

Gouvernement du Québec

O.C. 11-2001, 11 January 2001

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

**Policy on accurate pricing for merchants who use optical scanner technology
— Voluntary Undertaking**

Policy on accurate pricing for merchants who use optical scanner technology

WHEREAS, under section 314 of the Consumer Protection Act (R.S.Q., c. P-40.1), the president of the Office de la protection du consommateur may accept a voluntary undertaking from a person with the object of governing relations between a merchant, or a group of merchants, and consumers;

WHEREAS, under section 315.1 of the Consumer Protection Act, the Government may, by order and with or without modification, extend the application of a voluntary undertaking made under section 314 of that same Act to all merchants in the same sector of activity, for all or part of the territory of Québec;

WHEREAS a number of merchants who use the universal product code optical scanning technology and wish to take advantage of the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act (R.R.Q., 1981, c. P-40.1, r. 1), introduced by section 4 of the Regulation to amend the Regulation respecting the application of the Consumer Protection Act made by Order in Council 10-2001 dated 11 January 2001, signed a voluntary undertaking to adopt and apply a policy to ensure the accurate pricing of the goods sold in their establishments;

WHEREAS it is appropriate, in the interest of the public, to extend the application of the voluntary undertaking to all merchants who use the universal product code optical scanning technology and take advantage of the aforementioned exemption, for all of the territory of Québec;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), notice was given in Part 2 of the *Gazette officielle du Québec* of 5 July 2000 that the Government could extend the application of the voluntary undertaking, the text of which is attached hereto, to all merchants who use the universal product code optical scanning technology and take ad-

vantage of the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act, for all of the territory of Québec;

WHEREAS it is expedient to make this Order in Council;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Relations with the Citizens and Immigration:

THAT the application of the voluntary undertaking attached to this Order in Council be extended to all merchants who use the universal product code optical scanning technology and take advantage of the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act, for all of the territory of Québec;

THAT this Order in Council comes into force on 24 February 2001.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

Voluntary Undertaking

Consumer Protection Act
(R.S.Q., c. P-40.1, s. 315.1)

The merchant shall undertake to implement the mechanisms necessary to achieve and maintain the accurate pricing of the goods sold in his establishment and, without restricting the scope of the preceding, THE MERCHANT UNDERTAKES AS FOLLOWS:

ACCURATE PRICING POLICY

1. For each establishment in which the merchant intends to use the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act (R.R.Q., 1981, c. P-40.1, r. 1), introduced by section 4 of the Regulation to amend the Regulation respecting the application of the Consumer Protection Act made by Order in Council 10-2001 dated 11 January 2001, the merchant shall adopt and apply an accurate pricing policy offering consumers compensation in the case of an unfavourable error corresponding to the following minimum standards:

(1) where the price of the good rung in at the check-out is higher than the price advertised, the lower price shall be honoured and:

(a) the merchant shall give the good to the consumer free of charge, if the accurate price of the good is \$10 or less; or

(b) the merchant shall correct the price and grant the consumer a discount of \$10 on the corrected price, if the accurate price of the good is higher than \$10;

(2) where the same error occurs in respect of identical goods during the same transaction, the merchant shall correct each of the errors but compensate the consumer in accordance with subparagraph *a* for only one of those goods;

(3) the accurate pricing policy shall apply even if the error is noticed before the transaction is completed, on the condition however that the consumer buys the good;

(4) the accurate pricing policy shall not apply in respect of a specific good if its application contravenes an act or regulation.

2. The merchant shall post in a conspicuous place, near each check-out in the establishment and near each optical scanner made available to consumers, the accurate pricing policy in dark, easily legible letters on the white background of a sign measuring at least 387 square centimetres and on which only the policy appears. Where the area of the establishment open to the consumers is 697 square metres or more, the merchant shall also post the policy in a conspicuous place in the establishment in dark, easily legible letters on the white background of a sign measuring at least 0.56 square metres and on which only the policy appears.

3. The accurate pricing policy shall be printed in the merchant's flyer at least once during each trimester of publication of the flyer.

REIMBURSEMENT OF THE COSTS OF INVESTIGATION

4. The merchant shall reimburse the Office de la protection du consommateur for the costs of any investigation carried out under the authority of the president of the Office in accordance with the powers conferred on the president by the Act, to verify the pricing accuracy rate in the establishment up to:

(1) \$250 upon the first investigation;

(2) \$1000 upon the second investigation if that second investigation is carried out within six months following a notice given by the president of the Office according to which the first investigation showed a pricing error rate of more than 2% in the establishment.

INTERPRETATION

5. For the purposes of this voluntary undertaking:

“pricing accuracy” means the conformity of prices rung in at the check-out with the advertised price in respect of a good sold in the establishment;

“pricing accuracy rate” means the percentage of goods that are part of a transaction in which the price rung in at the check-out is identical to the advertised price;

“pricing error rate” means the percentage of goods that are part of a transaction in which the price rung in at the check-out is higher than the advertised price.

6. For the purposes of this voluntary undertaking, the pricing error of a good in an advertisement shall not be taken into account in the calculation of the pricing error rate nor for the application of the accurate pricing policy described in section 1 as of the moment when the merchant posts, in a conspicuous place, a mention of the error and the correction made, near the place where the good is sold and near the check-outs in the establishment. This provision does not restrict the scope of paragraph *c* of section 224 of the Consumer Protection Act.

FINAL PROVISIONS

7. A merchant who contravenes any provision of this voluntary undertaking commits an offence under paragraph *d* of section 277 of the Act.

8. The provisions of this undertaking shall take effect once the merchant begins to use the exemption prescribed in section 91.4 of the Regulation and they shall cease to apply on the date on which the merchant ceases to use that exemption provided that he notifies the president of the Office de la protection du consommateur of that fact in writing at least 15 days before that date.

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