

October - December 2005

TICO REGISTRANTS RISE TO CHALLENGING TIMES



Few industries have to contend with such a range of factors that seem beyond the control of the industry itself as the travel business. From high oil prices and avian flu to natural catastrophes and the phenomenal growth of e-commerce, the travel retailers and travel wholesalers always feel the end result, whether it's a direct

impact or a ripple effect.

While TICO's primary goal - as stated on the masthead above - is "to promote a fair and informed marketplace where consumers can be confident in their travel purchases", this is largely met by making it as easy as possible for all registrants - both retailers and wholesalers - to remain informed about their responsibilities under the Travel Industry Act, 2002 and Ontario Regulation 26/05.

Generally speaking, the Ontario travel trade does an excellent job of responsibly looking after the interests of its clients, while coping with so many variables. These are just some of the major issues that many of you have had to deal with during 2005 - and did so remarkably well - or are likely to face in the near future:

Natural catastrophes

The year began tragically, with southeast Asia reeling from the impact of the tsunami and its horrifically high death toll. From a professional perspective, the travel industry had to rally, helping clients make their way home and offering suitable alternative options to those already booked to travel to the affected areas.

Closer to home, the exceptionally long hurricane season has created havoc in many of your clients' favourite holiday destinations... and in some cases, your clients were there when it happened. Everything from the wipe-

out of much of New Orleans and the coastal areas of many southern US states to the widespread damage along the Mayan Riviera and in Florida has cast a pall over the winter season. You are now having to scrupulously check the state of accommodations and destinations, and sometimes to re-jig bookings.

At the same time, you are likely worrying how long the temporary loss of so many popular destinations will last, and whether there will be an unprecedented shortage of places to send your clients during this most popular of travel seasons.

Adding to all of this, you must bear in mind your legal responsibility to your clients, at the time of a natural disaster. It is an important topic that TICO is constantly addressing.

The collapse of Jetsgo

As many of you remember only too clearly, the failure of Jetsgo left 17,000 travellers stranded at the height of March break. The impact on Ontario's travel industry was huge, including substantial claims on the Compensation Fund.

High oil costs and other price increases

So far, according to the United Nations World Tourism Organization, the higher oil prices and subsequent fuel surcharges by numerous airlines have not put a damper on demand for air transport. It remains to be seen whether the oil prices have peaked, and how much more of an increase in the cost of air travel will consumers be willing to swallow. As reported elsewhere in this issue, your clients do not have to pay any surcharge that is imposed at a later date, if they have already paid in full.

On a more local note, the 6.9% landing fee hike at Toronto Pearson International Airport may result in either increased air fares or the switching of flights to

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LETTER FROM THE CEO

Being able to communicate effectively with stakeholders is paramount to the success of any organization. The Travel Industry Council of Ontario (TICO) sends out a lot of information to its registrants, including this newsletter. However, it does not receive a lot of feedback regarding whether these communications are useful to registrants. TICO Board members noted that many registrants do not attend TICO events such as the Annual General Meeting. They wondered whether this meant that registrants were generally satisfied with TICO's performance and felt no need to attend or whether it was indicative of a problem. In order to find out the answer to these questions, the Board hired Sandown Communications Consulting to conduct a Communications Audit.



The Communications Audit was conducted in March of 2005. The survey was announced to registrants in advance via a broadcast fax, posting on the TICO website and in a TICO Talk article. The survey was conducted primarily through a ten-minute telephone interview of a random sample of registrants. In total, 352 registrant interviews were conducted. To ensure all registrants had the opportunity to participate in the audit even if they were not selected in the random sample, a paper copy of the questionnaire was posted on the TICO website, which registrants could download and fax back to the consultant. Three faxed responses were received. In addition, two focus groups were conducted in May of this year. Twenty registrants participated in the focus groups, which further explored the issues raised in the survey. TICO would like to thank those registrants who took the time to participate. Your feedback was very helpful and TICO is committed to exploring possible improvements to its communications, based on your comments.

A report on the results of the Communications Audit was received in May of this year. TICO is very pleased to report that the results of the Communications Audit were excellent. The results demonstrated that TICO's registrant communication processes and content appear to be highly effective, meeting both registrants' content and process needs. While registrants suggested some changes to improve communications, there was virtually nothing with which they expressed dissatisfaction. Registrants indicated that lack of interest in participating in TICO activities was more about the pace of their own businesses than any dissatisfaction or apathy.

Registrants have suggested that TICO increase the use of technology in delivering its communications (i.e. increased use of the web, e-mail, teleconference and web meetings); and have recommended that TICO provide more clarification on the boundaries of its authority and the purpose of the Compensation Fund. TICO values this input from registrants and is incorporating many of these ideas into an Action Plan to enhance its communications. We will keep you updated on our progress in this area. Once again, thank you for your feedback! I would like to wish you and your families a safe and happy holiday season. I look forward to communicating with you further in 2006.













A handwritten signature in orange ink, which appears to be "Michael Pepper". The signature is stylized and fluid, written in a cursive-like style.

Michael Pepper CEO

Invoicing and disclosure

As a result of receiving too many complaints from consumers, we would like to take the opportunity to remind you again of your legal obligations when it comes to invoicing and disclosure, both pre and post purchase. One of the most common complaints that we hear is that travel agents have not gone through the terms and conditions of a consumer's purchase. The importance of this cannot be stressed highly enough.

Much of what you are obliged to tell customers may first be communicated verbally. However, ultimately, it has to be included on the statement, invoice or receipt that the travel agent must provide promptly to the customer, once the travel services have been sold, as detailed in **Section 38 (1)** of the Regulation. As this is so important, it bears repeating. All of the following has to be included:

-  the name and address of the customer who purchased the travel services and the name and address, if known, of each person on whose behalf the payment is made
-  the date of the booking and the date of the first payment
-  the amount of the payment, indicating whether it is full or partial payment, the amount of any balance owing, if known, and the date when it is to be paid
-  any fees, levies, service charges, surcharges, taxes or other charges, and whether those amounts are refundable or non-refundable
-  the total price of the travel services
-  the name under which the travel agent carries on business, the travel agent's telephone number and registration number, the address of the travel agent's place of business, and information respecting other ways, if any, that the customer may contact the travel agent, such as the travel agent's fax and e-mail address
-  an accurate description of the travel services contracted for, including the destination, the departure date and the name of the persons who will provide the travel services
-  whether or not the customer has purchased trip cancellation insurance, and out-of-province health insurance, if applicable
-  whether the contract permits price increases
-  if the contract permits price increases, a statement that no price increases are permitted after the customer has paid in full, and a statement that if the total price of the travel services is increased and the cumulative increase, except any increase resulting from an increase in retail sales tax or federal goods and services tax, is more than 7 per cent, the customer has the right to cancel the contract and obtain a full refund
-  advising the customer in writing about the information or travel documents that will be required for each person travelling
-  the names of all the travel counsellors who provided information to the customer on the travel agent's behalf ▲

Clarifying trust accounting

Once the *Ontario Travel Industry Act, 2002* came into effect on July 1, 2005, all registrants were required to have a *Travel Industry Act* trust account designated by their financial institution. TICO has been following up with registrants who were grandfathered from trust accounting prior to July 1. To show that this condition has now been met, these registrants must provide TICO with a letter confirming the existence of the trust account from their bank. To facilitate this step, TICO has prepared a form letter that may be given to the bank. This letter may be accessed on TICO's website, www.tico.on.ca, in the "Downloadables" section. To ensure that the trust account is being maintained as prescribed by the *Act*, TICO will be following up with registrant inspections over the upcoming months.



The impact of hurricane wilma

The devastation in some of Mexico and Florida's prime tourist areas caused by Hurricane Wilma has highlighted, once again, the need for registrants to know their responsibility in the event of a natural disaster.

If a consumer is already at a destination when a natural disaster occurs, the registrant, under the *Act*, is not required to make any refund. In the case of Hurricane Wilma, for example, tourists who purchased their travel services from an Ontario registrant, and who were forced to leave their hotel - and in some cases, the area - had no right under the *Act* or the Regulation to be reimbursed by their travel agent for any extra costs incurred. If, however, the customer had purchased a package to, say, Cancun, Cozumel or the Florida Keys, for a later period, it would be incumbent on the registrant to ascertain whether the accommodations sold were in the same condition as at the time of sale. If they were not, the registrant is obliged to offer a refund or comparable accommodation, as detailed in **Section 39** of the Regulation.

Section 40 details situations in which registrants must offer the customer the choice of a full and immediate refund or comparable alternate travel services that are acceptable to the customer.

Denise Heffron Vice President, Commercial Transat Holidays Vice Chair, TICO Board of Directors



What was your background, prior to becoming involved in the travel business?

I graduated with a Bachelor of Arts from the University of Western Ontario, and then took a position with the Ontario Ministry of Education in its Independent Learning Centre, where we created educational texts for students who were learning via correspondence courses.

When did you enter the travel business?

I joined the marketing department of Sunquest Vacations thirteen years ago, in 1993. After a year with Sunquest, an opportunity came up to join Transat Holidays, as the Creative Director in their Marketing Department. Since then, I've held a variety of positions. I went on to become first, the Marketing Director, Ontario, and then the Marketing Director, National. Next I became the Assistant General Manager, Ontario, and then the General Manager, Ontario. I now hold the position of Vice President - Commercial, Canada.

What does that role involve?

Basically I oversee the Transat Holidays brand nationally, focusing on sales and marketing. On a day-to-day basis, I handle negotiations with the national chains and work closely with the regional managers across the country.

Have you been involved with other travel industry organizations?

I've been our company's representative on CATO (the Canadian Association of Tour Operators) for the last four years. When the position for a CATO representative on TICO's Board of Directors came up, I was eager to take it. I'm now in my second year on TICO's Board, and currently its Vice-Chair.

What do you get out of being on TICO's Board?

One of the key things of being on the Board is that you are not there to represent your company, but rather to look after the

interests of the travelling consumer and the Ontario travel industry as a whole, which is obviously a very different and broader perspective. Through that, I have learned a lot that I can apply to my own business. Also, I believe that we all need to be responsible business people and contribute to a productive industry. Working on TICO provides a means of giving back to the industry and ensuring its healthy development.

What do you feel that you bring to TICO?

Since I work for the largest tour operator in Canada, I can bring a perspective that is important to the mix of people who sit on the Board. Ultimately, of course, both the consumer and the industry benefits because of the collective focus of the Board. The different perspectives and expertise in so diverse a range of areas sheds light on many issues.

Is there any one issue that is particularly important to you?

Because of the huge impact it is already having and will continue to have on our industry, I like working on the E-Commerce Committee. It is not an issue that can be settled overnight, and is a significant learning curve for all of us. But it is crucial that the travel industry has input on the rules and regulations governing e-commerce, because if we are not diligent, we could be end up burdened by restrictions that are detrimental for the industry.

What do you see as TICO's main challenges?

Firstly, the Travellers' Protection Initiative. Working to ensure there is adequate coverage for airline passengers is a priority for the entire industry. Ideally, there should be a national body, or a national collaboration, but whatever shape it takes, there has to be consumer protection across Canada in this area.

Secondly, working towards complete awareness of TICO. TICO is already doing an excellent job through its Consumer Awareness Campaign, but I feel that we need to run a similar campaign for the retail travel trade. Managing the day-to-day side of the business is already challenging, and retail agencies often don't have the time to keep on top of every change, or have the legal expertise to fully understand the impact of many of these changes. That is where TICO plays such an important role, and we need to let retail registrants know how much TICO can work with and for them.

What are your hopes for the future, as far as TICO is concerned?

Although TICO is already working with associations across Canada, at some point, I would like to see a national organization that oversees consumer protection. ▲

Dates to note

January 28, 2006:

Government & Community Services Fair
Cloverdale Mall
250 The East Mall
Etobicoke

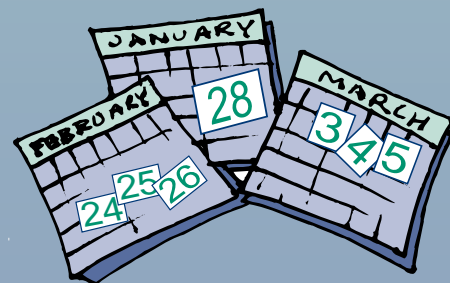
February 24 - 26, 2006

Outdoor Adventure Show
International Centre
6900 Airport Road
Mississauga

March 3 - 5, 2006

Canadian Woman's Expo
International Centre
6900 Airport Road
Mississauga

TICO will be distributing informational material at the above shows.



TICO TALK feedback

As always, we would very much like to hear from you if you have any questions, comments or concerns on anything that you read in TICO TALK, or on any other matter that impacts the travel industry. Please do not hesitate to get in touch. We can be reached very easily - at (905) 624-6241, or at 1-888-451-TICO, or by e-mail to tico@tico.on.ca.



More legislative changes

Clear communications

Before entering into an agreement with a customer on the sale of travel services, a registrant must bring to the customer's attention what documentation will be needed by the person who is travelling, if they are travelling outside Canada. As outlined in **Section 36** of the Regulation, this would typically include passports, visas and affidavits. Although this information does not have to be in writing prior to the booking, a travel agent is now obliged to document on the invoice what information has been provided.

In a similar vein, in situations where a travel agent is obliged to offer the choice of a full and immediate refund or comparable alternate travel services acceptable to the customer, **Section 40** of the Regulation dictates that registrants must now document in writing what information was communicated to the customer, the date of that communication, the method of the communication and the choice the customer made. Please note that it is not necessary for you to communicate in writing with your client, only to keep written records of every stage of the communication.



Airline credits on file: a problematic issue

TICO has received a number of claims from consumers who were given a "credit on file" by Jetsgo, prior to its collapse, for use at a later date. These credits were provided when the consumers cancelled, for a variety of reasons, their travel services. Others were provided when Jetsgo flights were cancelled due to bad weather conditions.

Since these credits were not used, the consumers submitted claims to the Compensation Fund requesting a cash reimbursement for the value of the credit. However, Jetsgo was not obligated to provide alternate travel services or compensation and, in reality, these non-refundable tickets had no cash value and were ineligible for reimbursement.

While claims pertaining to Jetsgo fall under Ontario Regulation 806/93, Section 50 (3) 2, there is a similar section under the new Regulation. Section 57 (3) 11 states that a customer is not entitled to be reimbursed for consequential or indirect damages incurred as a result of the failure to provide the travel services.



As numerous airlines offer this type of credit, it is very important for travel agents to be fully aware of the ineligibility of such claims against the Compensation Fund in the event of a failure. Whenever your clients are given a credit on file with any airline, you should encourage them to use it as soon they can. ▲

The ins and outs of surcharges

Over the past few months, TICO received numerous calls from consumers and registrants who were either complaining about or questioning the legality of a recently imposed fuel surcharge. In some cases, the consumers reported that they had paid the travel agency in full and were now being told that they had to pay up to another \$100 per person to cover a fuel surcharge. They were, understandably, upset and wanted to know what their rights were. Section 38 (1) of the Regulation addresses this situation very clearly, and it is an important point that all registrants must understand.

The statement, invoice or receipt provided to the consumer must indicate whether the contract permits price increases or not. Even if the contract does permit a price increase, it has to be stated that no increase is permitted after the customer has paid in full.

The invoice must also state that if the price is increased by more than 7 per cent - excluding increases caused by an increase in retail sales tax or the federal goods and services tax - the customer has the right to cancel the contract and be fully refunded. ▲

Consumer awareness on a roll

Buoyed by the 10% increase in consumer awareness of TICO, measured by the 2004/05 Omnibus Survey, TICO's Consumer Awareness Campaign is now well underway for the upcoming year. Television commercials are already being aired and radio commercials will be playing through the peak season for purchasing winter travel services, from December through February.

As importantly, all of the handouts distributed to consumers - *The Ontario Travel Industry Compensation Fund, Assisting Consumers with Travel Agency & Travel Wholesaler Complaints, What Travel Agents are Required to Disclose to Consumers, Consumer Tips for Purchasing Travel Services on Line* and *Travel Tips for Consumers* - have been revamped and updated, making them more helpful than ever. They now include references to the new legislation and more general information - including tips, fun facts (most often forgotten item? a toothbrush; most longed for item? soap) and handy websites. While TICO is willing to send you copies of any of these handouts, you may also download them from TICO's website - www.tico.on.ca - from the Downloadables section on the left-hand-side of the home page. ▲

In addition, TICO's ticket stuffer has been updated, and offers an abundance of information on TICO, the Compensation Fund and consumer rights. We encourage you to provide it to all of your clients. Phone or e-mail TICO and we will happily send you a supply.

Court matters

CHARGED

Said Abbas Farah and 1444834 Ontario Inc., o/a Travel Route, have been charged with four counts each of failing to hold customer funds in trust, contrary to Section 36 (6) of Ontario Regulation 806/93 made under the *Travel Industry Act*. An ex-parte trial is scheduled for May 3, 2006 at Old City Hall Court, Toronto.

Dominique Faubert has been charged with seven counts of operating without registration, contrary to Section 3 (1) of the *Travel Industry Act*. Faubert is scheduled to make her first appearance in L'Original's Provincial Offences Court (40 miles/64 kilometres east of Ottawa) on January 19, 2006.

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DO NOT FORGET!

Transferring equity shares

If you are planning to sell or buy another company, bear in mind that under **Section 15** of the *Act*, the Registrar must be notified within 30 days after the issue or transfer of equity shares of the corporation if it results in any person or associated persons acquiring control of 10% or more of the corporation.

Changes of address or officers

All registrants should be aware that if the business that provides travel services moves, or if there are any changes in the officers or directors of a corporation or partnership, **Section 24 (1)** of the *Act* requires them to notify the Registrar within five days after the event.

Advance notice required

There are certain changes that registrants are required to inform the Registrar five days in advance of the change taking place, according to **Section 17** of the

Regulation. They are:

- ✿ Change of a supervisor or manager
- ✿ Change of the name or number of an account, or in the financial institution where the account is maintained
- ✿ Change of address for office or branch office
- ✿ Change of counsellors - after July 1, 2008



Upcoming Issues

In future issues of TICO TALK we plan to include:

- Overview of the *Travel Industry Act, 2002* Minimum Education Standards
- The progress of the Travellers' Protection Initiative
- Update on Canada 3000
- Further analysis of the Legislative and Regulatory changes

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other cities, possibly in the US, or both. If either happens, Ontario's registrants will be handling the fall-out.

Client expectations

To curtail the increase in complaints and litigation by unhappy clients, the revamped legislation has put more onus on Ontario travel registrants to describe the details and cost of all travel services sold, as accurately and plainly as possible. To help you promote your travel products and meet the requirements of the *Travel Industry Act, 2002* and Ontario Regulation 26/05, TICO has prepared a free booklet, *Advertising Guidelines for Ontario Travel Retailers and Travel Wholesalers*, and we encourage you to obtain it. It may be downloaded from TICO's website, or one can be mailed to you.

E-commerce

Travel sales on the Internet have grown to \$172 billion in eleven years, and are anticipated to reach as much as \$329 billion by 2010. Not so long ago, many bricks-and-mortar travel agencies were deeply concerned about competition from companies selling travel on the web. Now the vast majority of retailers operate their own web site and are seeing the benefits of combining e-commerce with person-to-person services and expertise.

A huge advantage that TICO members have is that anyone purchasing from them online is still protected by the *Act*. Another helpful booklet published by TICO - *Consumer Tips for Purchasing Travel Services Online* - explains the importance of dealing with a TICO registrant, and what is involved in the successful purchase of travel services online. It may be downloaded from TICO's website, and is also distributed at the various trade shows that TICO attends. ▲

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CONVICTIONS

Following an ex-parte trial at the Scarborough Provincial Offences Court, Jasen Earle Plunkett, carrying on business as Access Travel Services and Access Vacation Services, was convicted of ten counts of acting as an unregistered travel agent, contrary to Section 3(1) of the *Travel Industry Act*. He had previously been convicted in 2002 under the *Act* for acting as an unregistered travel agent. Plunkett was sentenced to six months in jail for all ten counts, to be served concurrently.

Hilda Dinglasan pled guilty to two counts of acting as a travel agent without registration, contrary to Section 3 (1) of the *Act*. Dinglasan was fined \$1,000 per count.

REVOCATIONS

Between August 4, 2005 and November 14, 2005, nine companies had their registrations revoked: Nepean Travel Services Ltd. o/a Nepean Travel; 585119 Ontario Inc. o/a Seven Oaks Travel (wholesale registration only); Neo Tours Holidays Inc./Vacances Neo Tours Inc.; Planet Tours and Travels Ltd.; D. Delaurier Investments Inc. o/a Windsor International Entertainment; Harry James Clark & Lauren Alma Clark o/a Thousand Island Tour Service; 1583721 Ontario Corp. o/a Unitravel; and Vincent Cheng o/a Swept Away Travel. ▲

