



## **Effective January 1, 2017**

# **Advertising Guidelines for Ontario Travel Retailers and Travel Wholesalers**

### **Introduction**

The Travel Industry Council of Ontario (TICO) is responsible for administering the provincial legislation governing the travel industry in Ontario, the *Travel Industry Act, 2002 (Act)* and Ontario Regulation 26/05 (Regulation). TICO's mandate is to ensure that anyone involved with selling travel services in Ontario is doing so in accordance with the *Act*.

These guidelines are designed to assist Ontario travel agents and travel wholesalers (registrants) with complying with advertising requirements under the *Act* and Regulation.

### **Terms used in these Guidelines**

#### **The following definitions are found in the Act:**

##### **Section 1 - Interpretation**

**Travel Agent** is defined as a person who sells to consumers, travel services provided by another person.

**Travel Services** are defined as transportation or sleeping accommodation for the use of a traveler, tourist or sightseer or other services combined with that transportation or sleeping accommodation.

**Registrant** means a travel agent or travel wholesaler who is registered as a travel agent or travel wholesaler or both under the Act.

##### **Section 28 – False Advertising**

No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to the provision of travel services.

#### **The following provision is found in the Regulation:**

##### **Section 32 – False, Misleading and Deceptive Representations**

Under Section 32 it is a violation for registrants to make false, misleading or deceptive representations in advertisements for travel services.

#### **The following terms are used in the travel industry and are provided for clarification:**

**Travel Retailer** – often used interchangeably with the term Travel Agent

**Travel Counsellor** – person employed by the travel agent, who is authorised to sell travel services on behalf of the travel agent and who has obtained TICO Certificate for being travel counsellor and/or travel supervisor/manager.

**Outside Sales Representative (OSR)** – same as a Travel Counsellor, except can sell travel services outside of the main place of business of the travel agent, i.e. from any public place.

## WHERE DO THE GUIDELINES APPLY?

These advertising guidelines apply to all representations by registrants as set out in Section 31 of the Regulation, and typically include, but are not limited to:

- newspaper advertisements
- flyers
- websites
- electronic advertising and all representations made online (emails, e-blasts, e-newsletters, etc.)
- brochures
- pamphlets
- business cards

### The minimum requirements for all representations:

- business name
- business address
- registration number
- contact information
- all representations must be accurate, clear, comprehensible and displayed in a prominent manner.

**TICO recommends that this information be prominently displayed in all representations.**

If your advertisement is on a billboard, bus board or a car wrap or made through any other medium with similar time or space limitations such as television or radio, please refer to Section 31 (3) of Regulation or contact TICO for more information.

**Advertising & Website Checklist** is available at TICO's website at [www.tico.ca](http://www.tico.ca)

### Telephone numbers

- Residential telephone numbers are not permitted in representations (including newspaper ads, websites or business cards).
- Cell phone numbers may be included in a representation as long as the registrant's main business number is also included. A cell phone number on its own is not permitted.

### **ADVERTISING A PRICE: ALL-IN-PRICING – EFFECTIVE JANUARY 01, 2017**

Section 33 of the Regulation lists rules with regards to any representations that refer to a price, including but not limited to newspaper advertisements, brochures, pamphlets and any representations or advertisements made online such as websites, social media and e-blasts.

The following information must be included as of January 01, 2017:

- Any representation that refers to a price shall set out the total amount that the customer will be required to pay for the travel services, including **all fees, levies, service charges, surcharges, taxes and other charges. In other words, "all-in" pricing is required.**
- Retail sales tax or federal goods and services tax must be included in the total price advertised.

- Registrants that charge counselling fees or service charges must include those amounts in the total price advertised.

**Note:** *the new provision requires registrants to ensure that they comply with the requirements of any Act or regulation under it respecting advertising of prices or in respect of taxes. It is also the registrant's responsibility to ensure that they comply with the requirements of any Act or regulation (i.e. Retail Sales Tax Act). TICO recommends that registrants seek legal advice if they are unsure about their obligations under other statutes.*

Some registrants may already advertise a base price plus total taxes, fees and additional charges. To meet the new requirement, the price advertised must be an **"all-in price"** that includes all taxes, fees and other charges. An amount representing the total taxes and fees may be specified separately, however a detailed breakdown should always be available to the consumer upon request and on an invoice.

**The goal of the new all-in pricing requirement is to ensure that consumers know exactly what they will be required to pay for travel services and to make it easier for consumers to compare prices.**

### Section 33 of the Regulation requires:

- If advertising a "from" price, all of the factors affecting that price must be disclosed with the price point. Eg. If the "from" price represents a specific room type and travel date, those two factors must be shown. You may also advertise a "from" price if you include a "to" price.
- If there is a range of dates and prices, the representation must include a "from" and "to" price & the date range.
- The representation must include a brief description of the advertised travel services including the name of the air carrier, hotel and travel wholesaler, where applicable.
- The Registrant must ensure the advertised price is available at the time the advertisement is accessible to the public. A previous price may NOT be advertised.
- Price advertised must be in Canadian currency unless clearly specified otherwise.
- The Registrant must include a statement that further information is available.

If advertising online and a price is posted, then the price point must be an **all-in price**. It is acceptable to refer customers to further details with respect to limitations of the booking such as dates of travel, class, cabin type etc. on another webpage, however the page must be **only one click away** (i.e. a click through to another page).

**Note: Fees that are mandatory and paid by the consumer in destination (and not to the travel agent at the time of booking) do not have to be included in the all-in price but must be disclosed to the consumer in the applicable Terms & Conditions.**

### BROCHURE AND WEBSITE ADVERTISING

Any representation that is made in writing including brochures, websites, flyers and pamphlets are also subject to the requirements of Section 34 of the Regulation in addition to Sections 31-33, 35. The following information must be disclosed:

- Deposit and final payment requirements, refund policy & cancellation terms and charges.
- The availability and cost of trip cancellation insurance and out of province health insurance.

- A fair and accurate description of the travel services including details of transportation including carrier & class of service, departure & arrival points, accommodation details including location.
- The date or anticipated date of commencement of any significant construction or renovation, and the duration if known.
- The time period to which the representation applies.
- If a price is posted, then the price point must be an all-in price and further details must be available **one click away**.

In the event of a misprint or in the event the brochure contemplates price changes from the date of printing of the brochure, the registrant is required to promptly notify the industry and consumers of the price change.

### **NEWSPAPER ADVERTISEMENTS**

Newspaper advertisements must include all of the information required in Sections 31, 32 and 33. This includes the registrant's name, registrant's business address, registration number and the all-in pricing requirements.

Disclosure of the requirements set out in Sections 31 and 33 must be accurate, clear, comprehensible and prominent. Tiny, illegible "mouse" script hidden in the border or at the very bottom of the advertisement does not meet the test of clear, comprehensible and prominent.

### **SOCIAL MEDIA**

Social media sites such as Facebook, Twitter, Instagram, Blog sites are not exempt from the above requirements. The main page or home page must display the business name, address, and TICO registration number as per Section 31.

If a price is posted, then the price point must be an all-in price and further details must be available **one click away**.

Facebook post messages or status updates as well as "tweets" or other similar postings are limited space mediums and therefore are exempt from Section 31. However the main pages or home pages of these sites are NOT exempt from Section 31. All minimum requirements must be available **one click away**.

### **PHOTOGRAPHS**

Section 35 of the Regulation requires that any photograph that is used in any representation shall be an accurate representation of the site and it shall clearly indicate that it is a photograph. If the picture is not a photograph, then the representation shall clearly explain that it is NOT an actual photograph, but that it still accurately depicts the property or thing being represented.

### **FALSE, MISLEADING, DECEPTIVE REPRESENTATIONS**

No registrant shall make false, misleading or deceptive statement in any advertisement, circular, pamphlet or material distributed by any means relating to provision of travel services (section 28 of the Act).

Any representation made by the registrant must be accurate, reliable and transparent. Should TICO believe the registrant's advertisement to be false, deceptive or misleading, the registrant can be ordered to cease the use of, retract or issue a correction of the advertisement.

Registrants found in breach of section 32 of the Regulation or sections 28 of the Act, may face charges, proposal to revoke registration or other administrative action.

## USE THE TICO LOGO IN YOUR ADVERTISING

There is an ever-increasing number of companies from outside of the province that advertise in Ontario. Let consumers know that you are an Ontario-registered travel company by displaying the TICO logo in your advertisement. Only consumers who book through TICO registered travel agencies or websites are protected by the Ontario Travel Industry Compensation Fund. Please note that advertising the TICO logo does not replace the requirement of Section 31 of disclosing your TICO registration number.

To download the TICO logo and include it in your advertising, visit our website: [www.tico.ca](http://www.tico.ca) and click on Industry Info and then, TICO Logo/Consumer Awareness Tool Kit, and follow the instructions.

### ADVERTISING TOOL KIT:

The following tools are available to assist you on our website, [www.tico.ca](http://www.tico.ca), under *Legislation & Resources, Industry Guidelines*:

- Advertising Checklist
- Website Checklist
- Travel Industry Act, 2002
- Ontario Regulation 26/05

***If you are uncertain whether your presentation is compliant, TICO's compliance staff can review your representations prior to publishing or posting in order to ensure compliance. If you have questions related to these guidelines, please contact TICO for more information.***

***Please note that failure to comply with the sections of the legislation mentioned above may result in administrative action including Notice of Proposal to Revoke or prosecution being initiated under the Act.***

### DISCLAIMER

*These guidelines have been developed to assist registrants in complying with the requirements and prohibitions found in the Act and Regulation. These guidelines contain information regarding TICO's interpretation of the legislative and regulatory provisions and suggested best practices. If you have any questions regarding the information in this document, you should contact TICO.*

*The information provided is for general informational and educational purposes only and is not intended to provide legal advice to any individual or entity. These guidelines are not exhaustive and cannot hope to address the complexities of every travel business in the province. Further, registrants are subject to other federal, provincial and municipal laws that impact their businesses. We urge you to consult with your own legal advisor regarding the specifics of your business and compliance with the Act and Regulation. You should not rely on information in this document as an alternative to legal advice.*

*The content in these guidelines is current as of the date of publication. While TICO strives to keep the information as timely and accurate as possible, it makes no claims, promises or guarantees about the accuracy, completeness or adequacy of the content. In the event of a conflict, the requirements in the Act and Regulation will prevail.*

*If you have any questions, please contact TICO's Compliance Department at 1-888-451-TICO (8426).*