



Ministry of
Public Safety
and Solicitor General

Consultation Paper:

Travel Industry Regulation
Business Practices and Consumer Protection Act

January 2008

Introduction

The Ministry of Public Safety and Solicitor General is responsible for consumer protection legislation, including the *Business Practices and Consumer Protection Act*. All travel agents and wholesalers located in British Columbia must be licensed under the Act and comply with the Travel Industry Regulation.

Responsibility for administering the Act and Regulation has been delegated to the Business Practices and Consumer Protection Authority (BPCPA), a not-for-profit corporation mandated to deliver consumer protection services in British Columbia.

Purpose of this Consultation

This consultation seeks the input of parties who may be impacted by British Columbia's Travel Industry Regulation and any future updating of it.

Since 1977, the Province has introduced and amended legislation to protect consumers who purchase travel services in advance of their vacations. This is the legislation under which travel agents and wholesalers are licensed and contribute to a Travel Assurance Fund, which compensates consumers who do not receive travel services they have purchased. However, the related Travel Industry Regulation requires updating.

The existing regulation does not address changes in the travel industry over the past three decades, or the related implications for consumers. For example, Internet sales and online reservations now allow travel agents and wholesalers to sell services to consumers worldwide. Travel agents can now conduct all or part of their business from their homes. And in British Columbia growing inbound tourism – particularly from Asia – is exposing the province's travel services and providers to international scrutiny.

To maximize fairness, equity and consumer protection in updating the Travel Industry Regulation, we are seeking input through written consultations.

Consultation Process

Government plans two phases of consultation to inform its updating of the Travel Industry Regulation. As the first phase, this discussion paper focuses on the regulatory requirements for traditional travel agents and travel wholesalers, which sell such products as airline tickets, overseas tour packages and cruises.

A second discussion paper will address new sectors of the travel industry that have emerged and fall under the definition of "travel agent." Topics will include local tour operators, destination marketing organizations and strata ownership of vacation or hotel accommodations. The second discussion paper will be released in March 2008.

This consultation is an opportunity for you to provide feedback on how government can streamline regulatory requirements for travel agents and wholesalers while tightening gaps in consumer protection. Your comments are important and will help government to consider and develop proposals to update the Travel Industry Regulation.

Discussion Paper and Questionnaire
Business Practices and Consumer Protection Act
Travel Industry Regulation
Travel Agents and Travel Wholesalers

Format:

This discussion paper is divided into four themes:

Clarity on the Scope of Licensing	Location of Business Activity	Consumer Protection Mechanisms	Travel Assurance Fund Claims
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Each theme provides a description of the current requirement under the Travel Industry Regulation, a description of issues associated with the current regulation, and questions on a proposal or options.

Instructions:

We appreciate your time in completing the following questionnaire. You are invited to answer all the questions in this paper or simply focus on those most important to you.

Please return the paper by March 3, 2008 to:

Ministry of Public Safety and Solicitor General
Consultation on Travel Industry
Corporate Policy and Planning Office
PO Box 9283, Stn Prov Govt
Victoria, BC V8W 9J7
Fax: 250 387-2631
E-mail: PSSG-CPPO@gov.bc.ca

This consultation paper and questionnaire can also be viewed and printed from the following website:

www.pssg.gov.bc.ca/legislation/current.htm

<http://www.bpcpa.ca>

1. CLARITY ON THE SCOPE OF LICENSING

This section of the questionnaire focuses on clarifying who must be licensed as a “travel agent” or “travel wholesaler” under the *Business Practices and Consumer Protection Act*. It also focuses on the definition of travel services and the scope of activity that determines whether a business must hold a travel agent or travel wholesaler licence. Discussions relate to expanding or amending definitions, licensing out-of-province travel agents and wholesalers, and licensing franchises.

Definitions

To assist you in completing this portion of the questionnaire, the definitions of “travel agent,” “travel wholesalers,” and “travel services” under section 142 of the *Business Practices and Consumer Protection Act* read as follows:

“travel agent” means a person who, in the course of business, sells or otherwise provides to the public travel services supplied by another person;

"travel service" means transportation, accommodation or other service for the use or benefit of a traveller, tourist or sightseer;

"travel wholesaler" means a person who, in the course of business,

- (a) supplies the person's own travel transportation to the public on an irregular basis at nonfixed times,
- (b) purchases or acquires from another person rights to travel services for the purpose of resale, or
- (c) deals with travel agents or other travel wholesalers for the sale of travel services supplied by another person.

DEFINITIONS

The travel industry has advised the BPCPA that the *Business Practices and Consumer Protection Act* is unclear as to when a person is required to be licensed as a “travel agent” or “travel wholesaler.” This observation is supported by the BPCPA, which continues to identify unlicensed businesses selling travel services to consumers.

The travel industry recommends that confusion over licensing would be reduced if the Travel Industry Regulation defined the term “in the course of business.” Likewise, defining the term “sells or otherwise provides” and amending the definition of “travel service” may clarify when a person requires a licence.

Clarity on the Scope of Licensing

Question 1.1 (a) - Define “in the course of business”

It is proposed that the Travel Industry Regulation could list activities that define “in the course of business.” These activities may include:

- The person advertising in a geographic area or over an Internet site as a travel agent or travel wholesaler.
- The person operating from a location within a geographic area.
- The person providing information to consumers about travel services.
- A local government’s business licence authorizing the person to operate a business from a location within a geographic area.

A person engaged in the above activities when selling travel services would be doing so “in the course of business” and would require a licence.

- Would the above proposal clarify when a person should be licensed as a “travel agent” or “travel wholesaler”?

Yes No

Please provide any comments you may have about listing the activities that define “in the course of business” on a separate piece of paper.

Clarity on the Scope of Licensing

Question 1.1 (b) - Define “sells or otherwise provides”

It is proposed that the Travel Industry Regulation could list activities that define “sells or otherwise provides.” These factors may include:

- The person entering into a contract with consumers for travel services.
- The person accepting and processing consumers’ payment for travel services.
- The person accepting and forwarding consumers’ payment to an end supplier for travel services.

- Would the above proposal clarify when an operator should be licensed as a travel agent or travel wholesaler?

Yes No

Please provide any comments you may have about listing activities that define “sells or otherwise provides” on a separate piece of paper.

Clarity on the Scope of Licensing

Question 1.1 (c) – Amend “travel services”

Currently the definition of “travel service” identifies three services provided to a traveller, tourist or sightseer:

- transportation
- accommodation or
- other service

There is ambiguity whether a person providing a service other than transportation or accommodation needs to be licensed as a “travel agent” or “travel wholesaler.” For example, it is ambiguous if a person who arranges only golf tee times for consumers (that may include travellers, tourists or sightseers) is providing an “other service” and must be licensed.

- (i) Do you support the removal of “other service” from the definition to read as follows:

“travel service” means transportation or accommodation for the use or benefit of a traveller, tourist or sightseer”

Yes No

- (ii) Do you support linking “other service” directly with transportation and accommodation for the definition to read as follows:

“travel service” means transportation or accommodation for the use or benefit of a traveller, tourist or sightseer or other service which is offered coincidentally (packaged) with the transportation or accommodation.

Yes No

Please provide any comments you may have about amending the definition “travel services” on a separate piece of paper.

1.2.1 LICENSING OUT-OF-PROVINCE TRAVEL AGENTS AND WHOLESALERS

Travel agents and wholesalers located outside the Province are advertising on the radio, television and Internet to consumers located in British Columbia. Consumers responding to these advertisements purchase their travel services from these out-of-province businesses by phoning a toll-free number or over the Internet.

Although these businesses are actively advertising to consumers in British Columbia, they currently are not licensed under the *Business Practices and Consumer Protection Act*. As a result, consumers are ineligible to make claims against the Travel Assurance Fund in the event that they do not receive the travel service they have purchased.

It is proposed that licensing these out-of-province businesses will enhance consumer protection.

Clarity on the Scope of Licensing

Question 1.2 - Licensing Out-of-Province Travel Agents and Wholesalers

Should out-of-province travel agents and wholesalers who actively target BC consumers through advertisements on the radio, television or Internet be licensed under the *Business Practices and Consumer Protection Act*?

Out-of-Province Travel Agents Yes No

Out-of-Province Travel Wholesalers Yes No

Please provide any comments you may have about licensing out-of-province travel agents and wholesalers on a separate piece of paper.

1.3 FRANCHISES

National travel franchisors are expanding into British Columbia by selling franchises to persons in BC (including individuals, partnerships and even corporations). These franchisors provide training and support to franchisees and require the franchisee to follow criteria established by the corporation.

As these franchisees are operating their own businesses, they currently must be licensed as a “travel agent” under the regulation. However, some franchisors and franchisees view their contract as establishing an “employer and employee” relationship where the franchisor inherits much of the financial and operational risk for the activities of the franchisee. In many cases, the franchisee is not able to meet the current qualifications for a travel agent licence without the support of the franchisor.

Clarity on the Scope of Licensing

Question 1.3 Licensing Franchises

(a) Should franchisees be:

- Licensed as travel agents. Yes No
- Licensed as branch offices of the franchisor. Yes No
- Licensed under a new category with different qualifications on the licence.
Yes No
- Exempt from licensing. Yes No

(b) If you support a new category of licence with different qualifications, please explain what you think should be required for these people to hold a licence:

(c) If you support exempting franchisees from licensing, please explain why:

2. LOCATION OF BUSINESS ACTIVITIES

This portion of the questionnaire addresses the location of businesses selling travel services with a specific focus on operating from a residence.

2.1 HOME-BASED BUSINESSES

The Travel Industry Regulation prohibits travel agents and travel wholesalers from selling travel services from a location that is not a permanent place of business or a private dwelling unless they receive authorization from the BPCPA director. Other requirements include that the business be open to the public during normal business hours.

BPCPA investigations are increasingly identifying unlicensed home-based businesses. Many of these businesses are small operations that sell travel services either to a small local market (small tour operators) or businesses that exclusively sell over the Internet to consumers around the world.

Although home-based businesses are important contributors to the economy of British Columbia, their unlicensed activities may present a risk to consumers and create an unfair marketplace for licensees who comply with the regulation's requirement to maintain a commercial retail location.

Location of Business Activities

Question 2.1 – Home-based Businesses

(a) Should travel agents and travel wholesalers be allowed to establish home-based businesses without requiring approval from the BPCPA director?

Yes No

(b) If yes to 2.1(a), should the operator of a home-based business be required to:

- Provide proof to the BPCPA director that the municipality permits the home-based business?

Yes No

- Provide proof to the BPCPA director that they have secure systems that protect consumers' personal and financial information?

Yes No

- Make arrangements to allow the consumer access to the home-based business?

Yes No

- Maintain a separate business:

- Telephone number? Yes No
- Fax number? Yes No
- E-mail address? Yes No
- Signage? Yes No

- Make arrangements to allow the BPCPA director and inspectors access to the home-based business?

Yes No

Please provide any comments you may have about home-based businesses on a separate piece of paper.

2.2 EMPLOYEES AND CONTRACTORS

The same technology that enables home-based businesses to sell travel services supports employees and contractors of established agencies in commercial locations to work from their homes.

Despite the regulation's restriction on selling travel services from residences, the BPCPA continues to identify licensees who allow their staff and contractors to sell travel services from their homes without obtaining the required authorization from the BPCPA director. The industry commonly refers to these people as "outside agents" or "commission sales staff".

Location of Business Activities

Question 2.2 (a) - Overview Employees and Contractors Working from Home

The following questions seek your general opinion about employees and contractors working from their homes.

- (i) Should the regulation:
- o Provide a definition of employee? Yes No
 - o Provide a definition of contractor? Yes No
- (ii) Should travel agents and wholesalers be permitted to allow employees and contractors to work from their homes without requiring approval from the BPCPA director?
- Yes No
- (iii) If yes to 2.2(a)(ii), should employees and contractors working from their homes be licensed and be subject to the same requirements as a home-based business indicated in Section 2.1?
- Yes No
- (iv) If no to question 2.2(a)(ii), should the travel agent or wholesaler be required to:
- o Maintain a list of employees and contractors working from their homes and provide this list to the BPCPA upon the BPCPA director's request?
- Yes No

Please provide any comments you may have about the general overview of employees and contractors working from their homes on a separate piece of paper.

Location of Business Activities

Question 2.2 (b) - Travel Agents and Wholesalers

The following questions seek your opinion about the responsibilities and activities of travel agents and wholesalers who employ employees or contractors working from their homes.

- Should the regulation:
 - (i) Clearly state that the travel agent or wholesaler is responsible for their employees' and contractors' compliance with the *Business Practices and Consumer Protection Act* and the Travel Industry Regulation?
Yes No
 - (ii) Require the travel agent or wholesaler to enter into a written contract with the employee or contractor describing the terms of their working from home, and to provide this contract to the BPCPA upon the BPCPA director's request?
Yes No
 - (iii) Require the travel agent or wholesaler to ensure that employees and contractors working from their homes have a system that supports the security of consumers' personal and financial information?
Yes No
 - (iv) Require the travel agent or wholesaler to ensure that the employee or contractor has sufficient knowledge of or experience with travel services to work from their homes?
Yes No

Please provide any comments you may have about the responsibilities and activities of travel agents and wholesalers who have employees or contractors working from their homes on a separate piece of paper.

Location of Business Activities

Question 2.2 (c) - Employees and Contractors

The following questions seek your opinion about the responsibilities and activities of employees and contractors working from their homes, regardless of whether or not they are licensed.

- Should the regulation require employees and contractors who work from their homes to:
 - (i) Only use the following information when selling travel services:
 - Travel agent's/wholesaler's mailing address? Yes No
 - Travel agent's/wholesaler's website? Yes No
 - Travel agent's/wholesaler's phone number? Yes No
 - Travel agent's/wholesaler's fax number? Yes No
 - Travel agent's/wholesaler's e-mail? Yes No
 - (ii) Make arrangements that allow the public access to their home when selling travel services?
Yes No
 - (iii) Directly deposit consumers' money into the travel agent's or wholesaler's account?
Yes No
- Should the regulation prohibit home-based employees/contractors from:
 - (iv) Keeping consumer records in their residence?
Yes No

Please provide any comments you may have about the responsibilities and activities of employees and contractors working from their homes on a separate piece of paper.

3. CONSUMER PROTECTION MECHANISMS

Currently the Travel Industry Regulation has the following six consumer protection mechanisms:

- Requiring licensees to reside ordinarily in British Columbia.
- Licensee's experience in and knowledge of the travel industry.

- Licensee's net worth and amount of working capital.
- Licensee's deposit of security with the BPCPA director.
- Licensee's maintenance of trust accounts.
- Licensee's contribution to the Travel Assurance Fund.

Government is interested in reducing the regulatory burden on licensees by eliminating requirements with high compliance costs but low consumer protection. Our objective is to develop a streamlined regulation that enhances consumer protection, is cost-efficient for licensees and supports the BPCPA in monitoring compliance.

Below are questions on the current six consumer protection mechanisms. Also, we are interested in your opinion on introducing two new consumer protection initiatives: mandatory training in the travel industry and disclosure of information in advertisements.

3.1 RESIDENCY REQUIREMENTS

Currently, the Travel Industry Regulation requires licence applicants to reside ordinarily in British Columbia.

British Columbia plans to remove the residency requirement to comply with the 2006 British Columbia - Alberta Trade, Investment, and Labour Mobility Agreement. This means that anyone living outside the Province will be eligible to apply for a licence under the Travel Industry Regulation and operate a business in British Columbia.

Question 3.1 – Residency Requirements

If you have concerns about the elimination of the residency requirement, please provide us with your comments:

3.2 ASSESSMENT OF EXPERIENCE AND KNOWLEDGE

Under the Travel Industry Regulation, licence applicants must have sufficient experience and knowledge of travel services that in the BPCPA director's opinion, demonstrates that the applicant can operate a travel service business. This requirement may prohibit entrepreneurs with demonstrated business skills but limited knowledge of or experience with travel services from entering the travel industry. It may also prohibit new franchisees who are trained and supported by the franchisor from offering travel services.

Some members of the travel service industry support a requirement that licensees and/or their employees must graduate from a post-secondary program in travel services. Supporters of mandatory education feel it will enhance professionalism of the travel industry and reduce consumer risks.

Question 3.2 – Assessment of Experience and Knowledge

- (a) Is it appropriate that the BPCPA director be required to assess an applicant's experience and knowledge of the travel industry for licensing? Yes No
- (b) If yes to 3.2(a), who should have this experience and knowledge?
- Travel agent and wholesaler? Yes No
 - Managers employed by the travel agent and wholesaler? Yes No
 - Travel counsellors employed by the travel agent and wholesaler? Yes No
- (c) If yes to 3.2(a), should a travel agent or travel wholesaler who has no experience in the travel industry be allowed to open a business provided:
- Their managers have sufficient experience and knowledge? Yes No
 - Their employees have sufficient experience and knowledge? Yes No
- (d) Do you support mandatory post-secondary graduation from a travel industry program for the following:
- Travel agent and wholesaler? Yes No
 - Managers employed by the travel agent and wholesaler? Yes No
 - Travel counsellors employed by the travel agent and wholesaler? Yes No

Please provide any comments you may have about requiring experience and knowledge of the travel industry on a separate piece of paper.

3.3 ASSESSMENT OF FINANCES

Under the Travel Industry Regulation, licence applicants who are corporations are required to maintain a net worth of at least \$15,000 and working capital that, in the BPCPA director's opinion, is reasonably expected to be sufficient to operate a travel service business.

If the licence applicant is not a corporation, the applicant must have sufficient net worth and working capital that, in the BPCPA director's opinion, is reasonably expected to be sufficient to operate a travel service business.

Following the applicant's initial application for a licence, the BPCPA is required to assess a licensee's net worth and working capital on an annual basis to ensure they continue to meet the appropriate financial thresholds.

Theoretically, a travel agent's or wholesaler's ability to maintain a specific amount of net worth and working capital predicts the business's future sustainability and minimizes risks to consumers.

However, the BPCPA invests considerable staff resources to conduct these assessments and there is also the question if the role of deciding a business's financial viability is an appropriate one for the BPCPA.

Despite the BPCPA's ongoing assessment of a licensee's net worth, travel agents and wholesalers continue to become insolvent. Following a business failure, the remaining assets are often insufficient to repay consumers their losses. Instead, consumers who have lost money because of a licensee's bankruptcy are usually reimbursed by the Travel Assurance Fund, which is subsequently replenished from the licensee's security.

Question 3.3 – Financial Assessments

(a) Assessment – Initial Application for a Licence:

- Should the BPCPA be involved in assessing a new applicant's:
 - Net worth (corporation)? Yes No
 - Working capital (corporation)? Yes No
 - Net worth (non-corporation)? Yes No
 - Working capital (non-corporation)? Yes No

(b) If yes to 3.3(a), what type of financial records should the applicant provide the BPCPA?

- Certified financial statement. Yes No
- Audited financial statement. Yes No
- Report in a format designed by the BPCPA. Yes No

(c) Assessment – Ongoing:

- Should the BPCPA be involved in ongoing assessments of a travel agent's or wholesaler's:
 - Net worth (corporation)? Yes No
 - Working capital (corporation)? Yes No
 - Net worth (non-corporation)? Yes No
 - Working capital (non-corporation)? Yes No

(d) If yes to 3.3(c), what type of financial records should the applicant provide the BPCPA?

- Certified financial statement. Yes No
- Audited financial statement. Yes No
- Report in a format designed by the BPCPA. Yes No

(e) If yes to 3.3(c), should the financial records be based on:

- A calendar year? Yes No
- The licensee's fiscal year? Yes No

Please provide any comments you may have about financial assessments of licensees on a separate piece of paper.

3.4 SECURITIES

Security deposited with the BPCPA director has been demonstrated as an effective method of consumer protection. Under the Travel Industry Regulation, travel agents are required to provide the BPCPA director with a security in the amount of \$15,000 for its head office and \$5,000 for each branch office.

Travel wholesalers are required to provide security in an amount based on their sales volume during the previous calendar year. The security amounts range from \$15,000 to \$150,000.

The BPCPA uses the security to repay the Travel Assurance Fund in the event that the travel agent or travel wholesaler fails to reimburse the fund for claims paid to consumers.

Although it has been demonstrated that security is an effective way to reimburse consumers, the fixed amount of \$15,000 required by travel agents does not correlate to the potential risk a travel agent presents to consumers.

The requirement to maintain \$15,000 in security may also be viewed as an unfair financial barrier for smaller travel agents and wholesalers to entering or remaining in the industry.

Question 3.4(a) – Security Travel Agents

- (i) Should the security amount be based on the travel agent's volume of sales generated during the:
- o Calendar year? Yes No
 - o Licensee's fiscal year? Yes No
- (ii) If yes to 3.4(a)(i), should there be a:
- o Minimum amount?
Yes _____ (specify minimum amount)
No
 - o Maximum amount?
Yes _____ (specify maximum amount)
No
- (iii) Should the BPCPA director have the discretion to require a higher security amount if the BPCPA director finds the travel agent presents a greater risk to consumers?
Yes No
- (iv) If yes to 3.4(a)(i), what type of financial records should the travel agent provide the BPCPA to report sales volume?
- o Certified financial statement. Yes No
 - o Audited financial statement. Yes No
 - o Report in a format designed by the BPCPA. Yes No

Please provide any comments you may have about the security of travel agents on a separate piece of paper.

Question 3.4(b) – Security Travel Wholesalers

- (i) Should the \$15,000 minimum amount be reduced?
Yes _____ (specify minimum amount)
No
- (ii) Should the \$50,000 maximum amount be increased?
Yes _____ (specify maximum amount)
No
- (iii) Should the security amount be based on the travel wholesalers volume of sales generated during the:
- o Calendar year? Yes No
 - o Licensee’s fiscal year? Yes No
- (iv) What type of type of financial records should the travel wholesaler provide the BPCPA to report sales volume?
- o Certified financial statement. Yes No
 - o Audited financial statement. Yes No
 - o Report in a format designed by the BPCPA. Yes No

Please provide any comments you may have about the security of travel wholesalers on a separate piece of paper.

3.5 TRUST ACCOUNTS

Under the Travel Industry Regulation, licensees are required to deposit all money that is received from selling travel services into a “travel trust account” and to maintain account records for each consumer. The objective of the trust account is to protect the consumer’s money until the licensee has paid all expenditures on behalf of the consumer or the consumer has received the travel services.

The protection that trust accounts offer consumers in today’s travel service industry is being evaluated. Many consumers now purchase their travel services from travel agents by using credit cards. In some cases the travel agent simply forwards the consumer’s credit card number to the end supplier and by passes the need for depositing money into a trust account.

We are also evaluating licensees’ administrative burden related to maintaining trust accounts. In Ontario, registrants who have been in business for at least one year are provided the option of not being required to maintain a trust account, as long as they provide security to the Travel Industry Council of Ontario.

Despite the regulatory requirement to maintain a trust account, the BPCPA consistently discovers trust accounts with zero or reduced balances when a licensee becomes insolvent. However, it is important to note that when the travel wholesaler Canada 3000

failed in 2001 significant funds were available in a trust account to compensate consumers.

Question 3.5 – Effectiveness of Trust Accounts

Government and the BPCPA would like industry's opinion if trust accounts are effective in protecting consumers and if the protection they offer to consumers outweigh the licensee's cost to manage the accounts in accordance with the regulations under the Travel Industry Regulation.

If industry supports the elimination of the requirement to maintain trust accounts, government may consider other methods to protect consumers. For information about a possible alternative consumer protection model, please refer to the Travel Assurance Fund in section 3.7 of this consultation paper.

- (a) If you are a travel agent, what percentage of your annual sales is processed directly by a third-party supplier or wholesaler? _____%
- (b) If you are a travel agent, what percentage of your annual sales is processed through a merchant account? _____%
- (c) Do the consumer protection benefits of trust accounts outweigh the licensee's administration costs of maintaining account records?
Yes No
- (d) Would you support:
- Eliminating the need for all licensees to maintain trust accounts?
Yes No
 - Requiring only applicants to maintain trust accounts during their first year of operation?
Yes No
 - A requirement that licensees' with large sales volume maintain trust accounts?
Yes No
 - Allowing the BPCPA director the discretion to require high-risk licensees to maintain trust accounts?
Yes No

Please provide any comments you may have about trust accounts on a separate piece of paper.

3.6 ADVERTISING REQUIREMENTS

Consumers who purchase travel services from unlicensed travel agents are at risk and not eligible for compensation from the Travel Assurance Fund if they do not receive the services they have purchased.

It is proposed that licensees should be required to disclose their licence number and business address on all advertisements. This information would be a clear indication to consumers that they are purchasing travel services from a licensed travel agent or wholesaler. Absence of this information or falsely advertised licence numbers will help the BPCPA to identify unlicensed operators.

Question 3.6 - Advertising Requirements

(a) Visual advertisement:

- Should travel agents and wholesalers be required to include the following information in all visual advertisements, including printed material, television and websites:

- BPCPA licence number? Yes No
- Business address? Yes No
- Business phone number? Yes No

Businesses with multiple branches may be required only to disclose information about their headquarters.

(b) Exclusively audio advertisement (radio):

- Should travel agents and travel wholesalers be required to include the following information in all audio (radio) advertisements:

- BPCPA licence number? Yes No
- Business address? Yes No
- Business phone number? Yes No

Businesses with multiple branches may be required only to disclose information about their headquarters.

Please provide any comments you may have about advertising requirements on a separate piece of paper.

3.7 THE TRAVEL ASSURANCE FUND

It is proposed that the Travel Assurance Fund is one of the best methods to protect consumers, particularly when a licensee or travel service provider goes bankrupt.

Money from the Travel Assurance Fund is used to compensate consumers in the event that they do not receive the travel services they have purchased. Licensed travel agents who reimburse or make alternate arrangements for consumers who do not receive the travel services they purchased may also make a claim against the fund.

Licensed travel wholesalers are also eligible for compensation. They may receive compensation for reimbursing a consumer when the supplier fails to provide the travel services or when a travel agent has failed to forward the consumer's money to the wholesaler.

In 2006, the BPCPA approved over 200 claims worth approximately \$300,000 against the Travel Assurance Fund.

Upon initial application for a licence, an applicant must contribute \$500 to the fund. Thereafter the licensee makes semi-annual contributions equal to 0.05% of their gross sales. After three years of contributions, a licensee is no longer required to make contributions, provided the book value of the fund is at least \$1,000,000.

Currently, the Travel Assurance Fund has a balance of \$4.8 million. As a result, all licensees who have been in business for more than three years no longer contribute into the fund.

Advantages of the Travel Assurance Fund include its low administration costs for both the BPCPA and licensees, its equitable formula that bases contributions on the licensee's volume of gross sales, and the availability of cash if a licensee or travel service provider goes bankrupt.

Question 3.7 -Travel Assurance Fund

Government and the BPCPA would like industry's view on developing the Travel Assurance Fund as one of the primary mechanisms for consumer protection. This model is based on the Ontario Travel Industry Act, which requires mandatory contributions from all travel agents and wholesalers.

The proposal is as follows:

- Require all licensees to contribute to the fund.
- Eliminate the current holiday that allows licensees to stop making contributions after three years.
- Shift current semi-annual payments to annual contributions.
- Contributions will be reduced to half of their current level (0.025% of gross sales).

(a) Would you support the above proposal?

Yes No

(b) Additional thoughts or comments:

4. TRAVEL ASSURANCE FUND CLAIMS

Currently, the maximum amount that each person can claim from the Travel Assurance Fund is \$5,000, and the maximum amount that may be paid from the fund in respect of all claims relating to an event is \$2 million.

The fund also provides a maximum \$5,000 payment to a person who is involved in an emergency circumstance. Emergency circumstances include a person being stranded away from their place of residence, a person not having adequate notice that they will not receive the travel service, and the immediate need for money or facilities to alleviate a person's inconvenience.

4.1 Maximum amount of all claims relating to an event

In Ontario, the Travel Industry Compensation Fund provides compensation for losses in the purchase of travel services. The fund places reimbursement caps of \$5,000 per each claim and \$5 million for all claims related to an event.

Question 4.1 – Maximum amount of all claims related to an event

Should the maximum amount of all claims paid from the Travel Assurance Fund related to an event be increased from \$2 million to \$5 million?

Yes No

Please provide on a separate piece of paper any comments you may have about increasing the maximum amount of all claims related to an event.

4.2 Overseas Agents and Inbound Tourists

In recent years, British Columbia has become a preferred destination for inbound tourists, especially Asia Pacific travellers. Licensees operating as inbound tour operators deal with overseas travel agents to re-sell tour packages in British Columbia to overseas clients.

These licensees must contribute into the Travel Assurance Fund, but the overseas agents are not licensed under the Travel Industry Regulation and, consequently, are ineligible to make a claim against the fund in the event that the licensee fails to deliver the travel services purchased. Likewise, the overseas consumer is ineligible to make a claim because they did not purchase the travel services directly from a travel agent or wholesaler licensed under the Travel Industry Regulation.

Overseas agents view the inability of inbound tourists to make a claim against the Travel Assurance Fund as unfair to inbound tourists especially since businesses in British Columbia have contributed to the Travel Assurance Fund to cover losses.

Question 4.2 – Claims from Overseas Agents and Inbound Tourists

If an overseas agent has purchased travel services on behalf of inbound tourists from a licensee and the travel services are not received:

(a) Overseas Agent:

- Should the overseas agent be eligible to make a claim against the Travel Assurance Fund provided they have reimbursed their consumers?

Yes No

(b) Inbound Tourists:

- Should inbound tourists be eligible:
 - To make a claim against the Travel Assurance Fund?
 - For emergency payment from the fund?

Yes No

Yes No

Please provide any comments you may have about claims from overseas agents and inbound tourists on a separate piece of paper.

ADDITIONAL INFORMATION

Demographics:

You are invited to provide us with some information about yourself, which will assist the Ministry of Public Safety and Solicitor General to analyze the completed questionnaires. Please complete all boxes that apply to you.

Travel agent Number of staff:___

Travel wholesaler Number of staff:___

Provider of travel services that are primarily

Inbound Outbound

Corporation

Proprietor

Partnership

Employee of travel agent

Employee of travel wholesaler

Consumer

Other: _____

Comments:

Please provide us additional comments below or on a separate sheet of paper:

Thank you for taking the time to provide us with your comments. Your feedback will assist government to consider and develop proposals to update the Travel Industry Regulation. Please return your completed questionnaire by March 3, 2008, to:

Ministry of Public Safety and Solicitor General
Corporate Policy and Planning Office
PO Box 9283, Stn Prov Govt
Victoria, BC V8W 9J7
Fax: 250 387-2631
E-mail: PSSG-CPPO@gov.bc.ca

This information is being collected for the purpose of considering and developing a proposal to modernize the Travel Industry Regulation under the *Business Practices and Consumer Protection Act*. Any personal information you provide is subject to the *Freedom of Information and Protection of Privacy Act*. The information will be used to evaluate the results of the consultation, which may involve disclosing your comments to other institutions and interested parties during and after the consultation. Your name will not be disclosed without your consent.