from the start of commercial activities to the closing of a customer’s file. Regardless of how they are numbered, the topics may be read in any order. If a topic implies prior knowledge, you will be automatically redirected to the topic concerned. In order to simplify the content and focus on key areas, issues of case law and obligations applicable to restricted licence holders are not covered.

Guide Features

This Guide has two modules. The first is Operating a travel agency: responsibilities and obligations; it is followed by Dealing with customers: responsibilities and obligations. Each topic, integrated in the modules, is presented in the same manner, thereby making the information easier to assimilate and quicker to locate. First come the learning objectives reviewed at the end of the topic by a test yourself exercise allowing you to assess your level of proficiency. On the first page, the right-hand column identifies which sections of the Act or Regulation respecting travel agents the topic more specifically addresses. The initial context or background story is the starting point and reappears throughout the topic, making the content easier to relate to. This framework is also used to test your knowledge and subsequently to compare your results with the answers appearing at the end of each topic. In addition to tables, figures and examples, your reading will enable you to identify key words found in the glossary or be redirected to documents in appendices that will assist your learning. Finally, each topic includes Did you know that... sections, emphasizing key information along with supplementary readings and exercises enabling you to delve more deeply into the subjects covered.
Supplementary materials

This Guide\(^1\) would be incomplete if not read with reference to the Travel Agents Act (L.R.Q., chapter A-10) and the Regulation respecting travel agents. These official documents will assist you in doing the supplementary readings and exercises suggested at the end of each topic, facilitating your study for certification.

Acknowledgments

Preparing a Guide is no small matter. While the task stretched our capacities, it clearly reflected the confidence of those who gave us this privilege. They include Bernard Aurouze, Director of the Centre d’expertise et de recherche en hôtellerie et restauration of the Institut de tourisme et d’hôtellerie du Québec as well as his assistant François Therrien, whom we thank for the latitude granted throughout this project. Special thanks also to the members of the reading committee who improved the outcome with the relevance of their comments from their respective areas of expertise. Topics review was provided by:

- Jocelyne Hamel, Professor, Tourism Techniques, Collège Montmorency;
- Louis Jolin, Professor, Tourism Law, Department of Urban Studies and Tourism, ESG UQAM;
- Benoît Legault, Tourism Journalist, regular contributor of Le Devoir, les guides Ulysse, and L’Express de Toronto;
- Mme Jean-Louis Renaud, Allard, Renaud et associés, Office de la protection du consommateur, Service des affaires juridiques.

And the collaboration of the OPC Service des permis staff:

- André Derome;
- Simon Tourigny-Poirier;
- Jonathan Lemay.

Finally, we are indebted to the substantial collaboration of Isabelle Côté, senior project coordinator at Interscript and her team, who succeeded in providing graphics that embodied our pedagogical vision.

Nathalie Gilbert and Isabelle Proulx,
Professors, Tourism Management

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\(^1\) Research for this publication is current as of November 1, 2011.
OPERATING WITH A LICENCE

At the end of this topic, you will be able to:
- identify the legal requirements to consider in order to operate a travel agency;
- distinguish the required procedures for obtaining or renewing a general licence;
- apply for a licence;
- understand the means and measures available to the end of a licence order, suspension or cancellation;
- learn the penalties and fines imposed for failure to comply with the law;
- explain the legal liability associated with the duties of a travel agent;
- evaluate your initial knowledge of the Travel Agent Act or Regulation.

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.

EXAMPLE
Illustrates the topic by using examples.

OUTLINE TARGETED BY THE TOPIC
Outlines the learning goals targeted by the topic.

EXAMPLE
Mr. Fortunato has long been the head of his travel agency in 6 Continents (LA) Inc. He has always set high standards for himself and his employees, and he has always been willing to go the extra mile to ensure customer satisfaction. One plays a travel counsellor for the agency, and he helps him with his duties.

EXAMPLE
Mr. Fortunato has long been the head of his travel agency in 6 Continents (LA) Inc. He has always set high standards for himself and his employees, and he has always been willing to go the extra mile to ensure customer satisfaction. One plays a travel counsellor for the agency, and he helps him with his duties.

EXAMPLE
Mr. Fortunato has long been the head of his travel agency in 6 Continents (LA) Inc. He has always set high standards for himself and his employees, and he has always been willing to go the extra mile to ensure customer satisfaction. One plays a travel counsellor for the agency, and he helps him with his duties.
Keep working! Review this topic or go to the next one.

By satisfying all of these responsibilities and obligations, your customers are assured of doing business with a reliable travel agent. Once you comply with the requirements of this topic, you are ready to move onward in the process for obtaining a travel agency operating licence.

It is now up to you to evaluate your level of knowledge of this topic. For that purpose, you are invited to respond to the following questions.

1. If you have a security of $2,000, how much must you have available in your bank to cover the security?

2. How should the money collected as part of the sale of a tourist product be administered?

3. If you have a security of $4,000, what is the amount you must have on deposit in your bank?

4. How should you answer a travel agent who says "FICAV administration services that were not provided to the customer."

5. What is the important reference document when a tourist product has been sold?

6. If you have a security of $8,000, how much must you have available in your bank to cover the security?

7. If you have a security of $16,000, how much must you have available in your bank to cover the security?

8. How should the money collected as part of the sale of a tourist product be administered?

9. How much do you have to have to cover a security of $100,000?

10. If you have a security of $200,000, how much must you have available in your bank to cover the security?

11. How much do you have to have available in your bank to cover the security of $400,000?

12. If you have a security of $800,000, how much must you have available in your bank to cover the security?

13. If you have a security of $1,800,000, how much must you have available in your bank to cover the security?

14. How much do you have to have available in your bank to cover a security of $2,000,000?

15. How much do you have to have available in your bank to cover a security of $5,000,000?

16. How much do you have to have available in your bank to cover a security of $10,000,000?

17. How much do you have to have available in your bank to cover a security of $20,000,000?

18. How much do you have to have available in your bank to cover a security of $50,000,000?

19. How much do you have to have available in your bank to cover a security of $150,000,000?

20. How much do you have to have available in your bank to cover a security of $300,000,000?

21. How much do you have to have available in your bank to cover a security of $500,000,000?

22. How much do you have to have available in your bank to cover a security of $1,000,000,000?

23. How much do you have to have available in your bank to cover a security of $2,000,000,000?

24. How much do you have to have available in your bank to cover a security of $5,000,000,000?

25. How much do you have to have available in your bank to cover a security of $10,000,000,000?

26. How much do you have to have available in your bank to cover a security of $20,000,000,000?

27. How much do you have to have available in your bank to cover a security of $50,000,000,000?

28. How much do you have to have available in your bank to cover a security of $100,000,000,000?

29. How much do you have to have available in your bank to cover a security of $200,000,000,000?

30. How much do you have to have available in your bank to cover a security of $500,000,000,000?

31. How much do you have to have available in your bank to cover a security of $1,000,000,000,000?

32. How much do you have to have available in your bank to cover a security of $2,000,000,000,000?

33. How much do you have to have available in your bank to cover a security of $5,000,000,000,000?

34. How much do you have to have available in your bank to cover a security of $10,000,000,000,000?

35. How much do you have to have available in your bank to cover a security of $20,000,000,000,000?

36. How much do you have to have available in your bank to cover a security of $50,000,000,000,000?

37. How much do you have to have available in your bank to cover a security of $100,000,000,000,000?

38. How much do you have to have available in your bank to cover a security of $200,000,000,000,000?

39. How much do you have to have available in your bank to cover a security of $500,000,000,000,000?

40. How much do you have to have available in your bank to cover a security of $1,000,000,000,000,000?
MODULE I

OPERATING A TRAVEL AGENCY:
Responsibilities and Obligations
At the end of this topic, you will be able to:

- explain the role of the Ministère de la Justice and the Office de la protection du consommateur in legislation affecting the travel industry;
- know the amendments made to the Act and Regulation respecting travel agents;
- understand the basics of the Act and Regulation;
- see how the Quebec Civil Code and the Consumer Protection Act oversee the travel industry;
- define certain legal terms appearing in the Act and Regulation.

The reality in which the travel industry operates is constantly evolving. Favorite destinations, preferred methods of travel, industry structure, its methods of communication and consumption patterns continually change, and as a travel agent, you must adapt accordingly. Likewise, legislation also needs updating from time to time. This first topic describes the roles and responsibilities of the Ministère de la Justice, the Office de la protection du consommateur (OPC) and its president, who are the main players in terms of travel legislation. It also presents the main terminology used in laws and regulations applicable to the travel industry.

Before going any further, let’s first test what you already know about this topic.

**Context**

Extract from the Draft regulation respecting the Travel Agents Act (R.S.Q., c. A-10) presented by the Minister of Justice.

Published on April 28, 2010 in the Gazette officielle du Québec, 142nd year, No. 17, page 1080.

“(...) The draft Regulation completes the legislative provisions recently passed with respect to the elimination of the distinction between retail travel agents and wholesale travel agents, the possibility for travel counsellors to perform travel agent operations without holding licences and the...
use of part of the income from the Fonds d’indemnisation des clients des agents de voyages for information and education of travel agents’ customers. It also updates the regulation with respect to new developments in the travel industry.

The draft Regulation provides for the creation of two new classes of licences, namely the general licence for travel agents and the restricted licence for adventure travel organizers, outfitters and regional tourist associations. It prescribes terms and conditions for issuing and renewing the general licence and the restricted licence, and revises the rules relating to security to be provided.

The draft Regulation also sets out the conditions for issuing and renewing the travel counsellor certificate. It provides certain exceptions to the application of the Act.

The draft Regulation proposes to allow the operation of an establishment from home under certain conditions. It provides rules relating to advertisement on travel agents’ websites. It also proposes a framework for unilaterally changing the price of tourist services in contracts already signed.

The rules relating to the contribution to the Fonds d’indemnisation des clients des agents de voyages and to the compensation of customers are amended. Technical adjustments for concordance with the recent amendments to the Act and transitional measures are also proposed.

Certain measures relating in particular to the issue of travel counsellor certificates and restricted licences add to the burden of travel agents and travel counsellors as well as outfitters and adventure travel organizers. On the other hand, measures relating to the indemnity fund have a positive impact on customers of travel agents.”

Test your knowledge

**True or False**

1. Drafted in connection with a law, a regulation defines the application of that law. __________

2. Passed by parliament, a law dictates the expected employee work behaviour in a given field. __________

3. The OPC is a private association of informed consumers that defends the rights of other consumers. __________

4. All companies that offer tourist products are governed by the Travel Agents Act. __________

5. Companies selling tourism-related products and services in Québec are subject to provisions of the Québec Civil Code and the Consumer Protection Act. __________

6. The Minister of Justice supervises the drafting of the Act and Regulation respecting travel agents. __________

7. Your clients can sue you in Small Claims Court for amounts over $7,000. __________

8. Travel agents are formally consulted on amendments to the Travel Agents Act and Regulation. __________

Answers to this test are at the end of this topic.
1.1 MINISTÈRE DE LA JUSTICE
(JUSTICE DEPARTMENT)

On June 4, 1965, the Act respecting the Ministère de la Justice (R.S.Q., c. M-19) came into force, making Québec the first Canadian province to have its own Justice Ministry. The mission and responsibilities of this department have evolved continuously since that time.

1.1.1 What is its role?

Mission

On its website, the Ministère de la Justice presents its mission as to “…ensure adherence to the rule of law in Québec society and to preserve a credible and dependable system of justice in Québec in which individual and collective rights are respected and maintained.”

Mandates

Among the responsibilities of the Ministère de la Justice (involving agencies such as the Office de la protection du consommateur, which is under the jurisdiction of this department), we find the following:

• advise the government and its departments on the legality of their actions as well as the drafting of acts and regulations (e.g. regulations governing the work of travel agents);
• support judicial activities by officiating the various courts of justice that constitute Québec’s court system, along with certain specialized tribunals (e.g. convictions involving the commercial activity of travel agents);
• ensure proper handling of infringement cases falling under the responsibility of the Attorney General in accordance with the Code of Civil Procedure, and executes court judgments rendered in criminal and penal courts when including a fine or surcharge.

Figure 1 summarizes the structure and responsibilities of the Ministère de la Justice and the OPC as they relate to the travel sector.
Structure and Responsibilities of the Ministère de la Justice and the OPC

- National Assembly of Québec (officially adopts laws)
  - Conseil des ministres (officially adopts regulations)
    - Ministère de la Justice (through its Minister, supervises the Office de la protection du consommateur (OPC) and validates changes in laws and regulations recommended by the OPC/enforces the Civil Code of Québec)
      - Office de la protection du consommateur (OPC) (responsible for protecting consumers and thus promoting a more balanced relationship between customers and merchants/ two of the laws under its responsibility involve travel: the Consumer Protection Act and the Travel Agents Act)
        - President of the Office de la protection du consommateur (see Table 1.3, on page 13, summarizing the President’s main responsibilities)
          - Consumer Services Branch (answers queries from consumers and merchants)
          - General Secretariat (licencing services (issues the required licence and certificate for travel agents and counsellors following the recommendation of the OPC president))
          - Legal Affairs Branch (Its investigation department enforces the Act and Regulation, and its legal services department provides case follow-up in the event of penal actions)
1.1.2 What are the most important recent amendments to the Act and Regulation?

As part of its ongoing responsibilities, the Ministère de la Justice made the required amendments in 2010 to update the Travel Agents Act, thus making it more convenient for you and your customers. Table 1.1 shows some of the important amendments made to the Travel Agents Act and Regulation.

| Amendments to the Travel Agents Act and Regulation |
|---|---|
| **Before** | **Now** |
| Retail or wholesale travel agent title | ONLY TRAVEL AGENT |
| Specific licence for carriers, travel agents, retailers or wholesalers | Travel agent **GENERAL LICENCE** authorizing the cumulative activities previously granted by retail and wholesale travel agent licences. |
| Previously non-existent | **RESTRICTED LICENCE** for travel agents intended for adventure travel organizers, outfitters and regional tourist associations for certain activities only |
| Previously non-existent | Travel counsellor **COMPULSORY CERTIFICATE** – ONLY for persons dealing with the public on behalf of a **GENERAL LICENCEE**. |
| Previously non-existent | **COMPULSORY EXAMINATION** for travel agent licensees and travel counsellors |

The current Act and Regulation DO NOT APPLY to the following, among others:

- a tourist accommodation establishment offering ancillary tourist services in the vicinity (e.g. museum visits, golf, etc.);
- a hotel chain or a group of hotel establishments organizing packages in more than one establishment within the same chain or group, without including any transportation service;
- the holder of a charter bus transportation licence, for trips lasting no longer than 72 hours exclusively in Québec;
- **mandatory** (representative) of an intercity bus transportation licence holder selling intercity bus transportation vouchers from bus terminals.
1.1.3 What is the role of the Civil Code of Quebec in the travel sector?

The Ministère de la Justice is also responsible for implementing the Civil Code of Quebec. This code, which structures life in Quebec society, governs relationships between neighbours, spouses as well as between you and your customer with regard to matters covered by civil law. Of the 3,168 articles listed in this Act, several concern you specifically. For example, article 1458 specifies that “every person has a duty to honour his contractual undertakings” and article 1432 stipulates 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.” The Civil Code is an essential part of the travel industry legislation and will be cited in connection with specific elements in this guide.

1.2 OFFICE DE LA PROTECTION DU CONSOMMATEUR

The Office de la protection du consommateur (OPC) monitors the application of the Act and Regulation respecting travel agents. The OPC is one of the agencies under the jurisdiction of the Ministère de la Justice.

1.2.1 What is its role?

Mission

The OPC was created in 1971 in order to protect consumers and thus promote a better balance of powers between customers and merchants. This was when the Consumer Protection Act came into force in Quebec, and was subsequently subject to annual upgrades. Since then, the mission of the OPC has consisted of enforcing legislation under its jurisdiction, in particular the Travel Agents Act.

Its mission covers a broader range of aspects considering that the OPC “informs consumers collectively and individually, it educates consumers and receives their complaints. Moreover, the Office fosters concerted action between socioeconomic agents.” The distribution of informative publications (e.g. a message on timeshare vacations), or appearance at certain public events such as travel fairs or tradeshows reflect the mission of this public body.

Mandates

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

Did you know that…

According to the Civil Code of Quebec, “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 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.”
Information and education

Your client, or you as a merchant, may obtain answers to your queries concerning the **rights**, **obligations** and **liabilities** associated with travel agency operations (Module I of the textbook) or transactions with customers (Module II of the textbook). This information can be obtained by telephone or by consulting the **OPC website**, which offers much information regarding consumer **recourse** and merchant-related complaints.

In addition to participating in media interviews, the OPC regularly publishes press releases on convictions handed down against merchants and their officers or representatives. Articles, completed by questions and answers, regularly appear in print and electronic media making information accessible to you and your customers. Finally, educational materials for teachers are distributed by OPC Éducation (also available on the OPC website).

---

**Example of a column**

**New protection for travellers**

“Since June 30 (2010), consumers have had new tools for making transactions with greater confidence. With the coming into force of amendments to the Travel Agents Act, travellers will be better informed and protected.

In this industry, which is already closely supervised by the OPC, additional protection elements have been devised. They concern travel counsellors, unilateral changes to the price of a contract, advertising and the Travel Agent Customers Compensation Fund.”

Translation of a text from the OPC website

---

**Supervision**

The OPC has an especially important role with regard to travel agencies in Québec. It is the OPC that grants licences to travel agencies and can withdraw any such licence in cases specifically provided by law. It also receives and handles certain complaints from consumers (e.g. operating without a licence). After investigation, inspection and audit, the OPC is the agency that undertakes whatever legal action is appropriate. The Legal Services branch of the OPC can file a penal charge, among others. 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 he pleads not guilty or enters no plea, the matter will be 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…**

A **penal charge** is filed by the Director of Criminal and Penal Prosecutions (or his representative) against a person who violates a Québec law or regulation. If convicted, the defendant is liable to be fined.
Operation of a travel agency without a licence

Mayasol Promotions Inc. found guilty

Québec City, November 10, 2010 – The Office de la protection du consommateur (OPC) announced today that the Mayasol Promotions Inc. marketing firm was found guilty of the charges brought against it. Its president (…) was also found guilty of the same charges.

The OPC charged that the firm (…) had acted as a travel agent in Québec without holding the licence required by section 4 of the Travel Agents Act. The company was thus fined $12,510 and its president ordered to pay the same fines.

(from the OPC website)

The OPC charges Air Canada with 17 violations of the law

Express Voyage forum, Wednesday, March 16, 2011.

“The Office de la protection du consommateur (OPC) has just filed a complaint against Air Canada for having sold airplane tickets for prices higher than those appearing in its advertisements. They were, of course, fares that did not include taxes and service charges. The complaint involved 17 violations noted between November 2010 and January 2011.

If the carrier is found guilty, it will have to pay fines totalling more than $42,000. The OPC had sent a formal demand to Air Canada in early fall, but the carrier had replied by letter that it refused to comply. […]

Three other carriers, WestJet, Air Transat and Porter Airlines, were also given formal notice to comply with the provisions of section 224c of the Consumer Protection Act, which provides that no company may charge a price higher than the one advertised. […] But these carriers also announced their intention to comply with the law and we understand that if they have not yet done so, it is because they have to adjust at a national level, since Québec’s legislation is different from that in other provinces.

For several years, the airlines have claimed that they were subject only to federal jurisdiction as the reason for not abiding by the Consumer Protection Act. This is true for all aeronautical aspects of their operations but once they sell something to Québec consumers, they are subject to this Act […] Métro cannot advertise a box of tomatoes for $1.50 and then charge an additional 19 cents for storage fees and 38 cents in taxes when the customer arrives at the cash register. The same rule applies to all companies that do business in Québec.”

Example: Penal action

Did you know that…

It is the Court of Québec, Civil Division, that handles cases where the amount in dispute is more than $7,000 and less than $70,000.

Where travel is concerned, the Superior Court will hear class actions.
Consultation

The Office de la protection du consommateur does not act on its own but in collaboration with consumer groups, retail associations, Québec governmental departments and agencies, and partners from all sectors. Various associations, including the Association of Canadian Travel Agents (ACTA Québec), the Association of Retail Travel Agents (ARTA Canada) and the Association des tours opérateurs du Québec (ATOQ), work with the OPC by sharing information and consulting regularly to ensure compliance with its mission. The OPC also maintains contacts with authorities in Ontario and British Columbia in order to harmonize legislation regarding travel agents.

Indemnification and conciliation

One of the OPC mandates is to seek a settlement between a merchant and consumer upon receiving a complaint. The OPC also manages the various financial protection schemes, such as the individual security, FICAV (Compensation Fund for Customers of travel Agents), and oversees consumer compensation. These protection procedures will be presented to you in detail in Topic 2, Administer Funds.

1.2.2 What are the laws under its jurisdiction?

Among the laws that concern you more specifically, two are 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 numerous areas where they function as consumer. It establishes a fundamental guarantee for all goods and services offered to consumers. It governs all contracts between consumers and merchants and establishes specific procedures for such situations as contracts signed with itinerant merchants (at tourist fairs, 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 categories of companies 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 they collect from consumers in trust accounts. Finally, in addition to providing for penal action in cases when the law is not complied with, it specifies the remedies available to consumers when merchants, manufacturers or advertisers contravene the law.”

As for the Travel Agents Act, it is "intended first to ensure that those who work in this industry respect the rules and second to protect consumers when a supplier defaults. Travel agents must be licensed and customers’ funds must be deposited in a **trust account** until **suppliers** are paid for services. They are also obliged to provide an individual security bond proportional to their turnover. Customers of Québec travel agents are required to contribute to FICAV, the Compensation Fund for Customers of Travel Agents, which is under the jurisdiction of the President of the Office."  

Both laws are completed by the corresponding regulations:

- **Regulation** respecting the application of the Consumer Protection Act, (R.R.Q., c. P-40.1, r. 3);

Regulations are rules in a more detailed form to complete and clarify the provisions of laws. Table 1.2 presents an example of details provided by the Regulation.

<table>
<thead>
<tr>
<th>Examples of clarifications brought by the Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Travel Agents Act</strong></td>
</tr>
<tr>
<td>Section 4 of Division II (Licences and Certificates) deals briefly with the obligation for travel counsellors to have a certificate. The second paragraph stipulates 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 Office de la protection du consommateur and meets the conditions prescribed by regulation.”</td>
</tr>
</tbody>
</table>

### 1.2.3 What is the role of the president of the Office de la protection de consommateur?

The **president** plays an essential role throughout the application of the Travel Agents Act and Regulation. His responsibility ranges from the issue and renewal of your licence or certificate to its suspension and cancellation as well as the refusal of licensing. He is also responsible for the management, as **trustee**, of the funds provided for individual securities and for FICAV, the Compensation Fund for Customers of Travel Agents. The president of the OPC has the exclusive authority to
appoint a **provisional administrator** to administer or terminate current business at an agency not meeting the conditions of the Act or Regulation (e.g., a travel agent going bankrupt) or that jeopardizes **customers’** rights (e.g., an agent ceasing to make payments to his supplier because of a trust account is in deficitary position).

### Table 1.3

**Summary of the main responsibilities of the president of the Office**

<table>
<thead>
<tr>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue, suspend, cancel, refuse to issue or renew a licence.</td>
</tr>
<tr>
<td>Authorize, or not, a request for a licence transfer or duplicate.</td>
</tr>
<tr>
<td>Issue, suspend, cancel, refuse to issue or renew a travel counsellor certificate.</td>
</tr>
<tr>
<td>Manage funds of the individual security (if the money is not submitted in the form of a security policy) and of FICAV, as trustee.</td>
</tr>
<tr>
<td>Use, if he so decides, the investment income of the Fund to finance information and education programs intended for travel consumers.</td>
</tr>
<tr>
<td>Appoint, where necessary, a provisional administrator for a travel agent.</td>
</tr>
<tr>
<td><strong>Under the responsibility of the provisional administrator, appointed by the president:</strong></td>
</tr>
<tr>
<td>Reimburse the customer (for whom a service has been paid but not provided resulting from the halt in agency activities).</td>
</tr>
<tr>
<td>Compensate the customer (in the case of a final court judgment in favour of the customer, on condition that the action was filed within three years following the issue of a contract with an agency).</td>
</tr>
<tr>
<td>Pay, with money from the Fund, the required amount ensuring the immediate departure or repatriation of a customer.</td>
</tr>
</tbody>
</table>

1.2.4   **Travel Agents Advisory Committee**

1.2.4.1 **Who are the members of the committee?**

In order to represent the commercial activity involved in the travel industry as faithfully as possible, the *Regulation respecting Travel Agents* provides for the creation of travel agent advisory committee. In addition to the president of the OPC, the committee has eight members appointed by the Minister of Justice for a defined period of time: four persons representing the travel industry, two consumer representatives and finally two government representatives. The president of the OPC chairs the committee but can designate a substitute.
1.2.4.2 What is the role of the committee?

The committee meets at least three times per year to discuss and advise the Minister of Justice on all legal aspects involving the commercial activity of travel agents. It must also analyze specific issues submitted by the Minister and provide its views on them. The committee must send a yearly report of its activities to the Minister no later than March 31.

Through their roles and responsibilities, these authorities influence your commercial activity as travel agent. The laws and regulations that they enact and review, in response to new realities in the industry, apply specifically to you as reference tools. They constitute the foundation for sound commercial harmony between you and your clients.

It is now up to you to evaluate your level of knowledge of this topic.

Test yourself

After reading this topic, I am able to

<table>
<thead>
<tr>
<th>Totally</th>
<th>Partially</th>
<th>Minimally</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. explain the role of the Ministère de la Justice and the Office de la protection du consommateur in legislation pertaining to travel industry;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. identify the changes made to the Travel Agent Act and Regulation;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. understand the basis for the Travel Agent Act and Regulation;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. understand the role of the Civil Code of Québec and the Consumer Protection Act in the travel sector;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. define certain legal terms in the introduction to the Act and Regulation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Keep working! Review this topic or go to the next one.
Answers

1. True. A regulation is intended to ensure the execution of a law. It supports and supplements a law.

2. True. A law (or an Act) is a rule enacted by an authority that everyone must follow.

3. False. L’Office de la protection du consommateur is a public body that is under the jurisdiction of the Minister of Justice. The OPC protects consumer rights by enforcing laws and regulations for which it bears responsibility. (T.A.A. sec. 42)

4. False. Table 1.1 shows some of the exceptions to the current Act and Regulation; the law does not apply in these exceptional cases.

5. True. The Civil Code of Québec, which governs life in Québec society, specifically oversees the civil law aspects between customers and merchants. The Consumer Protection Act also establishes a fundamental guarantee for all goods and services offered to consumers.

6. True. The Minister of Justice entrusts the drafting of the Travel Agents Act and Regulation to the Office de la protection du Consommateur. If the Minister agrees with the result, the draft law is submitted for adoption to the National Assembly and the draft regulation to the Conseil des ministres (cabinet).

7. False. The Small Claims Division of the Court of Québec handles disputes for $7,000 and less. Other disputes, in which amounts to more than $7,000 and less than $70,000, are directed to the Court of Québec, Civil Division. For larger amounts, the case is submitted to the Superior Court.

8. True. In order to represent the commercial activity involving the travel industry as faithfully as possible, four of the eight persons making up the advisory committee come from the industry. A broader consultation among those involved in the travel industry and consumer associations may also be conducted. (T.A.R., sec. 49)

Result: _____/8

Supplementary readings and exercises

- Civil code of Québec
  To access the complete electronic version, please visit the website and click on “Code civil du Québec”.

- Ministère de la justice du Québec
  To learn more about the Ministère de la justice of Québec.

- Office de la protection du consommateur
  To learn more about the OPC.

- Société québécoise d’information juridique – Judgements
  To learn more about judgements handed down by the various authorities relating to the travel industry.

- Travel Agent Act (R.S.Q., chapter A-10)

- Consumer Protection Act (R.S.Q., chapter P-40.1)

- Regulation respecting travel agents (R.R.Q., chapter A-10, r. 1)
  To access the complete electronic version, please visit the website and click on “Produits en ligne”, “Lois et règlements”, “Recueil des lois et des règlements du Québec” and “Liste alphabétique”.

Topic 1 – Dealing with the Laws and the Authorities Concerned • Unauthorized reproduction prohibited
At the end of this topic, you will be able to:

- define an individual security, a trust account and FICAV (Fonds d’indemnisation des clients des agents de voyages) – Compensation Fund for Customers of Travel Agents;
- understand the purpose of the various funds administered by travel agents;
- know the amount of and how to provide the individual security;
- apply the contribution amount to be collected for the Compensation Fund for Customers of Travel Agents (FICAV);
- present the accounting records;
- know the penalties regarding cases of 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 Québec have provided a three-fold consumer protection. First, a travel agent must open a trust account, separating the money belonging to the consumer from the travel agent’s own funds. The second protection is to provide an individual security guaranteeing the travel agent’s obligations. The third is the creation of a compensation fund for travel agents customers (FICAV).

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

Context

A Mediterranean cruise was Mrs. Fairbrother’s longtime dream. So one day she decided to drop by the Fancysfree Agency Inc. Based on the information she received from the counsellor, she reserved and paid for her trip, which cost a total of $4,407.36. Several weeks following this purchase, she returned to the agency for additional details regarding her trip. Surprise! She found a note on the door saying the agency was closed... until further notice! Worried, Mrs. Fairbrother wonders what will become of her trip and her money.
In fact, the 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. When it wasn’t enough to cover expenses, they used the money collected from customers for the travel agency customer compensation fund (FICAV).

Test your knowledge

True or False

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

Answers to this test are at the end of this topic.

2.1 TRUST ACCOUNT

2.1.1 What is it for?

The trust account is used to systematically hold your customers’ funds such as 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 (s. 21, T.A.R.). This trust account must be opened in Québec with a bank governed by Québec and Canadian laws. Note that it is your responsibility to inform the OPC of any modifications, such as opening, closing or transferring a trust account (name, address and account number) as well as changes in the list of account signatories, within 15 days of any such change occurring.

You can access the trust account only to administer it as a trustee. You cannot 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, from which current transactions can be made. The holder of an agency licence may provide written authorization allowing a member of his staff to conduct banking operations on his behalf in the trust account.

Apply for a travel agent trust account.
You are authorized to withdraw funds by cheque or bank transfer, for each of your customer files, only in the following situations:

- for services to be rendered to a customer (book or reserve accommodations and transport or travel arrangements);
- to pay suppliers on behalf of a customer;
- to reimburse yourself or pay service fees incurred on behalf of the customer;
- to reimburse amounts due to customers;
- to collect gross income (commission) you earned in connection with each customer but only upon payment of tourism goods and services suppliers.

Your trust account must never be overdrawn or show a deficit. You may not use your customers’ money in this account to pay another client’s expenses nor are you allowed to use this account to pay operating or personal expenses. Accordingly, the 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 make the most of its expertise and advice. Furthermore, customers expect a smooth running of their trip and 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 case of recourse or claim situations.

2.2.1 Who must provide this security?

To ensure customer protection and instil confidence in your travel agency, an individual security is mandatory. This type of security is actually a contract in which the surety agrees to fulfill the travel agent’s obligations in case of default. The security must accompany the general licence and guarantees your customers’ money; the travel agent must therefore provide it. In case of financial problems such as those experienced by the Fancyfree Agency Inc., Mrs. Fairbrother is protected! The security allows, if required, reimbursement of amounts paid for tourist products not delivered and services not rendered. This security also covers administrative fees and expenses of the provisional administrator, the person appointed to ensure follow-up on customer accounts and see to the complete closing of an agency.
2.2.2 How is this security provided?

Obtaining a general travel agent licence is conditional upon the provision of an individual security. There are five ways to provide an individual security:

1. from an insurance company selling you an individual security policy. You will have to pay a premium based on the amount of the policy. The company issuing the security policy will complete the form entitled “Individual Security Policy” appearing in Schedule CC.
2. by depositing the amount in cash;
3. by depositing bearer bonds that you own;
4. by asking someone else to deposit the money on your behalf;
5. by asking someone to deposit bearer bonds that he owns on your behalf.

In the last 4 cases, you must complete the form entitled “Engagement du commerçant” [Merchant’s Undertaking] available on the OPC website.

If the security is provided in the form of bearer bonds, you must also pay a fee of $250 to cover administrative fees.

2.2.3 How much to provide?

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

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

Once each year, on your licence anniversary, the individual security amount is determined according to your turnover as indicated in your last financial statements, and the number of years you have been in operation.

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

Your sales for the fiscal year ending on April 30, 20XX are: $1.9 million.

Accordingly, you must provide a $40,000 individual security for the second year of operation.

Table 2.1 shows the individual security amount to provide on the basis of your turnover.
### Table 2.1

<table>
<thead>
<tr>
<th>Turnover</th>
<th>First anniversary</th>
<th>Second anniversary</th>
<th>Third anniversary</th>
<th>Fourth anniversary and subsequent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $1 million</td>
<td>$25,000</td>
<td>$25,000</td>
<td>$25,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>Up to $2 million</td>
<td>$40,000</td>
<td>$35,000</td>
<td>$30,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>Up to $3 million</td>
<td>$55,000</td>
<td>$45,000</td>
<td>$40,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>Up to $4 million</td>
<td>$70,000</td>
<td>$60,000</td>
<td>$50,000</td>
<td>$40,000</td>
</tr>
<tr>
<td>Up to $5 million</td>
<td>$90,000</td>
<td>$75,000</td>
<td>$60,000</td>
<td>$50,000</td>
</tr>
<tr>
<td>Up to $6 million</td>
<td>$105,000</td>
<td>$90,000</td>
<td>$70,000</td>
<td>$60,000</td>
</tr>
<tr>
<td>Up to $7 million</td>
<td>$115,000</td>
<td>$100,000</td>
<td>$80,000</td>
<td>$70,000</td>
</tr>
<tr>
<td>Up to $8 million</td>
<td>$125,000</td>
<td>$115,000</td>
<td>$90,000</td>
<td>$80,000</td>
</tr>
<tr>
<td>Up to $9 million</td>
<td>$135,000</td>
<td>$125,000</td>
<td>$100,000</td>
<td>$90,000</td>
</tr>
<tr>
<td>Up to $10 million</td>
<td>$150,000</td>
<td>$140,000</td>
<td>$110,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Up to $11 million</td>
<td>$160,000</td>
<td>$150,000</td>
<td>$120,000</td>
<td>$110,000</td>
</tr>
<tr>
<td>Up to $12 million</td>
<td>$170,000</td>
<td>$160,000</td>
<td>$130,000</td>
<td>$120,000</td>
</tr>
<tr>
<td>Up to $13 million</td>
<td>$180,000</td>
<td>$170,000</td>
<td>$140,000</td>
<td>$130,000</td>
</tr>
<tr>
<td>Up to $14 million</td>
<td>$190,000</td>
<td>$180,000</td>
<td>$150,000</td>
<td>$140,000</td>
</tr>
<tr>
<td>Up to $15 million</td>
<td>$200,000</td>
<td>$190,000</td>
<td>$160,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Up to $16 million</td>
<td>$225,000</td>
<td>$200,000</td>
<td>$180,000</td>
<td>$160,000</td>
</tr>
<tr>
<td>Up to $17 million</td>
<td>$225,000</td>
<td>$215,000</td>
<td>$200,000</td>
<td>$170,000</td>
</tr>
<tr>
<td>Up to $18 million</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$215,000</td>
<td>$180,000</td>
</tr>
<tr>
<td>Up to $19 million</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>Up to $20 million</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$215,000</td>
</tr>
<tr>
<td>More than $20 million</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$225,000</td>
<td>$225,000</td>
</tr>
</tbody>
</table>

1 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 provided in cash, cheque, postal money order or bank draft. The President of the OPC then deposits this amount in a trust account with a financial institution or the Caisse de dépôt et placement du Québec. The amounts accumulated in this account may be placed in investments deemed sound as defined in the Civil Code of Québec. The income from this investment is paid to the trust and used for such purposes as management fees.
2.3 COMPENSATION FUND

2.3.1 What is it for?

Customers benefit from another source of protection. The law provides that FICAV (the Compensation Fund for Customers of Travel Agents) is made available to compensate or reimburse customers in cases where a travel agent’s individual security is inadequate or the product supplier fails to provide the customer with the expected service, provided that the travel agent is not at fault. It is also used to pay administrative fees and expenses of the provisional administrator, the person appointed to look after customer accounts in the event of an agency closure. Consequently, Mrs. Fairbrother will be reimbursed or compensated by FICAV if the Fancyfree Agency Inc. has exhausted its individual security.

2.3.2 Who has to contribute to FICAV?

Contributions to the Compensation Fund for Customers of Travel Agents (FICAV) are made by travel agency customers, and are mandatory. You are the only party responsible for collecting the required FICAV contributions amounts from customers. There is just one exception; although diplomats and diplomatic personnel have to pay the FICAV contribution, you may notify them on their eligibility for a refund upon request.

Applications are submitted to the OPC through the Quebec Minister of International Relations. Of course, anyone obtaining such a reimbursement will not be eligible for FICAV benefits.

2.3.3 How much is the contribution?

Your customer pays a percentage of the pre-tax cost of tourist products purchased through your agency as a contribution to FICAV. The calculation does not include service fees, travel insurance or travel accessories (e.g. purchase of tourist maps, travel guides, etc.). Consequently, Fancyfree Agency Inc. charged Mrs. Fairbrother $15.43 in tourist services for FICAV.

Table 2 indicates the amounts and contribution percentages based on accumulated surpluses in the Fund as at March 31 of each year.
### 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 product sales amount to $5 million or less:
- you must make payment twice a year, within 30 days of the end of each six consecutive months (half-year) of your fiscal year.

If your tourist product sales amount to $5 million or more:
- you must make payment 4 times a year, within 30 days of the end of each quarter (3 consecutive months) of your fiscal year.

Don’t be late! The penalty for late payments is the greater of the following two amounts: $50 or 10% of the amount that should have been paid. You may also be subject to penal charges because you are in breach of Regulation.

#### How to make this payment?

You must include with your payment a report containing:
- the amount of tourist product sales in which the contribution is collected;
- the total of contributions paid by customers for FICAV;
- the amount sent to the OPC;
- the signature of the general agency licence holder or another officer.

### 2.4 ACCOUNTING

#### 2.4.1 Bookkeeping

You respect administrative regulations by entering and updating in your accounting records the following information:
- all cash, cheques, credit and debit card payments as well as any other forms of payment received;
- all expenditures made from the trust account;
- the trust account total balance and, shown separately, the balance for each customer account.
You must be able to show your books, registers and accounts for each establishment located in Québec. Table 2.3 shows the date for submitting financial statements based on your turnover.

### Table 2.3

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $10 million</td>
<td>No submission</td>
</tr>
<tr>
<td>Between $10 and $20 million</td>
<td>Within 45 days after each HALF of the fiscal year</td>
</tr>
<tr>
<td>More than $20 million</td>
<td>Within 45 days after each QUARTER of the fiscal year</td>
</tr>
</tbody>
</table>

## 2.5 PENALTIES AND VIOLATIONS

The Travel Agents Act and Regulations provide for fines in the case of specific violations. Your penal liability consists of a penalty provided under the terms and standards prescribed by law. The following checklist allows you to assess your level of compliance and fines for which you could be liable. Refer to the content of this topic to help you remember.

### Check list

<table>
<thead>
<tr>
<th>Administration of funds</th>
<th>Non-compliant</th>
<th>First offence</th>
<th>Repeated offence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have you notified the OPC of the opening or closing of the trust account?</td>
<td></td>
<td>$1,000 to $40,000</td>
<td>$2,000 to $80,000</td>
</tr>
<tr>
<td>Did you deposit the money entrusted to you by the customer in a trust account?</td>
<td></td>
<td>$2,000 to $100,000</td>
<td>$4,000 to $200,000</td>
</tr>
<tr>
<td>Do you withdraw money from the trust account for specific needs of a particular customer?</td>
<td></td>
<td>$2,000 to $100,000</td>
<td>$4,000 to $200,000</td>
</tr>
<tr>
<td>Do you withdraw money solely by cheque, transfer or bank transfer from the trust account?</td>
<td></td>
<td>$2,000 to $100,000</td>
<td>$4,000 to $200,000</td>
</tr>
<tr>
<td>Do you withdraw money from the trust account without exceeding the amounts provided by your customer?</td>
<td></td>
<td>$2,000 to $100,000</td>
<td>$4,000 to $200,000</td>
</tr>
</tbody>
</table>
Administration of funds (continued)

<table>
<thead>
<tr>
<th>Penal liability</th>
<th>Compliant</th>
<th>Non-compliant</th>
<th>First offence</th>
<th>Repeated offence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you use the trust account solely to:</td>
<td>$2,000 to $100,000</td>
<td>$4,000 to $200,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• pay suppliers on behalf of the customer; and/or</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• reimburse or pay service fees incurred on behalf of the customer; and/or</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• reimburse amounts owed to the customer; and/or</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• collect your commissions.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Do you make sure that the trust account is not overdrawn or showing a deficit? | $2,000 to $100,000 | $4,000 to $200,000 |
| Do you attach a statement of your trust account when filing your financial statements? | $1,000 to $40,000 | $2,000 to $80,000 |
| Do you verify that only authorized persons conduct transactions in this account? | $2,000 to $100,000 | $4,000 to $200,000 |
| Do you keep your accounting books and records up to date? | $1,000 to $40,000 | $2,000 to $80,000 |
| Do you remit the FICAV contributions to the OPC on time? | $1,000 to $40,000 | $2,000 to $80,000 |

Fancyfree Agency Inc. PLEADS GUILTY

The Office de la protection du consommateur reports that the Fancyfree Agency Inc. pleaded guilty for failing to remit its FICAV contribution to the OPC president within the time provided (s. 40, T.A.A.) The company will have to pay a penalty totaling $1,260.
By satisfying all of these responsibilities and obligations, your customers are assured of doing business with a reliable travel agent. Once you comply with the requirements of this topic, you are ready to move onward in the process for obtaining a travel agency operating licence.

It is now up to you to evaluate your level of knowledge of this topic.

---

**Test yourself**

After reading this topic, I am able to

1. define the individual security, a trust account, and the Compensation Fund for Customers of Travel Agents (FICAV).

2. understand the purpose of the various funds administered by a travel agent.

3. know how much the individual security should be and how to provide it.

4. determine the contribution amount payable to FICAV.

5. present my accounting records.

6. know the penalties for certain offences from failing to respect the Law.

**Total**

---

Keep working! Review this topic or go to the next one.
1. False. The customer has done business with a travel agent working in Québec holding a travel agent licence. She is therefore protected by the surety. If the surety amount is inadequate, Mrs. Fairbrother will be reimbursed or compensated by FICAV. s. 28, T.A.R

2. False. The counsellor does not hold a travel agent’s licence and is therefore not responsible. The licencee is required to provide an individual security. This security makes it possible to reimburse the amounts collected for tourist products and services that were not provided to the customer. s. 28, T.A.R

3. True. The law provides that FICAV must be used to compensate or reimburse Mrs. Fairbrother, should the Fancyfree Agency Inc. individual security be exhausted. s. 37, T.A.R

4. False. The regulations specify that the trust account must be used exclusively to administer accounts paid by customers. The Fancyfree Agency Inc. revenues are deposited in a current account at the bank. s. 33 T.A.A and s. 23 T.A.R

5. False. In spite of the fact that the security ends with the travel agency closing, the security remains available to compensate customers for a period of 3 years. s. 33 T.A.R

6. False. A travel agent is not authorized to withdraw his commission amount until after the suppliers have been paid. s. 23 e T.A.R

Result: 5/6

Supplementary readings and exercises

- Must the FICAV contribution be collected for the sale of a cruise to a couple from Ontario?
  Answer: sec. 38, T.A.R.

- How should the money collected as part of the sale of a tourist product or service be administered?
  Answer: sec. 33, T.A.A and sec. 20, T.A.R.

- In the context of the T.A.R., define the term “fund”?
  Answer: sec. 21, T.A.R.

- How should you answer a travel agent who says “FICAV administration adds business expenses.” True or false? Explain your answer.
  Answer: sec. 40, T.A.R.

- Do you have to have the amount required for the personal security in cash? Justify your answer.
  Answer: sec. 30, T.A.R.

- What are the powers of the provisional administrator with respect to using the funds held in trust?
  Answer: sec. 14.3, T.A.A.
At the end of this topic, you will be able to:
- identify who is authorized to possess a travel agent license;
- distinguish the required procedures for obtaining or renewing a general licence;
- apply for licensing;
- understand the reasons and recourses available in the event of a licence refusal, suspension or cancellation;
- know the penalties and offences associated with failure to comply with the law;
- explain the legal liability associated with the duties of a travel agent.

It is mandatory to obtain a travel agent licence or travel counsellor certificate in order to operate a business organizing travel and selling tourist products and services. This topic looks at the conditions, obligations and procedures involved in the issuance and renewal of the general licence, the reasons for its suspension or cancellation as well as the penalties and recourses following an offence.

Before beginning your reading, test your knowledge of this subject.

Context
Mr. Fortunato has long loved his career as a travel counsellor. At some point in his life, he decided to have his own travel agency. To achieve his goal, he seized the opportunity offered by his employer, the 6 Continents Agency, who offers to sell him the company’s assets. The travel counsellor is now starting the process of becoming a travel agency owner. Can you help him?
3.1 THE ISSUE OF A LICENCE

3.1.1 Who needs a licence?

Does your job include booking accommodation and transport services as well as organizing travel arrangements? Do you issue documents such as a voucher that travellers exchange for a prepaid product or service by sending notice to the supplier? If so, you are performing travel agent operations. Under the Act (sec. 2 T.A.A.), 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:

a) the booking or reservation of lodging accommodation
   e.g.: selling overnight stays in a hotel to your customers or those of another agency.

b) the booking or reservation of transportation services;
   e.g.: selling airplane tickets to your customers or those of another agency.

c) the arranging of travel services.
   e.g.: signing agreements with tourist products 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 (OPC). A single licence will be issued to you. If you operate more than one business establishment, you must request a duplicate for each additional establishment. The President remains the owner of the licence; he can therefore withdraw, cancel or not renew the licence.

Answers to this test are at the end of this topic.

Test your knowledge

True or False

1. Mr. Fortunato must have a travel agent diploma from the Department of Education to apply for a travel agent licence. _________

2. You have to 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. Starting July 1, 2012, you must have acquired 2 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 to continue operating the 6 Continents Agency. _________

6. The general licence fee is calculated according to the number of employees of the travel agency. _________

Did you know that…

…starting July 1, 2012, the Travel Agents Regulation (T.A.R.) will require all holders of travel agent licences to pass an examination to obtain a Travel Agency Manager Certificate.
What distinguishes a travel agent from a travel counsellor? Travel counsellors also regularly perform the operations mentioned above as part of their duties. However, they do not need a travel agent licence since they act on behalf of a travel agent already holding a licence. Still, they need a counsellor certificate and must respect the following conditions:

- Have an employment contract (examples of which can be found in Appendix 2) with a single travel agent;
- Work in one of the establishments of their employer (a travel agent), where the licence or a duplicate licence is visibly displayed;
- Not receive customers in their home;
- Collect funds from their customers and deposit them in the trust account of their employer;
- Give a receipt that complies with regulations (see Topic 7);
- Advertise stating the agency contact information but may also announce their mobile telephone number.

### 3.1.2 Licence classes and costs

The President of the OPC issues licences in two (2) classes:

- **restricted licence**;
- **general licence**.

In fact, as the Office de la protection du consommateur (OPC) indicated in a letter dated July 9, 2010, the categories of carrier and travel agent, as well as wholesaler or retailer are abolished.

Depending on the nature of your commercial activities, you must apply for the appropriate category of licence. Are you a business in the tourist industry, such as a accommodations supplier, an organizer of adventure travel, an outfitter or a regional tourist association? Do you offer tourist services to customers in addition to your main activities? If you answered “yes” to both these questions, you are performing certain travel agent operations. Accordingly, since January 1, 2011, you must apply for the restricted licence without taking an examination. For all other travel agent operations (see 3.1.1), you must obtain a general licence and pass an examination.

Refer to Table 3.1 to know what type of licence applies to the activities and services you provide. Incidentally, Mr. Fortunato must operate with a general licence.
### Table 3.1

<table>
<thead>
<tr>
<th>Operations performed by the licensee</th>
<th>General Licence</th>
<th>Restricted Licence</th>
<th>Cost example for 2011*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>First licence</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Provide or offer to provide a voucher (<em>exchange order</em>)</td>
<td>X</td>
<td></td>
<td>$812</td>
</tr>
<tr>
<td>• Assure accommodation reservations or rentals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Reserve or rent transportation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Organize trips</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Adventure travel:</strong></td>
<td></td>
<td></td>
<td><strong>$406</strong></td>
</tr>
<tr>
<td>• Organize and sell packages including tourist services in addition to the main activities (Accommodation services governed by the Act respecting tourist accommodation establishments (<em>R.S.Q., c. E-14.2</em>) other than rugged furnished lodging, hospitality village, camping establishment and outfitting operations.)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Outfitting operation:</strong></td>
<td></td>
<td></td>
<td><strong>$406</strong></td>
</tr>
<tr>
<td>• Organizes and sells packages containing outfitting services, transfer services to the outfitting operation and accommodation services near the arrival and departure airport.</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Association touristique régionale (ATR)</strong></td>
<td></td>
<td></td>
<td><strong>$406</strong></td>
</tr>
<tr>
<td>• Market accommodations and tourist attractions in the region, as well as packages – without transportation – within regional boundaries.</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* The cost indicated applies to 2011. The amount charged is re-evaluated on May 1 of each year as a function of the Canadian Consumer Price Index.

---

**Did you know that…**

An association (e.g. a sports association) or a partnership (e.g. a software company) or a legal entity (e.g. a school) does not need a travel agent licence to organize trips in Québec on occasion. However, such group trips must last 72 hours or less if only group members are aloud to participate. In other cases, a person can organize a trip for a group which the maximum duration is 48 hours.
3.1.3 First licence

You will be able to obtain a general travel licence if you satisfy the stipulated requirements. If you fail to provide all the information and documents required, your licence can be refused or delayed. Don’t forget that you are responsible for informing the OPC of any changes affecting information or documents submitted in support of the licence application within 15 days of a change. Such changes may include the names of directors or investors, the fiscal year-end, documents or signatories of the trust account, address, etc. For more details, see section 12 of the Regulation.

The general licence is issued not in the name of the travel agency (e.g. 6 Continents) but in your own name (e.g. Lucky Fortunato) on behalf of the person, association or company that operates the travel agency. In this case, you must obtain written authorization from the person, association or company to apply for the licence. In either case, whether it is for you or someone else, you must work in the principal establishment full time and perform management duties. You must also be at least 18 years old.

How do you go about making your first application? Fill out the Demande de permis d’agent de voyage form (see the example below) provided by the OPC and available on its website. Once completed, the form must be sent to the OPC, showing payment for the required licence fee (see Table 3.1). You must also enclose the following documents:

For the following documents, refer to an accountant (see Topic 2 for additional details):
• 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.
• an indication of the agency’s fiscal year end date.

For the following documents, refer to your financial institution (see Topic 2 for more details):
• the opening documents and signature log for each trust account, signed by the representative of a financial institution.

Are you applying for a licence in order to continue operating as a new legal entity? If so, you must attach the financial statements as well as the former travel agent’s trust accounts statements, showing the figures as of the date of your licence application. In this case, Mr. Fortunato, who takes over his employer’s active business assets, must complete the travel agent licence application presented on page 34.

Did you know that…
… certain enterprises or persons, although they offer activities linked to tourism, are not governed by the Travel Agent Act. Consequently, they do not need a general or restricted licence to perform this work. For information on those whom the Act does not apply, see section 1.1. of the Regulation respecting travel agents.

Did you know that…
… the Office de la protection du consommateur publishes a notice in the Gazette officielle du Québec every year indicating the cost of a licence.
Your permit has no expiration date but must be renewed every year on the first day of the 8th month after the end of your fiscal year. sec. 5, T.A.R.

See Table 3.1 sec. 6 a), T.A.R.

The NEQ is the number given to companies registering with the Enterprise Register to simplify dealings between companies and the various government departments and agencies.

A travel agent may operate an establishment from his home or that of his counselor under the conditions presented in Appendix E of the form. sec. 11, T.A.R.
**Specimen: Travel Agent Licence Application Form (cont’d)**

### Formulaire - Demande de permis d’agent de voyages

#### Section 4: Déclaration et certification

| A. Le requérant est-il un citoyen canadien ou immigrant reçu au sens de la Loi sur l’immigration et la protection des réfugiés (L.C. 2001, c. 27) ?  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ne s’applique pas pour le permis restrictif</td>
<td>Oui</td>
</tr>
</tbody>
</table>

| B. Les établissements où l’agent de voyages fera des affaires sont-ils conformes à la réglementation municipale relative aux usages ?  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Non</td>
<td>Oui</td>
</tr>
</tbody>
</table>

| C. Avez-vous, au cours des huit années précédentes et pendant une période minimale de deux ans, à temps plein et de façon permanente, exercé des opérations d’agent de voyages pour le compte d’un agent de voyages titulaire d’un permis ? (Remplir l’Annexe D)  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ne s’applique pas pour le permis restrictif</td>
<td>Oui</td>
</tr>
</tbody>
</table>

| D. Avez-vous comme principale activité celle d’exercer des fonctions de gestion à l’établissement principal de la personne, association ou société au bénéfice de laquelle le permis est demandé ?  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Non</td>
<td>Oui</td>
</tr>
</tbody>
</table>

| E. 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 ?  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Non</td>
<td>Oui</td>
</tr>
</tbody>
</table>

#### F. Avez-vous déjà été condamné :

- pour escroquerie, pour faux ou pour opération frauduleuse en matière de contrat de commerce ?
  - Oui | Non |

- pour une infraction à la Loi sur les agents de voyages ?
  - Oui | Non |

Si oui, précisez :

#### G. Un dirigeant ou 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 |

- pour une infraction à la Loi sur les agents de voyages ?
  - Oui | Non |

Si oui, précisez :

#### H. 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 ?

| NaN | Oui | Non |

---

1. sec. 6 c) T.A.R.
2. sec. 6 d) and 11.10. T.A.R.
3. sec. 6 g) T.A.R. Changes are expected starting June 20, 2012. Consult the OPC website.
4. sec. 6 i) T.A.R.
5. sec. 6 n) T.A.R.
6. sec. 6 h) T.A.R.
7. sec. 6 j) T.A.R.
8. sec. 6 n) iv T.A.R.
9. sec. 6 c) T.A.R.
10. sec. 6 j) T.A.R.
### Specimen: Travel Agent Licence Application Form (cont’d)

**Section 4: Déclaration et certification (suite)**

<table>
<thead>
<tr>
<th></th>
<th>Question</th>
<th>Oui</th>
<th>Non</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>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?</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>J. Avez-vous fait faillite au cours des cinq années précédant la demande ou occupé une fonction de dirigeant(e) ou de bailleur de fonds pour un agent de voyages qui a fait faillite au cours des cinq années précédentes?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>K. Un dirigeant ou bailleur de fonds a-t-il fait faillite à titre d’agent de voyages ou à titre de dirigeant(e) ou de bailleur de fonds d’un agent de voyages qui a fait faillite, au cours des cinq années précédentes?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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 quinze jours de l’événement, aviser le président par écrit de tout changement aux renseignements fournis et aux documents transmis.

**Requérant de permis:** Lucky Lachance

**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.

---

1. sec. 6 n), R.A.V.
2. sec. 6 k), R.A.V.
3. sec. 6 n) iii, R.A.V.
4. sec. 12, R.A.V.
### Specimen: Travel Agent Licence Application Form (cont’d)

#### Annex A: Identification des établissements

Inscrive l’adresse de tous les établissements que le requérant exploite au Québec et pour lesquels un *duplicate* de permis est demandé. S’assurer que les renseignements fournis ci-dessous sont conformes à ceux déclarés au Registre des entreprises du Québec.

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

<table>
<thead>
<tr>
<th>Nom utilisé:</th>
<th>Province:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adresse:</td>
<td></td>
</tr>
<tr>
<td>Ville:</td>
<td></td>
</tr>
<tr>
<td>Code postal:</td>
<td>Courriel:</td>
</tr>
<tr>
<td>Téléphone:</td>
<td>Télécopieur:</td>
</tr>
</tbody>
</table>

#### Annex B: Identification des associés ou des administrateurs

Inscrive les nom, la date de naissance, l’adresse du domicile, le numéro de téléphone, la fonction et le pourcentage de participation des associés ou des administrateurs. S’assurer que les renseignements fournis ci-dessous sont conformes à ceux déclarés au Registre des entreprises du Québec.

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

<table>
<thead>
<tr>
<th>Prénom: Lucky</th>
<th>Nom: Lachance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adresse du domicile: 77, de la Colline</td>
<td>Code postal: G1R 4T9</td>
</tr>
<tr>
<td>Ville: Québec</td>
<td>Province: Québec</td>
</tr>
<tr>
<td>Téléphone: 418 658-1148 poste 411</td>
<td>Date de naissance: 21 juillet 1970</td>
</tr>
<tr>
<td>Fonction dans l’entreprise:</td>
<td>Pourcentage de participation dans l’entreprise: 70 %</td>
</tr>
<tr>
<td>Président-directeur général</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prénom: Joanne</th>
<th>Nom: Labonne</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adresse du domicile: 101, des Tulipes</td>
<td>Code postal: G1R 6P7</td>
</tr>
<tr>
<td>Ville: Québec</td>
<td>Province: Québec</td>
</tr>
<tr>
<td>Téléphone: 418 658-5421</td>
<td>Date de naissance: 23 mars 1976</td>
</tr>
<tr>
<td>Fonction dans l’entreprise: Vice-présidente</td>
<td>Pourcentage de participation dans l’entreprise: 30 %</td>
</tr>
</tbody>
</table>

---

1. Mr. Fortunato operates only one establishment sec. 6 e), T.A.R.
2. Mr. Fortunato has a business partner who has contributed funds to finance the activities of the 6 Continents Agency.
3. sec. 6 g, T.A.R.
### Specimen: Travel Agent Licence Application Form (cont’d)

#### Annexe C : Déclaration d’ouverture d’un compte en fiducie

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 fiducie, ainsi que tout changement de signataires. (Si l’espace est insuffisant, veuillez joindre une autre annexe.)

### Identification de l’agence de voyages

- **Nom de l’entité légale:** 4203506 CANADA inc.
- **Numéro de permis:**

<table>
<thead>
<tr>
<th>Identification du compte en fiducie</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No du compte:</strong> 05-586-60</td>
</tr>
<tr>
<td><strong>Devise:</strong> X Dollars canadiens</td>
</tr>
<tr>
<td><strong>Nom de l’institution financière:</strong> Banque Secure</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ville : Québec</th>
<th>Province : Québec</th>
<th>Code postal : GY8 6P2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Représentant :</strong> Alain Poupart</td>
<td><strong>Téléphone :</strong> 418 555-2222</td>
<td><strong>Télécopieur :</strong> 418 555-2221</td>
</tr>
</tbody>
</table>

**Important :** Veuillez joindre une copie des documents d’ouverture et de la fiche de signature de chaque compte en fiducie.

### Personnes autorisées à effectuer les opérations bancaires sur le compte en fiducie

<table>
<thead>
<tr>
<th>Titulaire de permis : Lucky Lachance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Adresse personnelle :</strong> 77, de la Colline</td>
</tr>
<tr>
<td><strong>Ville :</strong> Québec</td>
</tr>
<tr>
<td><strong>Date de naissance :</strong> 21 juillet 1970</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Autre signataire : Joanne Labonne</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type :</strong> X Cosignataire</td>
</tr>
<tr>
<td><strong>Adresse personnelle :</strong> 1010 des Tulipes</td>
</tr>
<tr>
<td><strong>Province :</strong> Québec</td>
</tr>
<tr>
<td><strong>Ville :</strong> Québec</td>
</tr>
<tr>
<td><strong>Date de naissance :</strong> 23 mars 1976</td>
</tr>
</tbody>
</table>

**Certification**

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

<table>
<thead>
<tr>
<th>Titulaire ou requérant de permis : Lucky Lachance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Signature :</strong> Lucky Lachance</td>
</tr>
</tbody>
</table>

---

sec 6 p), T.A.V.
Specimen: Travel Agent Licence Application Form (cont’d)

Formulaire - Demande de permis d'agent de voyages

Annexe D : Déclaration d’expérience du requérant de permis

Le requérant d’un permis doit être en mesure de faire la preuve qu’au cours des huit (8) années précédentes et pendant une période minimale de deux ans, à temps plein et de façon permanente, exercé des opérations d’agent de voyages pour le compte d’un agent de voyages titulaire de permis.

Requérant de permis d’agent de voyages

<table>
<thead>
<tr>
<th>Prénom :</th>
<th>Nom :</th>
</tr>
</thead>
</table>

Expérience de travail

<table>
<thead>
<tr>
<th>Nom de l’agence de voyages :</th>
<th>Numéro de permis :</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date de début d’emploi :</td>
<td>Date de fin d’emploi :</td>
</tr>
<tr>
<td>AA MM</td>
<td>AA MM</td>
</tr>
</tbody>
</table>

Titre ou fonction :

- Temps complet
- Temps partiel, précisez le nombre d’heures par semaine :

Principal tâches accomplies :

Certification

JE DECLARE que les renseignements fournis ci-dessus et dans toutes les pièces ci-annexées sont véridiques et complets.

Requérant de permis :

<table>
<thead>
<tr>
<th>Signature :</th>
<th>Date :</th>
</tr>
</thead>
</table>
### Typical example

**Specimen: Travel Agent Licence Application Form (cont’d)**

**Formulaire - Demande de permis d’agent de voyages**

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

<table>
<thead>
<tr>
<th>AVIS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pour chacun des établissements pour lesquels un permis est demandé, vous devez remplir une attestation de conformité dûment signée par le requérant du permis.</td>
</tr>
</tbody>
</table>

---

JE **DÉCLARE** avoir vérifié auprès de la ville ou de la municipalité que l’établissement situé au:

<table>
<thead>
<tr>
<th>Adresse</th>
<th>Code postal</th>
</tr>
</thead>
<tbody>
<tr>
<td>132, des Jardins Québec (Québec)</td>
<td>G1R 6P7</td>
</tr>
</tbody>
</table>

respecte la **réglementation municipale** relative aux usages.

JE **DÉCLARE** que mon établissement d’agent de voyages respecte effectivement la réglementation municipale relative aux usages, le tout tel qu’attesté par le certificat obtenu du greffier de la ville ou de la municipalité, le cas échéant.

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 à celui d’un conseiller en voyages :

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

JE **DÉCLARE** que les numéros de téléphone, de télécopieur et 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 du **domicile**.

Note : Pour les requérants de permis exploitant une agence de voyages à domicile, veuillez joindre un certificat délivré par la ville pour l’exploitation de cet établissement.

Nom :

Prénom :

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.

---

1. Sec. 6 f) and g) T.A.R.  
2. Sec. 11.10 b) T.A.R.  
3. Sec. 11.10 c) T.A.R.  
4. Sec. 11.10 a) T.A.R.
Did you know that…

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

Specimen: Travel agent licence

MISE EN GARDE

À L’ATTENTION DU DÉTENDEUR DE PERMIS:
Ce permis doit être affiché à la vue du public

4203565 CANADA INC.

4203565 CANADA INC.
1324, DES JARDINS.
QUÉBEC (QUÉBEC)
G1R 6P7

PERMIS AGENT DE VOYAGES - GÉNÉRAL

DÉTENDEUR/DÉTENTRICE:
LACHANCE, LUCKY

NUMÉRO DE PERMIS : 700000
VALIDE À PARTIR DU : 20XX-02-01
4203565 CANADA INC.
1324, DES JARDINS
QUÉBEC (QUÉBEC)
G1R 6P7

DATE D’ANNIVERSAIRE POUR LA
RECONDUCTION DU PERMIS:
1er juin

AUTRES NOMS DU COMMERÇANT
AGENCE 4 SOLEILS

Président
3.1.4 Licence renewal

Do you continue operating your agency year after year? If so, you must renew your licence annually and file the required documents for this purpose at least 2 months prior to its anniversary date. If you operate more than one establishment, you must also renew your duplicate licences. 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 is how to go about making your renewal:

- Attest that the information and the documents of your most recent licence application are up to date.
- Attach payment of 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 balance of the trust account;
    - the amounts of tourist services sales subject to contribution to FICAV (Fonds d’indemnisation des clients des agents de voyages);
    - the amount of tourist services sales made through the intermediary of another travel agent;
    - the amount collected from customers residing outside Québec (if you are a travel agent providing services through a travel organization located outside Québec);
    - the balance sheet showing the working capital minimum amount, excluding the accounts payable or accounts receivable between the travel agent and a person with whom it is bound or over which it exerts control (see Table 3.3);
  - The security amount adjustment if justified by your turnover (see Table 2.1 of Topic 2).

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $0.5 million</td>
<td>$307</td>
</tr>
<tr>
<td>Up to $2 million</td>
<td>$410</td>
</tr>
<tr>
<td>Up to $5 million</td>
<td>$563</td>
</tr>
<tr>
<td>Up to $10 million</td>
<td>$768</td>
</tr>
<tr>
<td>Up to $20 million</td>
<td>$1,024</td>
</tr>
<tr>
<td>More than $20 million</td>
<td>$1,331</td>
</tr>
</tbody>
</table>

* The cost amount applies to the year 2011. The amount payable is reassessed at May 1 of each year based on the Canadian Consumer Price Index.
### Minimum working capital required based on turnover

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Minimum working capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $1 million</td>
<td>$5,000</td>
</tr>
<tr>
<td>Up to $3 million</td>
<td>$7,500</td>
</tr>
<tr>
<td>Up to $5 million</td>
<td>$10,000</td>
</tr>
<tr>
<td>Up to $10 million</td>
<td>$15,000</td>
</tr>
<tr>
<td>Up to $25 million</td>
<td>$25,000</td>
</tr>
<tr>
<td>Up to $50 million</td>
<td>$50,000</td>
</tr>
<tr>
<td>Up to $75 million</td>
<td>$75,000</td>
</tr>
<tr>
<td>Up to $100 million</td>
<td>$100,000</td>
</tr>
<tr>
<td>More than $100 million</td>
<td>$150,000</td>
</tr>
</tbody>
</table>

### 3.2 DUPLICATES AND LICENCE TRANSFER

**Duplicate licence**

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

**Licence transfer**

You can apply for a licence transfer if the licensee:

- has died
- has resigned
- has been dismissed
- no longer complies the requirements of the Act for licencees

In any of these situations, you have a maximum of 10 days to complete the licence application form provided by the OPC President available on the OPC website.
The information provided through this form represents all the updates to the licence application form. The cost represents 50% of the price paid at the last general permit renewal of the principal establishment. The same percentage applies for licence duplicates. If the application is made after the 10-day deadline, the percentage increases to 75%. Your signature, at the bottom of the form, attests to the veracity of the information provided.

### 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 Travel Agents Act or Regulation?
- 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 a way that you cannot carry through your obligations honestly and competently?
- Does your financial situation impede your assuming the obligations arising from travel agent operations?
- Have you lost your right to own a principal establishment?
- Have you officially, partially or totally liquidated your principal establishment?
- Have you closed your principal establishment?
- Have you violated the rules for applying for a licence transfer?
- Have you violated any of the conditions or obligations of the Travel Agents Act or Regulation?
- Have you failed to respect a signed voluntary undertaking or an extended undertaking pursuant to the Consumer Protection Act?

If you have answered “yes” to any of these questions, the licence may be refused, cancelled or suspended by the OPC. In such cases, its president sends you a notice indicating his intention, accompanied by the reasons justifying his decision and the corrections that would make your application acceptable. Upon receiving the notice, you have a minimum of 10 days to provide an explanation in writing or to request an opportunity to be heard by the President.
3.3.2 Recourses

You disagree... Just as for the Certificate, the President of the OPC may decide to reject your explanations and maintain his decision to refuse to issue or renew, suspend or cancel your licence. If you consider it relevant, you can contest this decision. To do so, you must apply to the Tribunal administratif du Québec. It will cost you about $50 to contest a decision of the OPC President in connection with the Travel Agents Act. The appropriate form and the applying procedure for recourse are found on the Tribunal administratif du Québec website. The processing and time needed from the receipt of your application to a decision by the Tribunal are highly variable.

3.3.3 Provisional administration

It is the Government of Québec which determines the regulations respecting the issuance, renewal, suspension and cancellation of a travel agent licence. It also prescribes the capacities, conditions and cost required to obtain or renew a licence. On behalf of the Government of Québec, the President of the OPC can also appoint a competent person to temporarily administer your principal establishment, if your obligations and responsibilities are not fulfilled. Through these procedures, the government provides protection for your customers.

3.3.4 Penalties and offences

Penalties and offences under the Travel Agent Act, on the other hand, fall under the responsibility of the Office de la protection du consommateur and its 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 penal charges. The following checklist enables you to assess your level of compliance and the fines imposed. For future reference, consult the content of this topic.

Did you know that...

… the Act respecting administrative justice (R.S.Q., chapter J-3, Division IV, sec. 36) is associated with the performance of travel agent and counsellor functions? This Act provides the opportunity to request a review of unfavourable decisions pertaining to the licence and certificate necessary to perform your duties.
### Licence

<table>
<thead>
<tr>
<th>Penal liability</th>
<th>Compliant</th>
<th>Non-compliant</th>
<th>First offence</th>
<th>Repeated offence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have you performed travel agent operations without holding a licence?</td>
<td>$2,000 to $100,000</td>
<td>$4,000 to $200,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you notified the President of the OPC of any change in the declaration of the fiscal year end date?</td>
<td>$1,000 to $40,000</td>
<td>$2,000 to $80,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you notified the President of the OPC of any change in the opening document and signature log of the trust account?</td>
<td>$1,000 to $40,000</td>
<td>$2,000 to $80,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you notified the President of the OPC of any change in any document filed with the Enterprise Registrar?</td>
<td>$1,000 to $40,000</td>
<td>$2,000 to $80,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you provide air transport tickets whose point of origin or destination is located in Canada or the United States without the carrier holding the flight licences and approvals of these countries?</td>
<td>$1,000 to $40,000</td>
<td>$2,000 to $80,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you keep the list of travel counsellors in your employ or with whom you have signed an exclusive contract updated?</td>
<td>$1,000 to $40,000</td>
<td>$2,000 to $80,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Office maintains a list of all travel agent licensees on its website. Customers can find information such as your address, the validity of your general licence and any complaints made by customers dissatisfied with a service received. The operation of a travel agency is possible only by the means of a licence.

Now it is your turn to assess your knowledge of this topic.
Test yourself

After reading this topic, I am able to

<table>
<thead>
<tr>
<th></th>
<th>Totally</th>
<th>Partially</th>
<th>Minimally</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>identify who the travel agency licence is intended for.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>distinguish the procedures to obtain or renew a general licence.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>prepare a licence issuance application.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>understand the grounds and recourses available if a licence is refused, suspended or cancelled.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>know the offences and penalties for non-compliance with the Act.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>explain the legal responsibility associated with the travel agent function.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total

Keep up the good work! Review this topic or go to the next one.

Answers

1. **False** Mr. Fortunato must present (starting July 1, 2012) a travel agency manager certificate obtained less than 5 years ago. To hold such a certificate, he must have passed a proficiency examination covering the legislative and regulatory provisions applicable to the travel industry as well as the management of a travel agency. *sec. 6 (g) R.A.V.*

2. **True** You must be of full age (18 years old), whether the application is made for yourself or on behalf of any other individual, association, partnership or legal entity. *sec. 6 T.A.A.*

3. **False** It is the President of the OPC who issues the travel agent licence. An applicant must satisfy the conditions stipulated by the Act and the Regulation. *sec. 17 T.A.A.*

4. **False** New rule! Starting July 1, 2012, it is required only to hold a travel agency management certificate less than 5 years old. *sec. 6 (g) R.A.V.*

5. **False** Mr. Fortunato is buying the assets of his employer, more specifically the 6 Continents Agency, its furniture, the lease for the office, customer contracts, etc. In this case, he must reapply for a license since it is a new legal entity that will continue operations. In order to apply for a license transfer or change of ownership, the 6 Continents Agency should be an incorporated company. In that case, Mr. Fortunato could buy its shares, i.e. the assets and liabilities of this company, which would still be the same legal entity. *sec. 8.4 R.A.V.*

6. **False** The number of employees does not influence the licence cost. The turnover appearing in the financial statements establishes the licence cost. *sec. 4 (a) T.A.R.*

Result: _____/6
\section*{Supplementary readings and exercises}

Answer the following questions by referring directly to the appropriate sections of the Travel Agents Act and Regulation. \textit{R.S.Q., chapter A-10} and \textit{R.R.Q., chapter A.10, r.1}.

- Under what conditions the Travel Agents Act does not apply when the travel agent reserves a hotel room for a tourist?
  See: \textit{sec. 1.1 (g) T.A.R.}

- Give the reason why a travel agency sales representative doesn’t require a travel counsellor certificate?
  See: \textit{sec. 11.1 T.A.R.}

- What is the amount required by the OPC to transfer a travel agent licence?
  See: \textit{sec. 4 (e) (e) T.A.R.}

- Can the holder of a restricted licence sell an all-inclusive package in the Dominican Republic to a customer?
  See: \textit{sec. 3 T.A.R.}

- According to the Travel Agents Act, what is the maximum fine in case of a recurrent offence?
  See: \textit{sec. 39 and 40 T.A.A.}
At the end of this topic, you will be able to:

- identify who requires a certificate;
- understand the use of the examination linked to the certificate;
- distinguish the necessary procedures to obtain or renew a certificate;
- understand the reasons as well as the recourse available when a certificate is refused, suspended or cancelled;
- know the penalties and offences associated with failure to comply with the law;
- understand the legal liability associated with the function of travel counsellor.

Certification of travel agents and counsellors is finally a reality. In this topic, we will establish what this certification involves as well as its conditions, obligations and procedures.

Before reading the topic, see what you already know about this subject.

Context

Translation of portions of a letter from the President of the Regional Council of ACTA Québec (Association of Canadian Travel Agencies) to its members

Published on May 26, 2010 in expressvoyage.ca

"[...] it is worth remembering that while ACTA has long been actively engaged in Québec, it has been especially active during the process of amending the Travel Agents Act. ACTA represents most of the travel agencies in Québec and they account for the greater portion of the economic activity of this industry in Québec.

ACTA participated in the consultations conducted by the Office de la protection du consommateur in drafting the amendments to the Québec Travel Agents Act.

ACTA approves the measure calling for agents to obtain certification and accordingly a form of professional recognition (...). The whole community of travel agents has long called for such certification and recognition."
4.1 OBTAINING A CERTIFICATE

4.1.1 Who is required to have a certificate?

Are you a travel counsellor on contract or employed by an agency? Do you work at home or directly at the agency? Do you deal with customers on the telephone, via the Internet or in person? Do you hold a travel agent licence and deal directly with customers? The Act provides that you must have a certificate to engage in these tasks. In fact, all travel counsellors in the province of Québec must obtain a certificate, which is an official document issued by the Office de la protection du consommateur. Just like Ontario, Québec wants to ensure that workers in the travel industry know the obligations and responsibilities related to their profession. Accordingly, travel agent licence holders must make certain that their staff possess this mandatory certificate.

4.1.1.1 First certificate

As of July 1, 2012, the Travel Agents Act obliges all travel agents and counsellors to pass an examination in order to obtain a certificate (or renew one, see 4.1.1.2). This exam specifically focuses on the knowledge of legislative and regulatory provisions applicable to the travel industry. The conditions and procedures for taking the exam and the issuance of the certificate are posted on the website of the Office de la protection du consommateur.

Failing to satisfy the conditions to provide the required information and payment, your certificate can be denied or there can be delays in processing your application. Once obtained, a certificate is issued without an expiration date. You will not have to requalify by passing a test. However, it is your responsibility to inform the OPC of any change (e.g. agency address, telephone number, etc.) within 15 days following the modification.

Answers to this test are at the end of this topic.
4.1.1.2 Certificate renewal

In order to renew a certificate obtained before July 1, 2012, you must pass the examination provided by law. Whether you have been working for 1 year or 25 years, you must take the exam. If you stop working for more than 5 years (e.g. going on maternity leave, return to school, try another career, etc.), you must requalify. The renewal fee is posted on the OPC site. This amount must be paid, each year, on the anniversary of your certificate issue date.

4.2 REFUSAL, CANCELLATION OR SUSPENSION

4.2.1 Grounds

- In the last five years, have you committed an offence under the Travel Agents Act or Regulation?
- 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 of the Travel Agents Act or Regulation?

If you answered “yes” to any of these questions, your certificate can be refused, cancelled or suspended by the OPC.

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 some sample employment contracts appended.
In these cases, the President of the OPC sends you a notice explaining his intention, giving the reasons for his decision. Upon receiving this notice, you have a maximum of 10 days to provide comments in writing or to ask to be heard by the President.

### 4.2.2 Recourse

The President of the OPC may decide to reject your comments and maintain his refusal to issue, suspension or cancellation of your certificate. Nevertheless, you can contest this decision by seeking a review by the Tribunal administratif du Québec for a fee. You will find on its website the appropriate form and details for obtaining a decision review. The timeframe required to process your appeal from receipt to decision of the Tribunal may vary.

### 4.2.3 Penalties and offences

The penalties and offences under this law are the responsibility of the Office de la protection du consommateur and the Director of Criminal and Penal Prosecution. In order to ensure compliance with the Travel Agents Act, inspectors see whether the different aspects of the Act and Regulation have been respected. These investigators report offences and can recommend **penal charges**. To act as a counsellor without holding a certificate can result in fines ranging from $2,000 to $100,000 for a first offence and from $4,000 to $200,000 for a repeated offence. Forgetting to inform the President within 15 days of any information change in a certificate issuance or renewal application can result in fines ranging from $1,000 to $40,000 for a first offence, and double that in the event of a repeated offence.

### 4.3 LIABILITY FOR POSSESSION OF A CERTIFICATE

Your certificate attests to your knowledge of the legislative and regulatory provisions applicable to the travel industry. You must be able to present your certificate to anyone who demands to see it. The certificate indicates your undertaking to respect **customers** rights – and your own rights too, considering that besides being a travel agent or counsellor, you are also sometimes a customer!

Furthermore, the OPC maintains a list of all certified travel counsellors on its website. Your certificate allows you to officially appear on this list as authorized to do business with a customer.
As a certificate holder, your responsibility extends beyond knowledge of the Travel Agents Act. Different pieces of legislation supplement the Act to ensure consumer protection. Having this document officially allows you to do business with customers, as explained in the second module of this Guide.

It is now up to you to assess your level of knowledge of this topic.

**Test yourself**

After reading this topic, I am able to

<table>
<thead>
<tr>
<th>1. identify who must have this certificate;</th>
<th>Totally</th>
<th>Partially</th>
<th>Minimally</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. know the purpose of the examination associated with the certificate;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. distinguish the steps required for obtaining or renewing a certificate;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. understand the grounds and recourse available in case of refusal, suspension or cancellation of a certificate;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. know the penalties and offences associated with failure to respect the Act;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. understand the legal liability associated with the duties of travel counsellor.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total**

Continue your efforts! Review this topic or go on to the next one.

---

Do you know that…

… whether your current or potential employer has a valid licence, has been the subject of complaints or has already gone bankrupt?

To find out, please visit the OPC home page, click on Get information about a merchant and carefully read the Mise en garde.

You can also consult the Bankruptcy and Insolvency Records of the Office of the Superintendent of Bankruptcy Canada.
### Answers

1. **False.** Since January 1, 2011, all travel counsellors must hold a certificate. Transitional provision - sec. 43, Regulation amending the Regulation respecting travel agents. Just as a travel counsellor, an outside agent must hold a certificate.

2. **True.** Upon receipt of notice from the OPC President, you have 10 days to submit your observations. However, if the decision is maintained despite your observations, you can seek a review by the Tribunal administratif du Québec. sec. 11.8, T.A.R.

3. **True.** Your certificate is valid only with the employer designated in your certificate issuance application. However, you can obtain a new certificate without having to redo the examination. sec. 11.9, T.A.R.

4. **True.** Starting July 1, 2012, the Act provides that current or future travel counsellors must pass an examination and obtain a certificate. Transitional provision. sec. 43, Regulation amending the Regulation respecting Travel Agents

5. **True.** A travel agency licence holder who acts as a travel counsellor must hold a certificate. sec. 4, T.A.A.

6. **False.** Without having to display his certificate, the holder must present it, at any time, to anyone who asks to see it. sec. 4, T.A.A.

7. **True.** Your certificate is valid, without an expiration date, on these conditions: you must pay the annual renewal fee, remain employed by the employer designated in your initial application and avoid the situations provided in section 11.7 T.A.R. sec. 11.2 (e), 11.7, 11.9, T.A.R. and sec. 4, T.A.A

8. **False.** The cost of the certificate is not associated with its period of validity. sec. 11.2 (e), T.A.R.

### Supplementary readings and exercises

Answer the following questions by referring directly to the Travel Agents Act and Regulation sections. R.S.Q., chapter A-10

- **What is the difference between a licence holder and a certificate holder?**
  
  See: sec. 4 and 8 T.A.A.

- **How are travel counsellor operations defined according to the T.A.A.?**
  
  See: sec. 2 and 4, T.A.A.

- **As a travel counsellor, what should you provide in the event of a certificate renewal or a first certificate application?**
  
  See: sec. 11.4, T.A.A.

- **To avoid fines and penalties, over what period of time must a travel counsellor submit information changes provided in the application for issuance or renewal of the certificate to the OPC?**
  
  See: sec. 11.6, T.A.R.
MODULE II

DEALING WITH CUSTOMERS:
Responsibilities and Obligations
At the end of this topic, you will be able to:
- recognize an advertisement presented according to regulations;
- distinguish the characteristics of written and printed advertisements;
- prepare an ad that complies with regulations;
- take into account the liabilities and obligations;
- know the penalties for committing offences.

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

Before going any further, answer the following questions in connection with the advertisement shown.

**Context**

The 6 Continents Agency has negotiated some unbeatable prices for the Hôtel du Grand Palais in Paris. The owner decides to insert the following ad in the local newspaper to boost the next few weeks’ sales.
**PARIS MUSEUMS**

$2,499.99
15 days/14 nights

**Included:**
- Round-trip flight Montreal-Paris
- Hotel du Grand palais 5*
- Airport-hotel transfers (round-trip)
- Handling of 2 suitcases per person (round-trip)
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST (excluding FICAV contribution)

Price valid for new reservations only.

6 Continents Agency Inc.
1324, des Jardins, Québec City (Québec) G1R 6P7
Telephone: 418-658-4455 • Email: 6continents@net.com
5.1 GENERAL RULES TO BE RESPECTED

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. Does your strategy call for advertising in a magazine or newspaper, in French, English or foreign languages? Do you prefer to use an insert, a brochure, a leaflet or storefront window displays? Do you focus on your own website or the one provided by your suppliers? Each of these alternatives is governed by the Consumer Protection Act and the Regulation respecting travel agents.

5.1.1 Required content

In all forms of advertising, YOU MUST:

- include the words "Québec licensee" (with respect to the travel agent publishing the ad or any other travel agent or counsellor concerned by this advertisement);
- highlight the total price of products and services payable before departure as well as separately indicate the services fees charged by the travel agency. The Consumer Protection Act stipulates that the advertised price must be twice as large as any other amount mentioned;
- mention whether the price shown in the advertisement includes or excludes taxes (GST and QST) and the customer’s contribution to FICAV. Posting a product or service at a single price is not only possible but mandatory because it provides a figure with no hidden costs or charges for customers.

Based on your current knowledge of advertising regulations, identify the 6 errors appearing in the 6 Continents Agency’s ad:

1.  

2.  

3.  

4.  

5.  

6.  

Answers at the end of this topic.

Did you know that…

…the rules applicable to written and printed advertising differ from those applicable to broadcast advertising. The Canadian Radio-television and Telecommunications Commission (CRTC) is the public agency responsible for regulating radio and television advertising.
• indicate the period during which the trip can be purchased at the advertised price;
• indicate the price according to type of occupancy (for this purpose, the words “starting at” in connection with a type of occupancy may be used only if the proposed trip is available at the time of publication). Thus, the price refers only to that single possibility. It is also possible to indicate a price range based on single, double, triple or quadruple occupancy types;
• list the services (transportation, accommodation and food services) included in the advertised trip;
• 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 period during which the price of the advertised trip remains valid or that repairs and renovation work are being done in the advertised hotel, mentioning the work completion date;
• indicate if the advertised trip is available in limited quantities AND 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 same advertised price.
• include your business contact information (full address, not just a post office box);
• comply with the rules of the country to which you are directing your advertising.

Information respecting the law

This information, required by law, is generally found in a brochure:

“Certain conditions apply. The prices advertised in this brochure include all taxes and service charges. The prices shown exclude the contribution to FICAV of $3.50 per $1,000 of tourist products or services purchased. In the event of an increase in taxes, duties or other charges authorized by a recognized public authority, the prices shown could increase accordingly. The price may also vary in case of an increase in the exchange rate or a fuel surcharge imposed by the carrier. Refer to the general conditions appearing at the end of the brochure.”
5.1.2 Prohibited Content

In the Consumer Protection Act, the section on Business Practices provides that in all forms of advertising, it is PROHIBITED to:

- include the words “prices subject to change without notice.” (It is prohibited to charge a higher price than the one advertised.) However, the price may be modified in a contract under certain circumstances, such as when a fuel surcharge (see topic 7) is imposed by a carrier;
- include the words “prices were valid at press time” (to be valid, such a practice must specify the beginning and end of the price validity period);

Press release

**Sol’Ex Jonica Ltd. Travel Agency found guilty**

Québec City, January 13, 2010 –

“The Office de la protection du consommateur announces that the Sol’Ex Jonica ltée travel agency (...) has been found guilty of charges pursuant to the Regulation respecting travel agents. The agency has been ordered to pay fines totalling $3,760.

The Office charged the travel agency with having published, in October 2007, advertisements that did not comply with sections 14 and 15 of that regulation. These ads failed to provide information on whether the prices advertised included the applicable taxes and the contribution to the Compensation Fund for Travel Agency Customers (FICAV). The Office also charged the agency with not having disclosed the name of the air carrier of a package trip and the period during which a package was available at the advertised price.

The Office points out that printed advertisements from travel agencies must contain specific items of information, such as the list of the transport, accommodation and food services included in the trip, the name of the scheduled air carrier at the time of publication, the length of the trip and the period during which it can be purchased at the advertised price.

The ad must also mention whether the price advertised includes GST, QST and the cost of the client’s FICAV contribution.”

Source: Translation from a press release on the OPC website
• indicate the amount of instalments to be paid without including the total price of the tourist product or service (e.g. an ad promoting a package trip payable in 10 monthly payments of $99 must also indicate the total price of $990). Your client has to know exactly what total amount is to be paid;

• claim that the product or service advertised is offered at a discount if that is not really the case (e.g. the words "special offer" suggests an offered price that is really lower than the usual price);

• make false statements (e.g. attribute a non-existent benefit to a product or service by using the words "reserve early" without any real benefits for the client, or use the words "last minute specials" falsely suggesting a lower price than the one usually advertised);

• publish a misleading advertisement (e.g. include a photograph of a cabin more luxurious than the one offered at the advertised price);

• pretend to be certified, approved, recommended, sponsored, approved, 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 reserve your pilgrimage route);

• discredit the goods or services offered by a competitor.

Did you know that…

It is widely known that children can have a strong influence over parents in choosing vacations. Did you know that the Consumer Protection Act clearly prohibits you from using advertising directed at children under thirteen years old?

Did you know that…

… you are prohibited from using ads suggesting to clients that payment for the advertised trip can be made endorsing a cheque issued in their name by a municipality or the government of Québec or Canada.
5.1.3 Compliant written or printed advertising

The checklist below allows you to review the conformity of the elements found in your advertisements published in newspapers.

**Checklist: Written or printed advertising**

All written or printed advertisements of my agency must include the following mandatory information:

<table>
<thead>
<tr>
<th>Mandatory elements</th>
<th>Compliant</th>
<th>Non-compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>• the mention “Québec licensee”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the list of included transportation services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the name of the scheduled air carrier at the time of publication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the category of accommodation included</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the price based on the type of occupancy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the meals included</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the trip duration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• if the advertised trip is available in limited quantities and the number of available places at the advertised price</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the validity period of the advertised price</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(for example for reservations before October 31, 20XX OR for travel dates between November 1 and December 17, 20XX)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the full address and contact information of the travel agent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• a single TOTAL price for the advertised tourist product or service, including all fees, duties and taxes other than the GST and QST (mentioning these inclusions) AND indicating in dollars the customer contribution to FICAV (for example $3.50 per $1,000 purchased)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the TOTAL price to be spent for the tourist product or service advertised (in characters twice as large as the cost of any component)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the clear mention of whether the taxes (GST and QST) are included or not (Helvetica font at least 10 points)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• the clear mention of the inclusion or exclusion of the contribution to FICAV (Helvetica font at least 10 points)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The following advertisement shows an example in accordance with regulations. Compare the two ads and circle the non-compliant elements.
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
- Hotel du Grand palais 5*
- Airport-hotel transfers (round-trip)
- Handling of 2 suitcases per person (round-trip)
- All breakfasts
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST

Excluding FICAV contribution: $3,50 / $1,000.

Available in limited quantities. (150 seats)
Price valid for new reservations only.
PARIS MUSEUMS

$2,499.99
15 days/14 nights

Included:

- Round-trip flight Montreal-Paris
- Hotel du Grand palais 5*
- Airport-hotel transfers (round-trip)
- Handling of 2 suitcases per person (round-trip)
- Tours: 10 admission tickets per person (choice of museums)
- GST and QST (excluding FICAV contribution)

Price valid for new reservations only.

6 Continents Agency Inc.
1324, des Jardins, Québec City (Québec) G1R 6P7
Telephone: 418-658-4455 • Email: 6continents@net.com
5.2 INTERNET ADVERTISING

Advertisements on your website are also subject to the rules mentioned above. However, additional clarification is needed for transactional sites, i.e. websites allowing trips to be purchased online. Since price adjustments are made more easily – and can occur in real time – a special inclusion has been provided by the Travel Agents Regulation. In this case, the following mandatory notice must appear prominently on the homepage: “Prices advertised on our website are valid if you purchase services in a same session. If you sign off our website, prices may be different the next time you log on.”

5.3 LIABILITIES AND OBLIGATIONS

Where advertising is concerned, your liability is not trivial. A travel agent does not control every purchase made by his client. You sell or organize products and services based on the offerings of various suppliers. You are thus an essential intermediary between your client and the purchased product or service. However, despite having very little control over the whole process leading to the use of the tourism product or service sold, statements made in advertising are legally binding, as stipulated in section 41 of the Consumer Protection Act. You are therefore required to validate all information appearing in your advertisement prior to publishing, since you, together with the supplier involved, are liable if the services rendered are not consistent with your advertising. In reality, despite section 41, it is important to note that it is really the Court which determines the liabilities and obligations of the various intermediaries.

If you act as reseller of a previously advertised tourism product or service, it is your responsibility to corroborate the legality and veracity of the information published. Accordingly, brochures or other documents produced by a third party should not be used without first validating the information presented. If your client files a complaint based on any litigious aspect in the document provided, you may be liable, along with the agent or supplier from which you obtained the product or service sold.

Selling a non-compliant package from another travel agent is equivalent to guaranteeing the product yourself! In reference to the advertisement shown above, it would be a shame to be held responsible for the incorrect information concerning the Hôtel du Grand Palais 5* classification when it should have been named the Hôtel du “Petit” Palais instead!
5.4 PENALTIES AND OFFENCES

Clients have a countless number of choices when purchasing travel. In order to make an informed decision, all necessary information to make comparisons should be made available. Your advertisements are an essential tool in meeting this objective. Failure to respect rules governing advertisements is thus severely punishable by law. Inspectors from the OPC ensure that laws are being followed, as do your clients, who are increasingly well informed about their rights. In addition, the OPC is the authority which processes consumer complaints that could lead you to court.

What if you violate a provision of the Regulation respecting travel agents? For a first offence, fines vary between $1,000 and $40,000. And if, despite this first conviction, you do it again? That will cost you between $2,000 and $80,000! The President of the OPC has the right to access any advertisement that you or your advertising agency intend to use to corroborate its veracity. The Consumer Protection Act also seeks to discourage you from 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 subsequent offences between $12,000 and $30,000. If a legal entity (6 Continents Agency) is found guilty, the fine is higher: $2,000 to $100,000 for the first and between $4,000 to $200,000 for repeated offences! Moreover the Court may order you to pay the investigation costs; hence the importance of applying the law and re-examining carefully your ad prior to publication.

Regardless of the medium used, your advertisement is a commitment between you and your future clients. While it may differentiate you, it is vital to respect the established legal framework. Advertising is in fact, a commitment that may compromise your ongoing business at the outset. Don’t try to sell at all costs!

Did you know that…

If your clients make reservations through 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 the requested information. The Act respecting the protection of information in the private sector (L.R.Q., c. P-39.1), sec. 8 and 27 requires you to grant access to a client’s file (i.e. online) if that person so desires. Clients whose such access is refused, can appeal to the Commission d’accès à l’information.

Did you know that…

… if you receive an e-mail from a client pleased with the service offered by your escort guide in Asia and subsequently decide to include this testimonial in your next advertisement – watch out! Be sure you convey his message faithfully. The Consumer Protection Act prohibits you from distorting the meaning of a report, opinion or testimonial.
It is now up to you to assess your level of knowledge of this topic.

### Test yourself

<table>
<thead>
<tr>
<th>After reading this topic, I am able to</th>
<th>Totally</th>
<th>Partially</th>
<th>Minimally</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. recognize an advertisement that complies with regulations;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. distinguish the features of written and printed advertisements;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. create an ad that complies with regulations;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. take the liabilities and obligations into account;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. know the penalties associated with the offences.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Keep up your efforts! Review this topic or go on to the next one.**

### Answers

1. **Wrong wording.** The advertisement must say “Québec licensee.” [sec. 14, T.A.R.]
2. **Does not specify the type of occupancy associated with the advertised price.** [sec. 228, C.P.A.]
3. **Does not specify the number of places available at the advertised price.** [sec. 229 and 231, C.P.A.]
4. **The name of the scheduled air carrier at the time of publication does not appear.** [sec. 15 a, T.A.R.]
5. **Does not indicate the period during which the trip may be purchased at the price advertised.** [sec. 15 b, T.A.R.]
6. **Does not mention the contribution for FICAV.** [sec. 14.1, T.A.R.]

Result: **6/6**
At the end of this topic, you will be able to:

• distinguish the various obligations of travel agents;
• distinguish civil, administrative and penal liabilities;
• know the supplementary forms of protection available for customers;
• handle the role of insurance contract distributor.

The travel agent or counsellor is directly involved with a client from first acquaintance until after his return from his trip. Obligations are incurred when informing, organizing or selling tourism products and services. This topic looks at essential legal aspects of your relationship with customers.

Before going any further, let’s first test what you already know about 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 executives of a multinational company in order to sell them an incentive trip to Australia. The client is thinking of rewarding certain employees; he is therefore seeking assistance in finding attractive travel options for his team. To differentiate itself, Interstellar Travel is organizing an original itinerary in collaboration with various Australian suppliers (bus, hotel, attractions and activities). Raya prepares accurate documents describing the itinerary and attractions, as well as providing a full price breakdown and specifics on contract terms and conditions. The information contained in the documents will also be brought up verbally at the meeting. Before her presentation, Raya makes sure that she knows all essential aspects involved in this trip in order to communicate all information relevant for the customer’s final choice.

Answer the questions that might be addressed to Raya by this prospective customer.
With respect to contracts between travel agents and their customers, the law distinguishes two levels of contractual obligations: the obligation of means and the obligation of result. These obligations, explained below, imply that you are subject to civil, administrative and penal liabilities. Based on the Civil Code of Québec, your civil liability is in relation to your duty to customers. Based on the Travel Agents Act and other laws applicable to the travel sector, your penal liability is based on your duty to the government. You must therefore answer for your own actions and those of your staff members! For example, under the Civil Code of Québec, the civil liability of a travel agent is to provide products or services as described in the contract. 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.” That is why civil liability would make Interstellar Travel responsible for the information provided by Raya, its travel counsellor. Finally, under the Travel Agents Act, operating with a valid permit avoids penal charges, i.e. a fine.

6.1 OBLIGATIONS AND LIABILITIES OF THE TRAVEL AGENT

1. Interstellar Travel could be held liable for outdated equipment used by its scuba-diving supplier. __________

2. For this group trip, organized by Interstellar Travel, Raya must provide the assistance of a guide. __________

3. In the event that Interstellar Travel does not deliver one of the services provided in the contract, the individual security will be used to indemnify customers, should there be a court judgment against the agency. __________

4. If the group has a flight delay depriving it of 2 days of activities initially planned in Australia, the customer cannot file suit. __________

5. Customers are entitled to compensation if irregularities are found between the verbal package description presented by the representative and the actual tour at their destination. __________

6. In the event that Interstellar Travel concludes this sale by telephone, does Raya have to specify any additional fees charged by Australian suppliers? __________

Answers to this test are at the end of this topic.
What is an obligation of means or an obligation of result as applied to your role as a merchant?

1. An obligation of means is that you are expected to use the means necessary to achieve the result stipulated in the contract while acting with prudence and diligence (i.e. the degree of attention paid to your customer’s request) although you are not asked to provide a guarantee. A travel agent is not considered responsible for customer dissatisfaction due to an unforeseeable event modifying provisions in the contract. A business offering a safari holiday in Kenya has an obligation of means towards its visitors: it must do everything possible so they can safely observe animals wandering freely in the wild, but it cannot be held responsible if animals are discreet and fail to appear, unless the fault is attributed to the supplier. In making a formal complaint, a dissatisfied customer would have to prove that you and your supplier did not use the necessary means to honor your commitment.

2. 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 (superior force), which is an unforeseen, unforeseeable and irresistible event, as defined in article 2100 of the Civil Code of Québec. This type of obligation, as its name indicates, is based on the result or outcome identified in the contract. In other words, your customer expects you to provide exactly what he 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 persons or property transported.

It is important to remember that courts generally apply the obligation of result to contracts between a travel agent and his customer. For example, in the case of force majeure (for example, a hurricane) that would require travellers to cut short their stay, suppliers bringing them home would satisfy the obligation of result. Since the travel agent and tour operator had only partially fulfilled their obligations (given that the trip was shortened), the portion of the trip not delivered should be reimbursed to the customer (i.e. hotel nights not used).
In the example presented above, Airlines Inc. is invoking Article 19 of 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 damage to the customer. Thus Airlines Inc. could be held liable to compensate the plaintiff for damages resulting from such delays. Under the contract terms, the Bon Voyage Agency is jointly and severally responsible and therefore could also be found liable.

This potential court decision should make it clear that agreements with clients are binding on the travel agent jointly and severally with suppliers or tour operators. This example also shows that the air carrier is governed by international conventions. Integrated in 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 while respecting the Act.
According to **case law**, the liability of travel agents is incurred in cases of non-compliance with the following requirements in connection with the obligation of means or result:

- selection of service providers
- assistance
- information
- compliance
- safety.

What is the nature of your responsibilities?

### 6.1.1 Choice of service providers

In choosing **service providers**, whether you serve as an intermediary or organizer, you are working with suppliers to provide customers with products and services specified in a contract. You could be held liable for arranging flights on a carrier not in compliance with local, national or international regulations or for reserving with **suppliers** using outdated equipment.

### 6.1.2 Assistance

Do you sell tours of Peru or trips to Fiji and the South Sea Islands? Provide a guide, a local representative or supplier 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 for guiding your customer’s decision. Once a service is purchased, your responsibility to inform extends until the end of his trip. For example, it is your duty to recommend, before departure, a letter of consent from the parents or guardians of a child travelling alone; to contact your customer ahead of time in the event of changes made to his initial flight schedule; or once on site, to ensure communication through your local representative in the event of a hurricane requiring an emergency evacuation.
6.1.4 Compliance

Your compliance duty is associated with what is stipulated in the contract and what the customer receives when consuming the product or service purchased. Special attention must be paid to engagements stipulated in the contract, on the website or in the reference brochure of the product sold. Your assertion that a hotel is located “on the beach” when in fact a main road separates it from the beach, can induce a customer to bring proceedings against you!

6.1.5 Safety

Before agreeing to purchase a trip, your customer must be forewarned of situations that could compromise his safety. As a merchant, you must specify all known hazards that could jeopardize the traveller’s health (e.g. avian flu epidemic) or security (e.g. riots) or any life-threatening condition.

6.2 SUPPLEMENTARY CUSTOMER PROTECTION

As explained in Topic 2, the Act provides three levels of customer protection: the trust account, the individual security and FICAV, the Compensation Fund for Travel Agents’ Customers. Additionally, two types of supplementary protection are offered to safeguard funds disbursed by customers.
To offset various problems that could arise, customers should be advised of the benefits offered by travel insurance and credit cards. In certain cases, these forms of protection reimburse losses incurred. In the event that reimbursements would be lower than damages costs, customers can claim the difference from FICAV. So informed, your customer can file a claim with his personal travel insurance or his credit card company (if that is how the service was purchased) before applying to FICAV.

### 6.2.1 Insurance

How do you respond to customers who purchased tourism products involving suppliers on strike or lock-out? What do you say to a customer asking to cancel his trip due to health problems or death of a close relative? Without insurance, customers can find themselves in a precarious situation. A thoughtful travel agent explains the reimbursement and non-reimbursement policy prior to accepting customer deposits at the time of reservation. These reimbursements, generally incomplete, can be supplemented by insurance products. If a customer is unable to travel, must interrupt his trip or requires health care, this precautionary step will allow reimbursement of the difference. Moreover, if the supplier has been paid and has not performed his primary obligation, whether to transport, accommodate or guide the traveller, a reimbursement may be possible.

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 (R.S.Q., c. D-9.2). In this capacity, you have an obligation to inform or be subject to the penalties provided by law.

You are therefore required to:

- enquire if the customer is already insured prior to offering insurance coverage, and prompt him to make certain if in doubt;
- offer a copy of the booklet presenting the insurance product prior to sale;
- describe the type of coverage, clearly indicating what it includes;
- inform the customer of your insurance product commission if it exceeds 30% (just as the insurer must provide this information at the request of the Autorité des marchés financiers);
- keep confidential all information of a medical nature or associated with customer’s lifestyle if required to fill out a form. In fact, you are prohibited from keeping a copy of such information;

---

**Did you know that…**

… the Autorité des marchés financiers (ATM) plays a role in travel? As an agent of the Québec government, this agency oversees the Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2) which governs, among other matters, the sale of travel insurance.
• inform the customer about procedures involved in a claim and deadlines to be met;
• inform the customer of the deadline to be met by the insurer in paying the amounts insured and the procedure to use in case the insurance claim is refused, contrary to what is provided in the policy;
• respect the customer’s choice. You are prohibited from exerting abusive pressure or using dishonest methods of persuasion in sales;
• indicate in writing, according to ATM guidelines, 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 relevant tourism product or service was not provided.

In the specific case of an off-premise purchase (made by telephone or over the Internet), the Consumer Protection Act provides a remedy called the chargeback, a reimbursement procedure occurring when customers ask the credit card issuer to reverse a sales transaction. This procedure is based on the assumption that the service or product purchased was not provided.

Dealing with customers is a key aspect of your business. It means not only that you have to be well acquainted with both customers and products offered for sale, but also with the obligations and liabilities associated with future transactions. Operating in an especially well regulated environment, the travel industry requires of its representatives that they be well informed in order to market their products to well protected customers.
Now it’s your turn to assess your level of knowledge of this topic

Test yourself

<table>
<thead>
<tr>
<th>After reading this topic, I am able to</th>
<th>Totally</th>
<th>Partially</th>
<th>Minimally</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. distinguish the various obligations of travel agents;</td>
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<tr>
<td>2. distinguish civil, administrative and penal liabilities;</td>
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<tr>
<td>3. know the supplementary protections available for customers;</td>
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<tr>
<td>4. handle the role of insurance contracts distributor.</td>
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</tbody>
</table>

Keep up your efforts! Review this topic or go on to the next one.

Answers

1. True. The choice of service providers is associated with the obligation of result. Sec. 10 and 16 C.P.A., R.S.Q., c. P-40.1

2. True. The obligation of result implies arranging local assistance for your customers during their trip. According to article 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.”

3. True. The individual security is used to compensate customers who have obtained a judgment against the travel agent, exclusive of punitive damages, to the extent that Interstellar Travel cannot pay further to the judgment rendered. Sec. 28 a T.A.R. Since the individual security cannot be used to cover punitive damages, the owner must compensate customers from the agency’s own funds.

4. False. The group can file suit. Article 19 of the Montreal Convention holds the carrier responsible for damages resulting from a delay unless it can prove that reasonable measures were taken to avoid this situation.

5. True. Pursuant to the obligation of compliance, the description of products and services must be compliant with the tourism product or service provided, whether written or verbal. Sec. 16, 40 and 42, R.S.Q., c. P-40.1

6. True. When a travel contract is signed, because of the information obligation incumbent upon him, the travel agent must inform customers of any known supplementary expense as well as fees that may be charged by suppliers.

Result: 5/6
 Supplementary readings and exercises

• **An Act respecting the distribution of financial products and services** (*R.S.Q.*, c. *D-9.2*)
  To access the complete electronic version, please visit the website and click on "Produits en ligne", "Lois et règlements", "Recueil des lois et des règlements du Québec" and "Liste alphabétique".

• **Carriage by Air Act** (*L.R.C.*, 1985, *ch. C-26*)
  To access the complete electronic version, please visit the website and click on "consolidated statutes and regulations".

• **Société québécoise d’information juridique – Judgements**
  To learn more about the judgements handed down by the various authorities relating to the travel industry.
At the end of this topic, you will be able to:
• explain the information to be shown on an invoice;
• apply the rules of invoicing;
• describe the terms and conditions to be specified in a sales contract;
• know the information to convey when a distance contract is signed;
• explain the circumstances allowing price modification;
• know the reasons allowing a trip to be cancelled;
• know the offences associated with the failure to respect the law and their penalties.

When making a reservation, you must prepare a contract (invoice and receipt) in accordance with the customer’s requests and reflecting the terms and conditions of suppliers involved in providing the applicable products and services. Based on his reservation, the necessary trip documentation must be compiled and given to the customer prior to departure. As part of this preparation, you will sometimes work through special situations, including instances of force majeure, while complying with the related laws and regulations. Preparing a customer’s departure is a key operation in the work of a travel agent and counsellor. If carried out properly, this step will help you avoid potential problems.

Before going any further, let’s first test what you already know about this topic.

Context

Oil prices: Air Canada introduces a $10 surcharge

Translated from the consumer affairs program “ARGENT,” broadcast on March 8, 2011.

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

The airline introduced a fuel surcharge of $10 per flight for an economy class seat. For a round trip, travellers 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 largest single expense, last year costing the company $2.65 billion.

"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 yet introduced a fuel charge, but the company has already increased its fares three times this year. The increases were between $5 and $10. According to WestJet, it is difficult to develop long-term fare strategies, given the volatility of oil prices. Porter Airlines has not announced a surcharge either. Nevertheless, a spokesperson has indicated that the regional airline "is evaluating market conditions based on the price of oil and competitive factors."

The Canadian airlines are actually following the 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. Canadian carriers had all introduced fuel surcharges when the oil price per barrel soared to $110. They were withdrawn once prices dropped."

**Test your knowledge**

**True or False**

Following publication of the airline price increase story, the phones at 6 Continents Agency are ringing off their hooks! Customers are calling to inquire whether they will have to pay a surcharge prior to departure. What do you tell them?

1. **A travel agent** can ask his customer to pay an extra fee 40 days prior to departure, as a result of a fuel surcharge imposed by their carrier.  
2. **A tour operator** may impose a surcharge on customers 40 days prior to departure following a 4% Mexican Peso devaluation.  
3. A travel agent may request an additional charge from his customer 20 days prior to departure following an increase of the Québec sales tax (QST) if the balance has not yet been paid.  
4. A travel agent cannot constrain a customer to pay an additional charge when the price of a tour of Western Canada, originally offered at $1,700, goes up by $136 as a consequence of a fuel surcharge. Added to that amount is a 1% increase in the Québec sales tax (QST).  
5. Reimbursement conditions indicated in a tour operator’s brochure, from which the product was reserved, are considered part of the sales contract signed between the travel agent and the customer.  
6. In case the airline must cancel its flights due to a situation of force majeure at the destination, a customer’s travel arrangements can be cancelled by a travel agent prior to departure.

Answers to this test are at the end of this topic.
7.1 DOCUMENT DELIVERY

7.1.1 Invoice

The invoice is an important document. It bears witness to any funds owed by the customer in exchange for tourism products sold as well as the obligations and conditions associated with the product. The invoice is also essential for accounting purposes; it discloses the amounts collected for the Travel Agent Customers’ Compensation Fund (FICAV) to the OPC. Finally, it is necessary for issuing the sales tax collection reports required by the government.

The invoice also acts as the travel service contract, and you, as a merchant, must comply with the regulations of the Consumer Protection Act R.S.Q., c. P-40. This law, as specified in its section 2, applies to any contract for goods or services between a consumer and a merchant in the course of his business activities. This contract creates substantial obligations between customer and travel agency, as discussed previously in topic 6.

7.1.1.1 Billing Guide

Drawing up an invoice according to regulations enables you to achieve one of the required objectives for obtaining certification as a travel counsellor or travel agent. You will have to complete an invoice once a transaction with a client is concluded to acknowledge receipt of funds, whether for a partial deposit or final payment. These invoices must be pre-numbered and used consecutively. A copy of each invoice must be retained, should an inspector ask for a duplicate. You must also give your customer a copy.

All of the following information must appear on the invoice:

a) day, month and year of the transaction;

b) customer name and address: the name of each traveller as well as the address of one of the customers on file, whether or not they reside at the same address;

c) description of the tourism product rendered or to be provided: you must list and describe each of the services or include a copy of the tour operator’s brochure, indicating the product name (for example, group tour, Discovering French Wines, Horizon Vacations Tour – 14 days). For more information, see terms and conditions sections below;

d) price of the tourism product sold, stating separately the applicable taxes (with the total corresponding to the amount payable);

e) FICAV (Travel Agent Customers’ Compensation Fund) contribution amount (see Topic 2), specifying the percentage and amount paid;

Did you know that…

... a contract between a travel agent and his customer is a business or service 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 client or to provide a service, for a price which the client binds himself to pay.”

Source: Civil Code of Québec, article 2098
Did you know that…
… the airport “tax” must be included in the tourist services in the same way as overnight stays at a hotel.
Some websites include useful information for customers that is consistent with the intent of the law, as in these two examples:

### 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](http://www.voyagesarabais.com) or any other person of your choice in order to clarify the point at issue before making your reservation.

The fact of making a reservation corroborates understanding and acceptance of the general conditions listed below.

---

### Notice on the website of a tour operator

**CANCELLATION CHARGES** ([www.transatholidays.com](http://www.transatholidays.com))

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

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

**Flights with transfers:** 100% non-reimbursable

### 7.1.2 Travel documents

What documents must you give your customer prior to departure?

The law provides that you must give the customer all documents associated with products and services reserved 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: a customer who uses your services less than 7 days prior to departure. Then section 19 of the Regulation respecting travel agents applies: travel documents must be presented as quickly as possible prior to the customer’s departure.

7.2 DISTANCE CONTRACT

When doing business with customers without being physically present in the same place (e.g. by telephone or over the Internet), you are entering into a distance contract. This type of contract deserves some attention because it is very common in the travel industry. Using the following checklist, assess your level of compliance with articles of the Consumer Protection Act applying to such transactions.

<table>
<thead>
<tr>
<th>Checklist</th>
<th>Compliant</th>
<th>Non-compliant</th>
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<tbody>
<tr>
<td><strong>BEFORE concluding a distance contract, I make sure to mention:</strong></td>
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<tr>
<td>• my name</td>
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<tr>
<td>• the address of the agency</td>
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<tr>
<td>• the agency’s telephone number</td>
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<tr>
<td>• a detailed description of each product or service in the contract, including their features</td>
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<tr>
<td>• the price breakdown for each product or service and related charges</td>
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<tr>
<td>• a description of any supplementary fees potentially charged by suppliers</td>
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<tr>
<td>• the total price and terms of payment</td>
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<tr>
<td>• the currency in which the payment is required (if not Canadian)</td>
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<tr>
<td>• cancellation policy</td>
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<tr>
<td>• any other restrictions or conditions applicable to the contract</td>
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<td></td>
</tr>
<tr>
<td>• the possibility of accepting or refusing the offer</td>
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</tbody>
</table>
7.3 PRICE CHANGES

Like every kind of business, prices of tourism products are affected by fuel price fluctuations, tax increases and exchange rate variations. As a result, can the price indicated on the invoice – in the contract – be changed? Yes, on the condition that you give notice before completing the sale. Customers must be warned verbally – as well as in writing in a contract clause – of the reasons justifying additional charges. As manager or travel counsellor, it is your obligation to inform your customer of this possibility.

What are the reasons for changes in price?

- A fuel surcharge imposed by a carrier;
- An increase in an exchange rate, 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;
- An increase in the Québec sales tax (QST) and goods and services tax (GST).

Are there time restrictions on making price changes?

- Price increases are authorized until 30 days prior to departure. Past this period, contract modifications affecting price are not permitted.

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

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

What options can be considered in the event that a customer exercises his right of refusal?

- A customer may not accept a price increase equal to or greater than 7%. In that case, you can provide full and immediate reimbursement OR offer substitute services.

Did you know that …

Contrary to the provisions applied for reservations made in person at the agency, you are not required to inform your customer verbally of the price adjustment clause if a reservation is made by email (at a distance and in writing). However, you must make sure that this clause appears in the information provided in writing.

Likewise, in the event that a reservation is made by telephone (at a distance and verbally), you are not required to inform your customer verbally of the price adjustment clause at the time of transaction, on condition that a copy of the contract is forwarded to the customer within 15 days of making the reservation.
7.4 CANCELLATION

You can cancel a customer’s trip by sending him notice at least seven (7) days prior to departure. However, there must be a valid reason for doing so (force majeure, safety issues or other conditions). Furthermore, the agent is liable for damages for canceling a trip if the related advertising failed to indicate the minimum number of travellers 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); examples are 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: it really 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. A hurricane, as a natural disaster, is generally but not systematically considered a case of force majeure. In fact, it would not be considered force majeure if it has been forecast two days prior to a trip or had occurred a week beforehand, allowing the host infrastructures to resume operations.

The same is true in cases of political instability. In this type of cancellation, the supplier is obliged to reimburse your customer on condition that he has been paid and has not performed his primary obligation (i.e. transporting, accommodating, guiding the traveller, etc.). Certain suppliers may, with the consent of the customer, offer a product or service equal to or better than what had been initially reserved. 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

2010-04-16 — “The eruption of a volcano under a glacier in Iceland has had repercussions reaching Québec, yesterday, when some ten flights were cancelled at Montréal-Trudeau Airport. In Europe, the thick cloud of ash released by the eruption paralyzed air transport in the northern part of the continent, keeping a large number of the aircraft on the ground. The airspace of 24 European countries was closed.

The situation also disrupted air traffic between Montréal 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. This situation could also have repercussions for flights to the south.

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

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 an airport, realizes that his trip is compromised. The airline announces that flights are cancelled indefinitely. The customer calls you at the agency to find out what his rights are. What are the available options?

The airline is obliged to reimburse the customer. You could also offer applying the future reimbursement to an alternate destination. However, you must specify that all meals and long-distance calls are at his expense. Refer to Topic 6, which presents the Montreal Convention in connection with the terms and conditions applying to air carriers.
Political instability

**Egypt: impacts on travellers**
Source: Office de la protection du consommateur

“The current political situation in Egypt reasonably raises concerns on the part of travellers who have purchased airline tickets or package tours to that country.

The OPC notes that a recommendation by the government to avoid travelling to a country on safety grounds does not give travellers the right to cancel their trip. Travellers cannot therefore invoke difficult political conditions to exercise that right. Accordingly, if a traveller decides to cancel a trip already arranged, it could cost him some money.

In this case, he can ask the air carrier to postpone his trip to a later date or even change the destination without penalty. Travellers thus have every reason to review the cancellation conditions in their contract or the documentation they received and discuss the situation with the merchant.

(…) The OPC reminds you that despite the circumstances, if all the services provided in the contract are available, travellers cannot benefit from the Travel Agent’ Customers’ Compensation Fund (FICAV).

(…) A customer cannot claim a reimbursement if the airline continues to offer the service as agreed in the contract, even if a situation of force majeure prevails at the destination and he fears for his safety.”

### 7.5 PENALTIES AND OFFENCES

Avoid fines! Inspectors monitor compliance with various aspects of the Travel Agents Act and its Regulation. When offences are detected, they can recommend **penal charges**. The checklist below allows you to assess your level of compliance and the fine to which you could be exposed. In addition, a licensee can have his licence suspended or cancelled by the **President** of the Office de protection du consommateur. Refer to the content of that topic to refresh certain details.
This topic deals mainly with the invoicing required to confirm the tourism product or service sold by a certified counsellor of a travel agency. At this point, you are engaged in a commercial transaction with your customer. The invoice is a contract that is binding on you for the remainder of the customer service process.

Now it is your turn to assess your level of knowledge of this topic.

<table>
<thead>
<tr>
<th>Checklist</th>
<th>Billing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penal liability</td>
<td>Compliant</td>
</tr>
<tr>
<td>Have you shown all the necessary elements on the invoice?</td>
<td></td>
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<tr>
<td>Have you reimbursed a customer who has chosen this option following a price increase and was the refund made in cash or by crediting the original credit card?</td>
<td></td>
</tr>
</tbody>
</table>

Test yourself

After reading this topic, I am able to

1. explain the content of the information to be shown on an invoice.
2. apply the rules for billing.
3. describe the conditions specified in a sales contract.
4. know the information to convey when concluding a distance contract.
5. explain the circumstances that allow a price to be changed.
6. know the grounds for making a cancellation.
7. know the offences associated with failure to comply with the law and their penalties.

Total
Keep up the efforts! Review this topic or read the conclusion.

Supplementary readings and exercises

EXERCISE 1: Apply the billing rules

Read the situation involving the 6 Continents Agency below. Then complete the standard invoice including each of the headings shown in 7.1.1.1 Billing Guide. The answer for this exercise is available in Appendix 3.

Background: Sale of a vacation package

Ruth Wright, a new counsellor at Mr. Fortunato’s 6 Continents Agency, has met with newlyweds and suggested a vacation package offered by ABC Tours. After she has explained the product in detail as shown in the tour operator’s brochure, the customers buy the all-inclusive package which consists of: a 7 nights’ stay, double occupancy, at the Coco Beach Vacation Resort at Punta Cana, Dominican Republic.

Vacation dates: December 19 to 26, 20XX

Flight itinerary:
19 December Montréal (YUL) 15:45 Airciel Flight 972 economy class (Y)
26 December Punta Cana (PUJ) 15:30 Airciel Flight 973 economy class (Y)

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

The customers refuse insurance.

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

Answers

1. True. To the extent that all the conditions provided in section 13.2 have been respected, specifically, the inclusion of a clause allowing an increase in the contract (verbal or written) or the possibility of a price increase (ordered more than 30 days prior to the date when the services must be provided). sec. 13.2, T.A.R.

2. False. The exchange rate has not increased by more than 5% between the date of the sale and the 45th day prior to departure. sec. 13.2 i, T.A.R.

3. True. If increased, the merchant remitting the sales tax may require the amount from the customer. sec. 13.2 i, T.A.R.

4. True. When the increase is more than 7%, the travel agent cannot force the customer to pay the amount. The customer has the choice of paying the requested increase, cancelling the contract and obtaining a reimbursement or accepting replacement services offered by the travel agent. sec. 13.2 ii, T.A.R.

5. True. The travel agent is exempt from entering this information on the invoice if he attaches the brochure describing the services purchased or another written message that contains the conditions for reimbursement, to the extent that the agent has informed the customer of its content. sec. 18, T.A.R.

6. True. When, for a reason of force majeure, a travel agent cannot perform his obligation to provide a service, he can cancel the contract and reimburse the customer or offer replacement services which the customer is not obliged to accept. sec. 20, T.A.R., sec. 1693 and 1694 C.C.Q.

Result: /6
To conclude the sale in the absence of Mr. Fortunato, the counsellor must prepare the invoice indicating the application fees and document preparation charges as specified in the agency’s usual procedures.

Please complete the invoice below.

**Exercise – Standard invoice to complete**

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>product #</th>
<th>Quantity</th>
<th>Price</th>
<th>Others charges</th>
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<th>QST</th>
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<td>2.</td>
<td>OTHER:</td>
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<td>3.</td>
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<tr>
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<td>Balance due:</td>
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</table>

**ITINERARY:**

<table>
<thead>
<tr>
<th>Date</th>
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<th>Departure time</th>
<th>Arrival</th>
<th>Arrival Time</th>
<th>Fight No.</th>
<th>Class</th>
</tr>
</thead>
</table>

**OTHER:**
Operating a travel agency and dealing with customers are not occupations that can be left to chance. This commercial activity, like every other, implies a good understanding of the laws and regulations by owners and their employees. Ignorance of these rules can result in embarrassing situations that could be easily avoided. What company wants to be famous for its mistakes? The years of hard work necessary to consolidate a good reputation should never be tainted by violations of the many laws applicable to the travel industry. As a travel manager or counsellor, it is your duty to know the legislation applying to you. Such was the purpose of this guide. Now it is your turn to use it!
APPENDIX
POLICE DE CAUTIONNEMENT INDIVIDUEL

Conformément à la Loi et au Règlement sur les agents de voyages, nous, le débiteur principal et la caution, ainsi que nos héritiers, exécuteurs testamentaires, administrateurs, successeurs et ayants droits respectifs, nous engageons solidairement envers le président de l’Office de la protection du consommateur, jusqu’à concurrence du montant indiqué ci-après.

Numéro du cautionnement :

1. NOM DU DÉBITEUR PRINCIPAL :

2. ADRESSE :

3. MONTANT DU CAUTIONNEMENT :
   (en lettres et en chiffres)
   en monnaie légale du Canada

4. DATE D’ÉMISSION :

<table>
<thead>
<tr>
<th>COMMERCES VISÉS</th>
<th>RÉFÉRENCE LÉGISLATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commerce d’agent de voyages</td>
<td>art. 28 du Règlement sur les agents de voyages (R.R.Q., c. A-10, r. 1)</td>
</tr>
<tr>
<td>permis général</td>
<td></td>
</tr>
<tr>
<td>permis restreint</td>
<td></td>
</tr>
</tbody>
</table>

6. ATTENDU QUE le Débiteur principal a fait une demande d’émission ou de reconduction de permis d’agent de voyages pour l’exercice du commerce visé dans les présentes, tel qu’exigé par la loi, le présent cautionnement aura pleine force et effet en autant que le permis est émis ou reconduit. Par conséquent, la caution assumera les obligations qui lui incombent à ce titre, tel que plus spécifiquement décrites à l’article indiqué ci-dessus vis-à-vis le commerce visé, en cas de défaut du débiteur principal.

7. MALGRÉ CE QUI PRÉCÉDE il est entendu et convenu que la responsabilité totale de la caution en vertu du présent cautionnement se limitera à la somme mentionnée ci-dessus ou à toute somme qui y sera substituée au moyen d’un avenant.

8. IL EST ENTENDU ET CONVENU QUE le présent cautionnement est valide pour toute la durée du permis, tant que la responsabilité du débiteur principal est engagée envers un client. Toutefois, la Caution peut mettre fin au cautionnement moyennant un avis écrit d’au moins quatre-vingt-dix (90) jours expédié par poste certifiée ou recommandée au Président de l’Office de la protection du consommateur auquel est jointe la preuve qu’une copie de l’avis a été notifiée au débiteur principal.

9. IL EST ENTENDU ET CONVENU QUE le présent cautionnement continuera d’être en vigueur malgré le transfert du permis du demandeur, effectué conformément à l’article 11.1 de la Loi sur les agents de voyages et à l’article 10 du Règlement sur les agents de voyages.

10. IL EST ENTENDU ET CONVENU QUE, malgré l’expiration du présent cautionnement, la caution demeure obligée en vertu du présent cautionnement à la condition, suivant le cas, que l’action civile ait été intentée dans le délai prescrit par la Loi ou par le Code civil du Québec, que l’entente ou transaction, lorsqu’elle visait à prévenir la contestation judiciaire, ait été conclue dans ce même délai ou que la poursuite pénale ait été intentée dans le délai prescrit par le Code de procédure pénale (L.R.Q., c. C-25.1), et à la condition que l’acte ou l’omission qui fait l’objet du jugement civil, de l’entente ou transaction ou, le cas échéant, de la condamnation au pénal se rapporte à un contrat conclu ou exécuté pendant que le présent cautionnement était en vigueur.

11. IL EST ENTENDU ET CONVENU QUE la caution renonce par les présentes aux bénéfices de discussion et de division.

- 1 -
### Débiteur Principal

<table>
<thead>
<tr>
<th>Signature (témoin)</th>
<th>Signature (débiteur principal)</th>
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</thead>
<tbody>
<tr>
<td>Nom du témoin (en lettres majuscules)</td>
<td>Nom du représentant autorisé</td>
</tr>
<tr>
<td>Adresse du témoin</td>
<td>Qualité ou fonction du représentant</td>
</tr>
<tr>
<td></td>
<td>Adresse du débiteur principal</td>
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</tbody>
</table>

### Caution

<table>
<thead>
<tr>
<th>Signature (témoin)</th>
<th>Signature (caution)</th>
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</thead>
<tbody>
<tr>
<td>Nom du témoin (en lettres majuscules)</td>
<td>Nom du représentant dûment autorisé</td>
</tr>
<tr>
<td>Adresse du témoin</td>
<td>Qualité ou fonction du représentant</td>
</tr>
<tr>
<td></td>
<td>Adresse de la caution</td>
</tr>
</tbody>
</table>
Travel Counsellor Employment Contract

Le « DATE »

« PRÉNOM, 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 », situé(e) 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 de 35 heures par semaine. À ce titre, vous relevez du (de la) soussigné(e).

B – Termé
Votre entrée en fonction sera le « DATE » avec une période de probation de trois mois.

C – Rémunération
Votre rémunération hebdomadaire est fixée au taux horaire de « $ » plus « % » des revenus générés 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 paye en respect avec la Loi.

D – Dépenses
Toutes les dépenses relatives à votre poste sont soumises à la politique de l’entreprise.

* Veuillez compléter les informations surlignées en bleu.
**APPENDIX 2 (con’d)**

**Travel Counsellor Employment Contract (con’d)**

---

**E – Vacances annuelles**

Une année complète de travail vous donne droit à 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 situations pouvant constituer un conflit d’intérêts.

**G – Obligations**

Entendu que le 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

---

* Veuillez compléter les informations surlignées en bleu.
## INVOICE

**6 Continents Agency Inc.**  
1324, des Jardins  
Québec (Québec)  
G1R 6P7  
Date: xx-mm-20xx  
Telephone: 418 658-4455, ext.: 225  
Fax: 418 658-4452  
Email: 6continents@net.com

**Customer(s):** Ms. Jane Murphy  
Mr. Joe Murphy  
Address:  
10, Village Road  
St-Lac (Québec)  
G9P 3P6  
Counsellor: Ruth Wright

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>Product #</th>
<th>Quantity</th>
<th>Price</th>
<th>GST charges</th>
<th>QSR</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>1.</td>
<td>409520</td>
<td>2</td>
<td>$1,508.00</td>
<td>$668.00</td>
<td></td>
<td>$4,352.00</td>
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</table>

DETAILS: Hotel Coco Beach package — all-inclusive formula — double occupancy — description and conditions as in the ABC Tours brochure.

| 2.          | 1         |          | $15.23  | $0.00       |       | $15.23  |

DETAILS: Travel Agents’ Customers Compensation Fund FICAV (0.35% of tourism products)

| 3.          | 410259    | 2        | $50.00  | $0.00       | $5.00 | $8.93  | $113.93 |

OTHER: Administrative and document issuing charge.

**TOTAL:** $4,481.16  
Deposit: $4,481.16  
Balance due: $0

**ITINERARY:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Departure</th>
<th>Departure time</th>
<th>Arrival</th>
<th>Arrival Time</th>
<th>Fight No.</th>
<th>Class</th>
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<tbody>
<tr>
<td>19 Dec</td>
<td>YUL (Montréal), QC</td>
<td>15:45</td>
<td>PLU (Punta Cana), Rep.Domin.</td>
<td>20:55</td>
<td>Airciel 972</td>
<td>Y</td>
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<tr>
<td>26 Dec</td>
<td>PLU (Punta Cana), Rep.Domin.</td>
<td>15:30</td>
<td>YUL (Montréal), QC</td>
<td>18:50</td>
<td>Airciel 973</td>
<td>Y</td>
</tr>
</tbody>
</table>

**OTHER:**

You can use this space to write the following mandatory information:

1. Conditions:  
   - Cancellation charge before departure: non-reimbursable  
   - Cancellation fee after departure: 100% non-reimbursable  
   (see conditions in the ABC Tours brochure)

2. The funds collected by 6 Continents Agency are deposited in a trust account.

3. Travel insurance refused. Signature: ________________________________
Answers – Exercise 1 (con’d)

Explanation of the calculations of the FICAV, GST and QST

The FICAV contribution is calculated as follows:

You sell a package for $4,352.00.

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

FICAV (0.35% X $4,352.00) = $15.23

Sub-total: $4367.23

Other (administrative and document issuing fees): $100.00

GST ($100 X 5%) = $5.00

QST [($100 + 5) X 8.5%] = $8.93

Sub-total total: ($100 + $5 + $8.93) = $113.93

Total: ($4,367.23 + $113.93) = $4,481.16

1. Keep a copy and give one copy to the client (sec. 18.1, 183.T.A.R.)
2. Enter billing date (sec. 18.2 a))
3. Use consecutively pre-numbered invoices and keep one copy in numerical sequence for inspection purposes (sec. 18.1, T.A.R.)
4. If you have to collect GST and QST, you must register for the GST and QST by completing the Registration Form (LM-1), Revenue Québec, www.revenuquebec.ca.
5. Enter the last and first name of all customers as well as the address of one of the customers (sec. 18.2 b)
6. Enter the name of the counsellor who concluded the sale (sec. 18.2 h))
7. Businesses and employers are mandated to collect taxes if applicable. In this exercise, the tourism products and services are not taxable (GST-QST). For additional information, please visit www.revenuquebec.ca.
8. Indicate the amount of the FICAV contribution. Only on tourist products before applicable taxes (and not on the account administration and document issue fees, insurance, travel guides, etc.). Total of tourist products for this invoice: $4,352.00 (sec. 18.2 g) This amount may be claimed in addition to the price asked for the product or included in the asking price.
9. Specify the amount received and the balance owing, if any (sec. 18.2 c))
10. Enter this information or hand over the brochure (sec. 18.2 f), 18.4 T.A.R.)
11. Mention to the client that these amounts are collected in trust. (sec. 18.2 e))
12. Obligation to inform the customer of terms of reimbursement or of non-reimbursement (sec. 16 T.A.R.) Insurance provides compensation for amounts not reimbursed (see Topic 6).
13. When the amounts of tourist products and services are taxable, the amount of the FICAV contribution is also taxable. In this exercise, the tourist products and services are not taxable (GST-QST) so the amount of the FICAV contribution is not either. For more details, www.revenuquebec.ca.
A

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

**Action for contribution:** Action filed by a person having to execute an obligation of another against the real debtor of this obligation OR action filed against co-debtors by the one who had to pay all of the debt to the creditor.

**Anniversary date:** For a travel agent, the date on which he must renew his licence, or the first day of the 8th month after the end of the fiscal year of the travel agent; for a travel counsellor, date on which he must renew his certificate, or the 1st day of each year after the certificate is first issued.

**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 revision of a legal decision or administrative act.

**Applicant:** Person who submits a request in a motion.

B

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

**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 usual law applicable to relations between individuals.

**Civil liability:** Obligation of a person to REPAIR the harm he has caused to another by his fault or the fault of another or by some property he has in his custody.

**Civil remedy:** Remedy available under civil law.

**Class action:** Procedure that enables a person to assert before the courts not only his 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 their being combined in the same case.

**Compliance guarantees:** Obligation to deliver a good or provide a service complying with its description in the contract.

**Contract:** A business or service contract is one by which a person, the contractor of 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.

**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 benefiting from 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 creditor because of the lack of, inadequate or late execution of his obligation.
**Debtor:** Person who is required to fulfill an obligation toward another person.

**Defendant:** Person against whom an action is brought.

**Establishment:** Place of business distinct from any other, equipped with autonomous facilities and located in Québec.

**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.

**Force majeure:** Unforeseeable, unavoidable or irresistible event from a cause external to the debtor and freeing him from his 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.

**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 contemplated by 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 that he is guilty of the charge made against him.

**Implementing regulation:** Regulation intended to ensure the implementation of a law. It is based on a law and its provisions may not contradict the law.

**Individual security:** Contract in 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 OR a deposit of money or securities intended to guarantee future claims.

**Intermediary:** Person whose work consists of 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 the voting shares.

**Joint and several liability:** A designation of liability by which members of a group are either individually or mutually responsible to a party in whose favor a judgment has been awarded.

**Liability:** Obligation of a person to ANSWER for his acts or REPAIR the harm he has caused another by his own fault, by the act or fault of another person or by some property he has in his custody.

**Mandatory:** Person to whom a mandate is conferred by another person (civil law).

**Mandate:** Contract by which a person, the mandator, gives the power to represent him 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. (In common law, similar to power of attorney)

**Mandator:** Person who confers a mandate on someone else (civil law).

**Obligations:** In the broad sense, synonym of duties imposed in general by law or a contract.
Obligation of means (or obligation of diligence): Obligation by which the debtor is required not to obtain a specific result but only to apply all possible means to achieve it.

Obligation of result: Obligation by which the debtor is required to achieve a specific result and liable for doing so except if he can prove a fortuitous event (or act of God).

Officer: A director, partner, person exercising duties of management as well as any person who in fact performs one of these duties on behalf of an association, partnership or a person.

Penal charges: Legal procedures filed against the presumed author of an offence under a provincial law or a municipal by-law.

Penal liability: Obligation of a person to ANSWER for his acts when his behavior violates the rules established by the government to ensure peace and good order in society and, where applicable, to suffer the penalty prescribed by law.

Penal appeal: Appeal under penal law.

Penal sanction: Punishment imposed by law on an offender.

Plaintiff: Person who brings an action.

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

Principal establishment: Establishment at which the licensee mainly performs his 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 of its author or his intention to harm.

Recourse: The use of someone or something as a source of help in a difficult situation.

Regulation: Normative legislation, general and impersonal in nature, enacted by an executive power pursuant to an enabling statute and when in effect, enforceable. Example: a government regulation, a municipal by-law.

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 contemplated by the class of restricted licence issued on his account or for his benefit.

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

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

Supplier: Person who provides merchandise or services to another.

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 he 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 account of a third party or on account of its members, engages in or offers to engage in or issues vouchers for any of these operations: a) the booking or reservation of lodging accommodation; b) the booking or reservation of transportation services; c) the arranging of travel services.

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

**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 specifically provided purposes.

**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 he 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.

**Voluntary undertaking:** Under the Consumer Protection Act, when the President determines that a merchant does not respect a law whose application is monitored by the OPC, he may accept a voluntary undertaking by the merchant in which this merchant undertakes to apply the corrective measures that are 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.
Laws and Regulations most frequently consulted:

- **Civil Code of Québec** (*L.Q., 1991, c. 64*)
  To access the complete electronic version, please visit the website and click on “Code civil du Québec”.

- **Carriage by Air Act** (*L.R.C., 1985, ch. C-26*)
  To access the complete electronic version, please visit the website and click on “consolidated statutes and regulations”.

- **An Act respecting the distribution of financial products and services** (*R.S.Q., c. D-9.2*)
- **Consumer Protection Act** (*R.S.Q., chapter P-40.1*)
- **An Act respecting the Québec sales tax** (*R.S.Q., chapter T-0.1*)
- **Travel Agent Act** (*R.S.Q., chapter A-10*)
- **Regulation respecting the Québec sales tax** (*c. T-0.1, r.1*)
- **Regulation respecting travel agents** (*R.R.Q., chapter A-10, r. 1*)

To access the complete electronic version, please visit the website, click on “Produits en ligne”, “Lois et règlements”, “Recueil des lois et des règlements du Québec” and “Liste alphabétique”.

Websites most frequently consulted:

- **Autorité des marchés financiers**
- **Les Publications du Québec**
- **Department of Justice Canada**
- **Ministère de la justice du Québec**
- **Office de la protection du consommateur**
- **Société québécoise d’information juridique – Jugements**

Complementary references:

First of its kind in Québec, this Study Guide brings together all the information needed in preparing for the mandatory certification exam for travel agents and counsellors, administered by the Institut de tourisme et d’hôtellerie du Québec. This Guide also serves as a reference tool on laws and regulations governing the travel industry. The authors, Nathalie Gilbert and Isabelle Proulx, invite readers to reflect on legal issues applying to their commercial practices by providing relevant legislative information presented with real-life situations.

This Guide features:
- A simple and effective browsing approach;
- Content presented by topic for studying according to individual needs;
- A table of contents to quickly locate specific information;
- Expected learning objectives clearly stated at the beginning of each topic;
- Sample study cases and exercises providing content review;
- Answer keys to validate comprehension;
- Supplementary readings and exercises expanding on covered subjects;
- A glossary clearly explaining key terms emphasized in the text.

www.ithq.qc.ca/professionnelsduvoyage
www.opc.gouv.qc.ca