



## Guidelines for Disclosure & Invoicing Requirements

### 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 travel agents and travel wholesalers in complying with the requirements of the Act and the Regulation with respect to disclosure and invoicing.

#### Terms used in these Guidelines

The following definitions are found in the Act

##### Section 1

**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.

### What Travel Agents are Required to Disclose to Customers

#### Disclosure Prior to Booking

Section 44 of the Regulation states that if a travel agent charges a counselling fee or service charge it must be disclosed to the client prior to counselling or selling the travel service. In addition, they must inform the client if the counselling fee or service charge is refundable or nonrefundable.

Section 36 of the Regulation provides a mandatory list of information that a travel agent must disclose to a customer before completing a sale of travel services with the customer. These requirements must be met whether the travel agent is dealing with the customer in person, on the phone or over the internet.

#### **Conditions of Travel**

The travel agent must bring to the customer's attention any conditions related to the purchase of travel services that the travel agent has reason to believe may affect the customer's decision to purchase. This would include (but not limited to) such conditions as construction at the resort, health or travel warnings.

### **Total Price**

The travel agent must disclose the total price of the travel services, the travel dates and provide a fair and accurate description of the travel services being sold. This would include any service fee or consulting fee that will be charged.

### **Cancellation Fees and Non-Refundable Amounts**

The travel agent must explain to the customer any requirements or limitations relating to the transfer or cancellation of travel services including any cancellation penalties or costs related to the transfer and any amounts that are non-refundable.

### **Insurance**

The travel agent must advise the customer of the availability of trip cancellation insurance and out of province health insurance, if applicable.

### **Travel Documents**

In the case of travel outside of Canada, the travel agent must advise the customer:

- About the typical information and travel documents, such as passports, visas and affidavits that will be needed for each person for whom travel services are being purchased.
- That entry to another country may be refused even if the required information and travel documents are complete, and
- That living standards and practices at the destination and the standards and conditions there with respect to the provision of utilities, services and accommodation may differ from those found in Canada.

Please note that what is considered typical information and travel documents may vary depending on the specific destination. The information needs to be provided for each person for whom travel services are being purchased. Thus, the travel agent should inquire about the type of passport or citizenship for each person traveling and indicate to the customer the type of documentation required for each individual. If the transaction is being done on the internet, the travel agent may wish to caution the customer that if they are unsure about the information provided regarding the documentation required, they should contact the travel agent to confirm the requirements prior to booking.

The following list provides some examples of information that customers should be advised about:

- If a passport is required and whether the passport must be valid for a certain period of time after the date of departure.
- Whether a visa is required.
- If a parent is traveling alone with a child, that an affidavit or letter from the other parent may be required
  - If medical inoculations are required.
- How long it usually takes to obtain passports, visas or affidavits if required.
- That entry to another country may be refused even if the required information and travel documents are complete as travel documentation is subject to change.

- That it is the customer's responsibility to ensure that they have the appropriate travel documentation.
- That living standards and practices in other countries and the standards and conditions with respect to the provision of utilities, services and accommodation may differ from those found in Canada.

**EXAMPLE:**

The following statement would **NOT** be adequate disclosure to the customer:

**"Travelers may require a passport and visa. It is the responsibility of the traveler to ensure that they have the appropriate documentation."**

The statement is not adequate as it does not address the requirements for each person traveling and may not provide enough information about the documentation required for the specific destination.

For online bookings, travel agents do not have the opportunity to actually speak to the customer and inquire as to what travel documents they possess. TICO requires the following disclosures in writing prior to booking as well as included on the invoice:

- What documentation is required for a Canadian citizen traveling on a Canadian passport.
- If the customer holds different documentation, they must be advised to contact your office for further assistance.
- Additionally, you may refer a customer to a website that offers specific travel documentation requirements as long as it is in conjunction with the above information. Referring customers to check a website on their own is not sufficient.

**Other Terms and Conditions**

The travel agent must refer to other terms and conditions, if any, that relate to the travel services being purchased and advise the customer where those conditions may be reviewed.

**Travel Agent Required to Answer Questions**

The travel agent must advise the customer that the travel agent is required to answer any questions the customer may have arising from the information provided in a representation. If the travel agent is operating on the internet the travel agent should provide a telephone number to call or provide some other method to answer the customer's questions.

**Invoicing - Disclosure After Booking is Completed**

**Travel Agent's Invoice**

Section 38(1) of the Regulation states that a travel agent must promptly provide a statement, invoice or receipt to a customer after selling travel services. This documentation must include all the information required to be disclosed to the customer at the time of booking. TICO recognizes that customers purchase travel services in various ways: in person, over the phone or on the internet. In all cases, a statement invoice or receipt must be provided. Even if the sale is an airport pickup, this documentation must be provided.

TICO also recognizes that registrants may include the itinerary as part of the statement, invoice or receipt. Regardless of the form of statement, invoice or receipt issued - all of the required information must be provided to the customer. If more than one document forms part of the statement, invoice or receipt, the documentation should clearly state so.

The statement, invoice or receipt, if prepared manually, must be consecutively pre-numbered or if it is prepared by computer must be assigned a unique identifier.

**The statement, invoice or receipt must include the following information:**

- The name and address of the customer who purchased the travel services, and the name, if known, of each person on whose behalf the payment is made;
- The date of the booking, the date and amount of the first payment, any balance owing, if known, and when, if applicable, the balance is due;
- Any fees, levies, surcharges, taxes or other charges and whether those amounts are refundable or not; TICO does not expect registrants to break out every individual fee if the travel agent does not have this information. It is acceptable to lump together some of the charges on the invoice, however, registrants must identify on the invoice amounts that are not refundable;
- The total price of the travel services;
- The name under which the travel agent carries on business, the address, telephone number and registration number of the travel agent and any other way the consumer can contact the travel agent such as fax number or email address;
- A fair and accurate description of the travel services purchased including the destination, the departure date and the names of the service provider/supplier providing the travel services;
- Indicate whether the customer has purchased trip cancellation and out-of-province health insurance, if the travel agency sells insurance. If the travel agency does not sell insurance, indicate whether the consumer was advised of trip cancellation or out-of-province health insurance, if applicable. It should also be noted on the invoice that insurance is available to the customer through other avenues.
- Whether the contract permits price increases, if increases are not permitted on a particular booking that must be specifically stated on the invoice. If the contract permits price increases the following must be stated:
  - 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.
- The advice given to the customer regarding the typical information and the travel documents needed for each person for whom travel services are being purchased. This would include, but is not limited to, passports and their validity, visas, affidavits for minor children and any vaccinations that may be required;
- The name of the travel counsellor who made the booking and accepted the first payment.

## Continuous Disclosure obligation

### Advising Customers of Changes

Section 37 of the Regulation provides that if, after a customer had purchased travel services, the Registrant becomes aware of a change to any matter that is referred to in a representation and that, if known, might have affected the customer's decision to purchase, the registrant shall promptly advise the customer of the change.

This section affects both travel agents and wholesalers and includes all representations, whether verbal or written including advertisements or brochures.

#### **EXAMPLE:**

*A resort is now under construction due to damage caused by bad weather. In this circumstance, if the customer had known before booking the travel services, they may not have chosen this resort and the registrant must bring this information to the customer's attention.*

***The guidelines above provide some examples but are not exhaustive. If you have questions relating to disclosure and invoicing guidelines please contact TICO for more information.***

### **DISCLAIMER**

*These guidelines have been developed to assist registrants in complying with the requirements and prohibitions found in the Travel Industry Act, 2002 (the "Act") and Ontario Regulation 26/05 (the "Regulation"). The document contains 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).*

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