

Find the Prohibited Practice

Answer Key



INSTRUCTIONS

Using the [Reference File](#), which provides the sections of the Consumer Protection Act (CPA) that govern certain business practices, you must:

- identify the eight prohibited practices found in the circular below;
- for every prohibited practice,
 - indicate which article(s) of the CPA were breached;
 - explain how the merchant failed to comply with the law.

CIRCULAR PLUS
APPLIES FROM THURSDAY, MARCH 18, TO WEDNESDAY, MARCH 24, 20XX

1 **SPRING EVENT**
Saturday and Sunday
March 20 and 21 *
Two days only
PAY NO TAX!
On outdoor decor,
patio furniture and accessories

2 **ONLY \$189**
~~\$299~~
Outdoor furniture set
3 pieces: 2 armchairs and loveseat.
Photo for information purposes
48-7844

3 **\$50 OFF**
\$79
~~\$129~~
Bamboo outdoor chair
Assorted colours
44-2232

LIQUIDATION OF ELECTRONIC PRODUCTS
Hurry, quantities are limited!

7 **EXCLUSIVE OFFER**
\$699*
* = \$24 eco fee
52" smart TV
4K Ultra HD, integrated Wi-Fi
29-7165
While inventory lasts **8**

6 **\$50 OFF**
\$349*
~~\$399~~
* = \$12.49 eco fee
X1 laptop with DHS processor
15" screen, 8 GB memory,
X443V graphics card, 500 GB hard drive.
98-4157

5 **\$50 OFF**
\$26.75
~~\$76.75~~
Luxury propane barbecue
4 burners plus side burner
75,000 BTU
88-7341

4 **ONLY \$26.75**
/ 24 months

Erratum: There was a mistake in last week's circular:
for the "Sun Shelter" item on page 3, the promotion should have read "\$75 off" and not "75% off."
We apologize for any inconvenience.

ANSWERS

1. Prohibited practice: *The “Pay no tax” statement is false or misleading.*

Applicable section(s) of the CPA: **Section 227.1.** *No person may, by any means whatever, make false or misleading representations concerning the existence, charge, amount or rate of duties payable under a federal or provincial statute.*

Explanation: *No matter the form of advertising, advertisers are prohibited from giving consumers the impression that they can avoid paying taxes. Doing so is considered a false or misleading statement.*

Examples of prohibited practices and wording

In an advertisement, a merchant cannot use statements such as “no GST or QST,” “no taxes” or “tax-free”.

Examples of permitted wording

When advertising, a merchant can use the following wording, or other similar statements, provided they are neither false nor misleading:

- tax included;*
- inclusive of tax;*
- save the equivalent of the tax;*
- we pay the tax for you.*

2. Prohibited practice: *The illustration does not reflect the good advertised in the description.*

Applicable section(s) of the CPA: **Section 231.1.** *No merchant, manufacturer or advertiser may, in an advertisement concerning specific goods or services and disclosing their price or retail value, show a picture of the goods or services that is not an accurate depiction of them.*

Explanation: *The product description and its image do not match. The photo shows a four-piece set, whereas the description says there are three pieces. It also says “Photo for information purposes,” which is prohibited.*

3. Prohibited practice: *The advertised discount is higher than the calculation shown.*

Applicable section(s) of the CPA: **Section 219.** *No merchant, manufacturer or advertiser may, by any means whatever, make false or misleading representations to a consumer.*

Section 224. *No merchant, manufacturer or advertiser may, by any means whatever, (c) charge, for goods or services, a higher price than that advertised.*

Explanation: *For the chair, the error is in the discount calculation ($\$99 - \$50 \text{ off} = \$49$, not $\$79$).*

The consumer will have to pay \$79 for the chair, which is the lowest price shown. In a situation like this, many merchants will produce an erratum that consumers can see in different places: posted at every checkout, published in the next print circular (for an example, refer to the bottom of the exercise circular). Once the erratum is published, customers must refer to the information in it.

4. Prohibited practice: *The total price to obtain the good is not shown.*

Applicable section(s) of the CPA: **Section 224.** *No merchant, manufacturer or advertiser may, by any means whatever, (b) disclose, in an advertisement, the amount of the instalments to be paid for the purchase or long-term lease of goods or for a service without also disclosing, and laying greater emphasis on, the total price of the goods or service or, in the case of a long-term lease, the retail value of the goods;*

Explanation: *The merchant must indicate the total amount the consumer will have to pay. It cannot just state the monthly amount and the number of monthly instalments. In addition, there must be more emphasis on the all-inclusive price than its constituent amounts. In other words, the merchant must advertise the total price of the good or service.*

5. Prohibited practice: *The available quantity is not specified.*

Applicable section(s) of the CPA: **Section 231.** *No merchant, manufacturer or advertiser may, by any means whatever, advertise goods or services of which he has an insufficient quantity to meet public demand unless mention is made in his advertisement that only a limited quantity of the goods or services is available and such quantity is indicated.*

Explanation: *A merchant who advertises goods on sale (for example, in a circular) must have enough on hand to meet demand.*

If there is a limited quantity, the ad must specify that fact as well as the exact number in stock. Statements like “limited quantity” or “while supplies last” fall short of this mark.

If the merchant fails to indicate the exact quantity of the good on sale and it is out of stock, the customer is entitled to demand that another good of the same kind at the same or higher price be made available to them at the sale price. Some merchants give customers a “rain cheque” or a deferred purchase coupon so they can buy the good later at the sale price.

6. Prohibited practice: *The advertised price does not include all costs.*

Applicable section(s) of the CPA: **Section 224.** *No merchant, manufacturer or advertiser may, by any means whatever, (c) charge, for goods or services, a higher price than that advertised.*

For the purposes of subparagraph a.1 of the first paragraph, the price actually paid by the merchant is the price the merchant paid reduced by all the charges the merchant paid but that have been or will be reimbursed.

Explanation: *The merchant must advertise an “all inclusive” price. This price must include all the amounts the consumer must pay to buy the electronic device. There must be more emphasis on the all-inclusive price than its constituent amounts.*

*The price must include costs related to the merchant’s obligations, like recycling costs, also called **eco fees**.*

Ad that complies with the CPA



\$531.99

This price includes
the Environmental handling fees
of \$42.50

Ad that does not comply with the CPA



\$489.49

+ \$42.50 Environmental handling fees
\$531.99

7. Prohibited practice: *The advertised price does not include all costs.*

Applicable section(s) of the CPA: *See the relevant section of the CPA in point 6.*

Explanation: *See the explanation in point 6.*

8. Prohibited practice: *The available quantity is not specified.*

Applicable section(s) of the CPA: *See the relevant section of the CPA in point 5.*

Explanation: *See the explanation in point 5.*

***** *There is no prohibited practice here. However, it's important to check the sale or circular dates.*

In this case, the "Spring Event," where the merchant pays the taxes, lasts two days. Other than on these two days, the merchant can sell the goods at their regular price.

REFERENCE FILE

Refer to the following sections of the Consumer Protection Act (CPA) to identify the eight prohibited practices found in the *Circular Plus*.

Section 17. In case of doubt or ambiguity, the contract must be interpreted in favour of the consumer.

Section 219. No merchant, manufacturer or advertiser may, by any means whatever, make false or misleading representations to a consumer.

Section 224. No merchant, manufacturer or advertiser may, by any means whatever,

- (a) lay lesser stress, in an advertisement, on the price of a set of goods or services than on the price of any goods or services forming part of the set;
- (a.1) use the expression “cost price” or any other expression suggesting that goods are for sale or for lease at a price or retail value based on their cost to the merchant, unless the expression refers to the price or retail value actually paid by the merchant to purchase the goods;
- (b) disclose, in an advertisement, the amount of the instalments to be paid for the purchase or long-term lease of goods or for a service without also disclosing, and laying greater emphasis on, the total price of the goods or service or, in the case of a long-term lease, the retail value of the goods; or
- (c) charge, for goods or services, a higher price than that advertised.

For the purposes of subparagraph *a.1* of the first paragraph, the price actually paid by the merchant is the price the merchant paid reduced by all the charges the merchant paid but that have been or will be reimbursed.

[...]

Section 227.1. No person may, by any means whatever, make false or misleading representations concerning the existence, charge, amount or rate of duties payable under a federal or provincial statute.

Section 231. No merchant, manufacturer or advertiser may, by any means whatever, advertise goods or services of which he has an insufficient quantity to meet public demand unless mention is made in his advertisement that only a limited quantity of the goods or services is available and such quantity is indicated.

The merchant, manufacturer or advertiser who establishes to the satisfaction of the court that he had reasonable cause to believe that he could meet public demand or who offered the consumer, for the same price, other goods of the same nature and of an equal or greater cost price is not guilty of any infraction of this section.

Section 231.1 No merchant, manufacturer or advertiser may, in an advertisement concerning specific goods or services and disclosing their price or retail value, show a picture of the goods or services that is not an accurate depiction of them.

The **OFFICE DE LA PROTECTION DU CONSOMMATEUR** is a Québec government body that helps consumers make enlightened choices and informs them of their rights, their obligations and their recourse options in the event of any problem with a merchant. Among other things, the Office intervenes with merchants to ensure they abide by their obligations toward consumers.

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