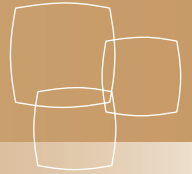




Competition Bureau  
Canada

Bureau de la concurrence  
Canada

Bulletin



# Competition Bureau Fee and Service Standards Handbook for Written Opinions

This publication is not a legal document. It contains general information and is provided for convenience and guidance related to the Competition Bureau Fee and Service Standards Policy.

**For information on the Competition Bureau's activities, please contact:**

Information Centre  
Competition Bureau  
50 Victoria Street  
Gatineau QC K1A 0C9

Tel.: 819-997-4282

Toll free: 1-800-348-5358

TTY (for hearing impaired): 1-800-642-3844

Fax: 819-997-0324

Web site: [www.competitionbureau.gc.ca](http://www.competitionbureau.gc.ca)

This publication can be made available in alternative formats upon request. Contact the Competition Bureau's Information Centre at the numbers listed above.

**Permission to reproduce**

Except as otherwise specifically noted, the information in this publication may be reproduced, in part or in whole and by any means, without charge or further permission from the Competition Bureau provided due diligence is exercised in ensuring the accuracy of the information reproduced; that the Competition Bureau is identified as the source institution; and that the reproduction is not represented as an official version of the information reproduced, nor as having been made in affiliation with, or with the endorsement of the Competition Bureau. For permission to reproduce the information in this publication for commercial redistribution, please e-mail [droitdauteur.copyright@tpsgc-pwgsc.gc.ca](mailto:droitdauteur.copyright@tpsgc-pwgsc.gc.ca).

Cat. No. lu54-36/2011E-PDF

ISBN 978-1-100-18629-0

60896

2011-05-18

*Aussi offert en français sous le titre Guide du Bureau de la concurrence sur la tarification et les normes de service relatives aux avis écrits.*

# PREFACE

The Competition Bureau (“Bureau”), as an independent law enforcement agency, ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace. The Bureau is responsible for, among other things, the administration and enforcement of the *Competition Act* (“Act”).

Since November 1997, fees and applicable service standards, as stipulated in the *Competition Bureau Fee and Service Standards Policy* (“Policy”)<sup>1</sup>, have been in place for written opinions and photocopies. The service standard that applies to a request for a binding written opinion sought pursuant to section 124.1 of the Act depends upon, among other things, the complexity of the proposed practice or conduct that is the subject of the request.

The purpose of this Handbook is to provide guidance on how the Bureau determines the complexity of a proposed practice or conduct that is the subject of a request for a binding written opinion under section 124.1 of the Act regarding the applicability of one or more provisions of the Act or regulations (“Written Opinion”)<sup>2</sup>. This Handbook also sets out the information required by the Bureau to commence the applicable service standard, and explains when the service standard may be paused and when it ends. Finally, this Handbook provides information with respect to the payment of fees.

The Bureau may revisit certain aspects of this Handbook in light of experience and changing circumstances.

---

1 <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/01388.html>.

2 This Handbook does not apply to requests for Written Opinions on the applicability of a provision of Part IX or sections 91 to 100 of the Act. For further information on such requests, please see the *Competition Bureau Fees and Service Standards Handbook for Mergers and Merger-Related Matters*, which can be found at <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03295.html>.

# TABLE OF CONTENTS

- 1. INTRODUCTION..... 1
- 2. EARLY CONSULTATION ..... 2
- 3. WRITTEN OPINION — OVERVIEW ..... 3
- 4. COMPLEXITY DEFINITIONS ..... 4
  - 4.1. Non-Complex ..... 4
  - 4.2. Complex..... 4
  - 4.3. Complexity Designation ..... 4
- 5. INFORMATION REQUIREMENTS..... 4
  - 5.1. Civil Provisions: Sections 76, 79 and 90.1 ..... 5
  - 5.2. Criminal Provisions..... 6
  - 5.3. Misleading Representations and Deceptive Marketing Practices (Sections 52 to 55.1 and 74.01 to 74.06) ..... 6
- 6. SERVICE STANDARDS ..... 12
  - 6.1. Service Standard Periods..... 12
  - 6.2. Satisfaction of the Service Standard..... 13
  - 6.3. Pausing the Service Standard ..... 13
- 7. FEES..... 14
  - 7.1. Fees ..... 14
  - 7.2. Refund Policy ..... 15
- 8. PHOTOCOPIES ..... 16
  - 8.1. Fees ..... 16
- 9. REVIEW / FEEDBACK MECHANISMS..... 17
- 10. HOW TO CONTACT THE COMPETITION BUREAU ..... 18



# I. INTRODUCTION

Changes to this Handbook are necessary to reflect the Bureau's current approach to Written Opinions in the context of significant amendments to the Act that came into force in 2009 and 2010. This Handbook does not change the fees or service standards set out in the Policy, but provides updated guidance on: the factors that the Commissioner of Competition ("Commissioner") will generally take into consideration when deciding whether to provide a Written Opinion in non-merger matters; how the Bureau determines the complexity of a proposed practice or conduct subject to a Written Opinion; the information required by the Bureau to commence the applicable service standard; and when service standards may be paused or terminated.

For information on applicable fees and service standards for mergers and merger-related matters, please see the *Competition Bureau Fees and Services Standards Handbook for Mergers and Merger-Related Matters*.<sup>3</sup>

The Policy, on which this Handbook is based, is consistent with the Government of Canada's overall objective of fairness, which seeks to ensure that those who benefit most from a service should pay for it, rather than having all Canadians pay through general taxation. The Policy also recognizes the "public good" component that is related to providing Written Opinions. The fees set out herein, which have remained the same since 2003, were developed within this framework.

The introduction of fees and related service standards has promoted a disciplined approach to identifying and measuring the Bureau's performance. The Bureau is committed to ensuring that those who seek services have timely and predictable opportunities to provide input regarding fees and service standards. To that end, we encourage applicants for a Written Opinion to complete an evaluation leaflet as further detailed in section 9 herein.

---

3 <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03295.html>.



## 2. EARLY CONSULTATION

The Bureau's approach to service standards is premised on cooperation from parties and early, ongoing dialogue. Early consultation ensures that sufficient information will be submitted to the Bureau in order to facilitate complexity designation and thereby trigger the commencement of the applicable service standard period. This approach also enables the Bureau to minimize requests for additional information and to provide a Written Opinion in a timely manner.

Table I lists the addresses where requests for the services outlined in this Handbook may be sent. It also lists contact information where requests for clarification or questions regarding a particular matter may be directed.

<b>Table I: Addresses and Contact Information</b>		
<b>Service</b>	<b>Address</b>	<b>Contact Information</b>
Written Opinion requests with respect to sections 52 to 55.1 and 74.01 and 74.06	Competition Bureau 50 Victoria St. Gatineau, QC K1A 0C9  Attn: Fair Business Practices Branch	<a href="#">Information Centre</a>  Phone: 819-997-4282 or toll free: 1-800-348-5358 Facsimile: 819-997-0324
Written Opinion requests with respect to sections 45 to 49	Competition Bureau 50 Victoria St. Gatineau, QC K1A 0C9  Attn: Criminal Matters Branch	<a href="#">Information Centre</a>  Phone: 819-997-4282 or toll free: 1-800-348-5358 Facsimile: 819-997-0324
Written Opinion requests with respect to sections 75 to 90.1	Competition Bureau 50 Victoria St. Gatineau, QC K1A 0C9  Attn: Civil Matters Branch	<a href="#">Information Centre</a>  Phone: 819-997-4282 or toll free: 1-800-348-5358 Facsimile: 819-997-0324
Information related to wire transfers	Competition Bureau 50 Victoria St. Gatineau, QC K1A 0C9  Attn: Management Policy and Services, Compliance and Operations Branch	<a href="#">Information Centre</a>  Phone: 819-997-4282 or toll free: 1-800-348-5358 Facsimile: 819-997-0324



### 3. WRITTEN OPINIONS — OVERVIEW

The Bureau seeks to promote and ensure compliance with the Act through a variety of mechanisms, including enforcement and guidance to businesses regarding proposed business practices or conduct in appropriate circumstances.

Pursuant to section 124.1 of the Act, the Commissioner has the discretion, on request from any person, to provide a binding written opinion on the applicability of one or more provisions of the Act or regulations to a proposed practice or conduct. Written Opinions are binding on the Commissioner if all the material facts have been submitted, are accurate, and remain substantially unchanged. The Commissioner has the sole discretion to decline to issue a Written Opinion. The circumstances in which the Commissioner might exercise such discretion include where the information requirements set out below in section 5 are not met; the facts are uncertain or hypothetical; the Bureau requires information from third parties; the provision of an opinion could interfere with an ongoing examination or inquiry by the Bureau; or it is otherwise reasonable in the Commissioner's opinion to decline.<sup>4</sup>

Written Opinions provide the Commissioner's binding opinion on whether the particular provisions specified in the request of the applicant are applicable to the proposed conduct or practice. In making this determination, the Bureau will consider the relevant jurisprudence and current enforcement guidance as applied to the facts submitted by the applicant. In the context of a Written Opinion request, the Bureau will not make third party contacts, provide an assessment of the effects on competition of the proposed conduct or practice, or provide an assessment of defences<sup>5</sup> that may be available to a party who is subject to enforcement action by the Bureau.

To promote compliance with, and foster transparency in the administration and enforcement of the Act, the Bureau may publish Written Opinions, or summaries thereof, that add to the understanding of how the law is administered or where a new issue or sector of the economy is being examined. Should the Bureau wish to publish a Written Opinion in its entirety, a Bureau representative will contact a party within 30 days to seek consent. If consent is not forthcoming, the Bureau will edit the Written Opinion to remove company names or will produce a summary of the Written Opinion that protects identities and commercially sensitive information.

---

4 For further guidance regarding circumstances where the Commissioner may decide not to issue a Written Opinion specifically regarding the applicability of sections 55 and 55.1 of the Act, please see the *Multi-level Marketing Plans and Schemes of Pyramid Selling Enforcement Guidelines* at section 8. The *Multi-level Marketing Plans and Schemes of Pyramid Selling Enforcement Guidelines* can be found at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03035.html>.

5 The Bureau may provide binding guidance on the applicability of the following statutory exceptions, provided the requisite information is submitted: ss.45(6), 47(3), 49(2), 76(4), 90.1(7), 90.1(9).



## 4. COMPLEXITY DEFINITIONS

### 4.1. Non-Complex

The non-complex category typically involves a proposed business practice or conduct where all relevant information is provided by the applicant. The non-complex classification will generally apply when there is a sufficient amount of jurisprudence and established Bureau policy and procedures for the Bureau to readily formulate an opinion on applicability.

### 4.2. Complex

The complex category typically involves a proposed business practice or conduct where all relevant information is provided by an applicant. The complex classification will generally apply when the proposed business practice or conduct is not straightforward, raises a novel issue, or where there is little or no jurisprudence or established Bureau policies or procedures on the subject.

### 4.3. Complexity Designation

Upon receipt of sufficient information as determined by the Bureau and further discussed below at Section 5, parties will be informed within five business days of the complexity level and applicable service standard. Parties are encouraged to contact the Bureau in advance of submitting a request for a Written Opinion to discuss the proposed practice or conduct and the information that may be required for the Bureau to determine whether the provisions of the Act set out in the request are applicable to the proposed conduct or practice.



## 5. INFORMATION REQUIREMENTS

The following sets out the general information requirements for those provisions of the Act for which requests for Written Opinions are most frequently received. The Bureau is of the view that, generally, the information set out below is sufficient to commence the service standard; however, the Bureau recognizes that specific information requirements may vary on a case-by-case basis. Certainly, where an applicant chooses not to provide the information suggested below with its request for a Written Opinion, the Bureau is likely to request this information or other similar information. In addition to these general requirements, specific information may be required depending upon the particular proposed business practice or conduct and the particular provisions of the Act with respect to which an applicant has requested a Written Opinion. Requests for additional information will result in delays in commencing the service standard. Applicants for Written Opinions are encouraged to contact the Bureau before submitting a request for a Written Opinion to discuss the information that the Bureau may require in order to determine the complexity designation or formulate a Written Opinion.



The following is a non-exhaustive list of the information that the Bureau generally requires to determine whether a requested provision is applicable to a proposed practice or conduct. Failure to provide this information, or any additional information requested by the Bureau, may result in the Commissioner deciding not to issue a Written Opinion.

## **5.1. Civil Provisions: Sections 76, 79 and 90.1**

### **5.1.1. Section 76 – Price Maintenance**

- a) A description of the product or products including: intended uses; regulations related to production, distribution or sale; patents, trademarks or other applicable property rights; as well as a list of products that are complements or substitutes for the product;
- b) A description of the methods and channels of supply proposed in the plan, including a list of customers, and a description of the type of customer and a copy of any contract or agreement setting out the terms of relevant franchise or principal/agent or mandatory/mandatary arrangements;
- c) A description of the criteria used by the firm to determine which distributors, agents or resellers or other customers will obtain supply; details of the terms and conditions of supply, such as those governing payment and credit, transportation, cooperative advertising, leases, consignment arrangements, and restrictions, such as exclusivity or granting of geographical territories;
- d) Details of any affiliation between the firm and any of its customers; and
- e) Details of any difficulties experienced with existing or previous customers, including pressure to deal with a certain group or class of customer, and on specific pricing terms.

### **5.1.2. Sections 77, 78, and 79 – Exclusive Dealing, Tied Selling, Market Restriction and Abuse of a Dominant Position**

- a) A copy of any relevant agreement(s) and a complete description of the proposed plan, including any known possible effects of the plan on current or potential customers, suppliers and competitors, as well as the business rationale or purpose for the plan;
- b) A list of products and/or geographic areas relevant to the proposed conduct and corresponding market share information;
- c) A description of the product or products relevant to the proposed conduct including: intended uses; regulations related to production, distribution or sale; patents, trademarks or other applicable property rights; as well as a list of products that are complements or substitutes for the product; and
- d) Information regarding whether or not the plan in question would constitute a practice.

### 5.1.3. Section 90.1 – Agreements or Arrangements that Prevent or Lessen Competition Substantially

- a) A copy of any relevant agreement(s) and a complete description of the proposed plan, as well as the business rationale or purpose for the plan;
- b) A complete description of the parties to the proposed agreement or arrangement and their affiliates;
- c) A description of the product or products relevant to the proposed conduct including: intended uses; regulations related to production, distribution or sale; patents, trademarks or other applicable property rights; as well as a list of products that are complements or substitutes for the product; and
- d) A list and description of any products and geographic areas where the parties or their affiliates compete or potentially compete with one another, along with corresponding market share information.

## 5.2. Criminal Provisions

### 5.2.1. Section 45 – Conspiracies, Agreements or Arrangements between Competitors

- a) A copy of any relevant agreement(s) and a complete description of the proposed plan, as well as the business rationale or purpose for the plan;
- b) A complete description of the parties to the proposed agreement or arrangement and their affiliates;
- c) A description of the product or products relevant to the proposed conduct including: intended uses; regulation related to production, distribution or sale; patents, trademarks or other applicable property rights, as well as a list of the primary buyers of the products that are complements or substitutes for the product; and
- d) A list and description of any products and geographic areas with respect to which the parties or their affiliates compete or potentially compete with one another.

## 5.3. Misleading Representations and Deceptive Marketing Practices (Sections 52 to 55.1 and 74.01 to 74.06)

Written Opinions may be requested by parties regarding the applicability of the misleading representations and deceptive marketing practices provisions of the Act to proposed representations, advertisements, promotional material, and business plans. Written Opinions may be requested regarding the applicability of the criminal offence provisions or reviewable practice provisions.

Examples of materials that may be submitted for a Written Opinion are: any proposed advertisement, solicitation, or notice including any telemarketing script; representations that include claims relating to performance, efficacy or length of life of a product; representations that relate to ordinary selling price; multi-level marketing plans; and promotional contests. The minimum information typically required by the Bureau to prepare a Written Opinion is described below.

### 5.3.1. General Information Required for All Requests

A clear description of the proposed representation and/or business plan accompanied by all relevant supporting information as set out in the following paragraphs will ensure that the applicability of the provisions of the Act requested to the representation and/or business plan can be assessed.

- a) Indicate which information should form the basis of the opinion if a promotion involves both French and English material. Note that if a review of material in both languages is requested, two requests will be required.<sup>6</sup>
- b) Include the proposed representation and/or business plan, draft of the advertisement, solicitation, notice or telemarketing script and the context in which the representation will be made so that an informed assessment can be made of the general impression created by the representation. In addition, there should be a statement of the facts that are relevant to the representations and the general impression likely to be created by those representations, including, but not limited to:
  - i. An indication of the intended target audience of the representations, and the characteristics of that target audience that may be relevant to the determination of the general impression created by the representation;
  - ii. An explanation of the general impression that the advertiser expects will be created in the minds of the target audience and why; and
  - iii. An explanation as to how the promotional media selected are expected to successfully reach the target audience.
- c) Describe the medium in which the proposed representation will appear (i.e. newspaper, television, packaging, Internet, etc.) and provide the geographic areas where it will run; and
- d) Include the name, address and phone number of the applicant, advertiser, or proposed business.

In addition to the above general information requirement, the following are descriptions of the more specific information required with respect to a particular section of the Act.

---

<sup>6</sup> Two requests are required because different languages could create nuances that may produce different general impressions.

### 5.3.2. Section 52.1 – Deceptive Telemarketing

Written Opinion requests relating to telemarketing should include the following additional information:

- a) The identity of the person on behalf of whom the communication is being made;
- b) The nature of the product or business interest being promoted;
- c) The purposes of the communication;
- d) The price of the product to be promoted; and
- e) Any restriction, terms, or conditions applicable to the delivery of the product.

In addition to the above, the following information should be included with a request relating to a contest, lottery, game of chance or skill, or mixed chance and skill:

- f) The number of prizes available;
- g) The cost and approximate retail value of the prizes;
- h) The area or areas to which the prizes relate; and
- i) Any fact that affects the chance of winning the prizes.

### 5.3.3. Section 53 – Deceptive Notice of Winning a Prize

Written Opinion requests relating to notices of winning a prize should include the following additional information:

- a) A description of anything the recipient must do to qualify for the prize or benefit;
- b) The cost associated with the act described in point (a) above;
- c) Any other cost associated with winning or qualifying to win the prize or benefit;
- d) The number of prizes or benefits available;
- e) The cost and approximate retail value of the prizes;
- f) The area or areas to which the prizes or benefits relate;
- g) Any fact that affects the chances of winning the prizes or benefits;
- h) The time required to deliver the prizes or benefits; and
- i) The method by which participants are selected, or prizes or benefits are distributed.

#### 5.3.4. Sections 55 and 55.1 – Multi-level Marketing and Pyramid Selling

For specific guidance regarding Written Opinions related to the applicability of sections 55 and 55.1, please see Section 8 of the Bureau's Enforcement Guidelines on *Multi-level Marketing Plans and Pyramid Selling*.<sup>7</sup>

#### 5.3.5. Paragraph 74.01(1)(b) – Representations not based on adequate and proper test

The applicant is responsible for ensuring that representations related to the performance, efficacy and length of life of the product are based on adequate and proper tests. For, among other reasons, if additional tests are necessary to determine if the proposed representations are based on adequate and proper tests, the Commissioner may decide not to provide a Written Opinion.

Written opinion requests relating to such claims should include the following additional information or things:

- a) A copy of all tests known to the advertiser that relate to each performance, efficacy or length of life claim, including the test methodology, all test data and results, and any other relevant information;
- b) A description of who performed the tests, and where and when they were conducted;
- c) A sample of the product itself. The Bureau may seek independent review of any performance, efficacy or length of life claim and/or tests accompanying an applicant's product;
- d) A description of all standards and standards setting and monitoring organizations that relate to the production or use of the advertised product that are relevant to the proposed performance, efficacy or length of life claims; and
- e) A list of all countries where the product is or has been marketed including complete disclosure of any past or pending legal or regulatory challenge pertaining to the performance, efficacy or length of life of the product.

#### 5.3.6. Subsection 74.01(2) – Misleading price representations – Suppliers Generally

Written Opinion requests relating to comparative price representations, where reference prices are based on market prices, should include the following additional information, as applicable:

- a) The date or dates of the planned representation;
- b) The sale price as well as the reference price of the product;

---

<sup>7</sup> <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03035.html>.

- c) An indication as to whether the representation relates to the price at which the product or like products have been, are or will be ordinarily supplied by suppliers generally in the relevant market;
- d) A description of the product and an indication of any products available in the relevant market that should be considered to be like products for the purpose of analysis, complete with an explanation as to why the product should be considered a like product;
- e) A description of the nature of the product, with particular emphasis on the characteristics that might influence analysis under the provision when evaluating the representations (for example, whether the product is seasonal in nature);
- f) An identification of the relevant geographic market and an explanation as to why this is the geographic market for the purposes of analysis;
- g) The geographic scope of the proposed advertising;
- h) The names and addresses of all of the suppliers in the relevant geographic market who sell the product or like products;
- i) The approximate total volume of the product sold or to be sold by each of the suppliers generally in the relevant geographic market in the twelve months preceding the proposed representation or in the twelve months after the proposed representation, as appropriate;
- j) The approximate total volume of the product sold or planned to be sold at the reference price by each of the suppliers generally in the relevant geographic market in the twelve months preceding the proposed representation or in the twelve months after the proposed representation, as appropriate;
- k) The number of days the product will be offered at or above the reference price by other suppliers in the relevant geographic market in the six months preceding the proposed representation, or in the six months after the proposed representation, as appropriate; and
- l) A full discussion demonstrating, to the best of the applicant's knowledge, whether for the relevant period:
  - i. The product is openly available in appropriate volumes by suppliers generally in the relevant geographic market;
  - ii. The reference price offered by suppliers generally in the relevant geographic market is based on sound pricing principles and/or was reasonable in light of competition;
  - iii. The reference price was a price that suppliers in the relevant geographical market fully expected the market to validate, whether or not the market did validate this price; and/or
  - iv. The reference price was a genuine price at which sales had occurred, or it was a price comparable to that offered by competitors.

### 5.3.7. Subsection 74.01(3) – Misleading price representation – Suppliers' Own

Written Opinion requests relating to the applicability of subsection 74.01(3), in particular regarding comparative price representations, where reference prices are based on the supplier's own prices, should include the following additional information, as applicable:

- a) The date or dates of the planned representation;
- b) The sale price as well as the reference price of the product;
- c) An indication as to whether the representation relates to the price at which the product or like products are or will be ordinarily supplied by the supplier making the representation in the relevant market;
- d) A physical description of the product and an indication of any products offered by the supplier in the relevant market that should be considered to be like products for the purpose of analysis, complete with an explanation as to why the product should be considered a like product;
- e) A description of the nature of the product, with particular emphasis on the characteristics that might influence analysis under the provision when evaluating the representations (for example, whether the product is seasonal in nature);
- f) An identification of the relevant geographic market and an explanation as to why this is the geographic market for the purposes of analysis;
- g) The geographic scope of the proposed advertising;
- h) The approximate total volume of the product sold or to be sold by the supplier in the relevant geographic market in the twelve months preceding the proposed representation or in the twelve months after the proposed representation, as appropriate;
- i) The total volume of the product sold or planned to be sold at the reference price by the supplier in the twelve months preceding the proposed representation or in the twelve months after the proposed representation, as appropriate;
- j) The number of days that the product was or will be offered at or above the reference price by the supplier in the six months preceding the proposed representation, or in the six months after the proposed representation, as appropriate; and
- k) A full discussion demonstrating whether, for the period in question:
  - i. The product will be readily available by the supplier in appropriate volumes;
  - ii. The reference price is based on sound pricing principles and/or was reasonable in light of competition in the relevant market;
  - iii. The reference price is a price that the supplier fully expects the market to validate, whether or not the market did validate this price; and/or
  - iv. The reference price is a genuine price at which sales have occurred, or it is a price comparable to that offered by competitors.

### 5.3.8. Section 74.06 – Promotional Contests

Written Opinion requests relating to promotional contests should include the following additional information:

- a) A copy of the rules and regulations for the contest;
- b) A description of the medium in which the proposed promotion will appear (e.g., newspaper, television, packaging, Internet, etc.) and the approximate time frames and the geographic areas where it will run;
- c) The contest starting and closing dates;
- d) A description of how the participants will be selected;
- e) The number and value of prizes being awarded;
- f) A description of how prizes will be distributed;
- g) A description of any regional allocation of prizes;
- h) The chances of winning each class of prize or a description of why it is not possible to know the probability;
- i) The skill-testing question requirement, if applicable;
- j) Any fact within the knowledge of the contest-runner that would materially affect a person's chances of winning;
- k) Purchase requirements, if applicable; and
- l) Copies of all advertising or other material that will be used to promote the contest and a description of when and how this material will be used.

If an applicant is submitting artwork for an opinion, he or she should ensure that all visuals and copy are readable. If the contest is to be advertised in different media or in different versions, the applicant should ensure that all material relating to each version and media type is submitted because a Written Opinion will only apply to the content of the particular request and will not be applicable to any other representations made in the course of the promotion.

## 6. SERVICE STANDARDS

### 6.1. Service Standard Periods

The Bureau aims to provide Written Opinions within the service standard periods set out in Table 2 below. These service standards represent the maximum time within which the Bureau will endeavour to provide a Written Opinion. The Bureau's obligation to comply with these service standards is contingent upon cooperation by the applicant. Where a service standard ends on a weekend or holiday, it will be deemed to end on the next day that is not a weekend or holiday.



Where an applicant requests a Written Opinion regarding the applicability of more than one provision of the Act, the longest service standard period will apply.

<b>Table 2: Service Standards</b>		
<b>Provision for which Written Opinion Requested</b>	<b>Complexity Designation</b>	<b>Service Standard</b>
Sections 45 to 49, 79 and 90.1	Non-complex	6 weeks
	Complex	10 weeks
Sections 52, 52.1, 53, 54, 55, 55.1, 74.01(1)(a), 74.01(1)(c), 74.01(2), 74.01(3), 74.02, 74.04, 74.05 and 74.06	Non-complex	2 weeks
	Complex	6 weeks
Written Opinions with respect to any other provision except mergers and merger-related matters <sup>8</sup>	Non-complex	4 weeks
	Complex	8 weeks

## **6.2. Satisfaction of the Service Standard**

The service that is the subject of the service standard is considered to have been provided when the Written Opinion has been mailed to the applicant or the applicant receives oral confirmation from the Bureau that the Written Opinion has been mailed.

## **6.3. Pausing the Service Standard**

For most non-complex Written Opinions, the information requirements set out in this Handbook will be sufficient for the Bureau to commence the service standard. However, depending on the circumstances and for more complex proposed practices or conduct, the Bureau may require additional information from the applicant to determine whether the requested provisions of the Act could be applicable to a proposed practice or conduct.

Where the Bureau has made a written request for additional information from the applicant after the commencement of the service standard period, the Bureau may pause the service standard period. The service standard period will resume upon receipt of all the information requested. Parties will be notified when the service standard period has been paused and then later resumed, together with the new service standard end-date. For non-complex Written Opinion requests, the service standard will not be suspended if all the information requested is received within three business days of receipt of the Bureau's request. For complex Written Opinion requests, the service standard will not be suspended if all the information requested is received within five business days of receipt of the Bureau's request.

<sup>8</sup> As noted above, for merger and merger-related matters, please see the *Fee and Service Standards Handbook for Mergers and Merger-Related Matters*. Available online at: <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03295.html>.



## 7. FEES

### 7.1. Fees

Fees for Written Opinions must be submitted at the time the application is made. The person making the request is responsible for payment. Where an applicant requests a Written Opinion regarding the applicability of more than one provision of the Act to one particular proposed practice or conduct, only one fee will apply for the amount that is the highest of the applicable fees. The Bureau will continue to charge \$50 to charitable organizations making a request for a Written Opinion<sup>9</sup>. Payments may be made by VISA, MasterCard, wire transfer<sup>10</sup> or by cheque payable to the Receiver General for Canada. Written Opinions are subject to applicable federal and provincial taxes. Table 3 sets out the applicable fees and federal and provincial taxes as at the date of publication of this Handbook.

<b>Table 3: Fees and Applicable Taxes<sup>11</sup> Written Opinions</b>					
<b>Provision for which Written Opinion Requested</b>	<b>Fees for Quebec Residents</b>	<b>Fees for Residents of Nova Scotia</b>	<b>Fees for Residents of Ontario, New Brunswick, Newfoundland and Labrador</b>	<b>Fees for Residents of British Columbia</b>	<b>Fees for residents of all other provinces</b>
<b>Sections 45 to 49, 79 and 90.1</b>	\$15,000.00 + GST (\$750.00) + QST (\$1,338.75) = \$17,088.75	\$15,000.00 + HST (\$2,250.00) = \$17,250.00	\$15,000.00 + HST (\$1,950.00) = \$16,950.00	\$15,000.00 + HST (\$1,800.00) = \$16,800.00	\$15,000.00 + GST (\$750.00) = \$15,750.00

9 The *Income Tax Act*'s definition of a charitable organization will be used to determine the applicability of this exception.

10 For further information regarding wire transfers, parties should contact the Bureau — see Table 1. Parties should also consider any administrative fees from financial institutions.

11 Only Canadian residents pay Canadian taxes, which are current herein to the date of publication of this Handbook.

**Table 3: Fees and Applicable Taxes<sup>11</sup> Written Opinions**

Provision for which Written Opinion Requested	Fees for Quebec Residents	Fees for Residents of Nova Scotia	Fees for Residents of Ontario, New Brunswick, Newfoundland and Labrador	Fees for Residents of British Columbia	Fees for residents of all other provinces
<b>Sections 52, 52.1, 53, 54, 55, 55.1, 74.01(1)(a), 74.01(1)(c), 74.01(2), 74.01(3), 74.02, 74.04, 74.05 and 74.06</b>	\$1,000.00 + GST (\$50.00) + QST (\$89.25) = \$1,139.25	\$1,000.00 + HST (\$150.00) = \$1,150.00	\$1,000.00 + HST (\$130.00) = \$1,130.00	\$1,000.00 + HST (\$120.00) = \$1,120.00	\$1,000.00 + GST (\$50.00) = \$1,050.00
<b>Other provisions</b>	\$5,000.00 + GST (\$250.00) + QST (\$446.25) = \$5,696.25	\$5,000.00 + HST (\$750.00) = \$5,750.00	\$5,000.00 + HST (\$650.00) = \$5,650.00	\$5,000.00 + HST (\$600.00) = \$5,600.00	\$5,000.00 + GST (\$250.00) = \$5,250.00

## 7.2. Refund Policy

Upon written request by the party who submitted the fee, refunds will be provided where: a request is withdrawn within two business days of receipt by the Bureau; the Commissioner decides not to provide a Written Opinion within fourteen days of receiving the request; in the case of an over-payment; or where the Commissioner decides not to provide a Written Opinion and she deems that it would be reasonable in the circumstances to provide a refund.

Owing to the short service standards for non-complex Written Opinions concerning sections 52, 52.1, 53, 54, 55, 55.1, 74.01(1)(a), 74.01(1)(c), 74.01(2), 74.01(3), 74.02, 74.04, 74.05, and 74.06 of the Act, refunds will not be provided.



## 8. PHOTOCOPIES

Fees for photocopies apply to requests for copying services made to the Bureau, including requests for copies of documents seized under warrants issued pursuant to section 15 of the Act that have not been returned to the parties from whom they were seized. Bureau policy provides that parties subject to a search may make copies of essential working documents prior to the removal of their documents from the premises.

### 8.1. Fees

Payments may be made by VISA, MasterCard, wire transfer<sup>12</sup> or by cheque payable to the Receiver General for Canada. Photocopies will be subject to a fee of \$0.25 per page and are subject to the federal and provincial taxes set out in Table 4. The fee is payable once the work has been completed.

<b>Table 4: Fees and Applicable Taxes<sup>13</sup> for Photocopies</b>					
<b>Service</b>	<b>Fees for Quebec Residents</b>	<b>Fees for Residents of Nova Scotia</b>	<b>Fees for Residents of Ontario, New Brunswick, Newfoundland and Labrador</b>	<b>Fees for Residents of British Columbia</b>	<b>Fees for residents of all other provinces</b>
<b>Photocopies</b>	\$0.25 + GST (\$0.01) + QST (\$0.02) = \$0.28 per page	\$0.25 + HST (\$0.04) = \$0.29 per page	\$0.25 + HST (\$0.03) = \$0.28 per page	\$0.25 + HST (\$0.03) = \$0.28 per page	\$0.25 + GST (\$0.01) = \$0.26 per page

<sup>12</sup> For further information regarding wire transfers, parties should contact the Bureau — See Table 1.

<sup>13</sup> Only Canadian residents pay Canadian taxes, which are current to the date of publication of this Handbook.



## 9. REVIEW/FEEDBACK MECHANISMS

Parties submitting a Written Opinion request are invited to provide feedback on the service provided to the Bureau by completing the brief evaluation leaflet enclosed with each response to a request for service. Completed leaflets should be mailed to the Bureau's Compliance and Operations Branch, which prepares reports that ensure anonymity of the respondents' feedback to the Bureau's enforcement branches.

Complaints regarding services for which fees and service standards apply can be directed to the Deputy Commissioner of Competition, Compliance and Operations Branch. The Deputy Commissioner will examine the matter and will provide feedback to the complainant.

Contact information for the Deputy Commissioner of Competition, Compliance and Operations Branch, is as follows:

Deputy Commissioner of Competition, Compliance and Operations Branch  
Competition Bureau  
50 Victoria Street  
Gatineau, Quebec K1A 0C9  
Telephone: 819-997-3763  
Facsimile: 819-953-1877

Where a complainant is not satisfied with the decision of the Deputy Commissioner, Compliance and Operations Branch, the Commissioner will, on application by the complainant, review the decision. Complainants will receive feedback and information regarding any subsequent resolutions or decisions relating to the original complaint.

Contact information for the Commissioner is as follows:

Commissioner of Competition  
Competition Bureau  
50 Victoria Street  
Gatineau, Quebec K1A 0C9  
Telephone: 819-997-5300  
Facsimile: 819-953-5013



## 10. HOW TO CONTACT THE COMPETITION BUREAU

Anyone wishing to obtain additional information about the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act*, the *Precious Metals Marking Act* or the program of written opinions, or to file a complaint under any of these acts should contact the Competition Bureau's Information Centre:

### Web site

[ [www.competitionbureau.gc.ca](http://www.competitionbureau.gc.ca) ]

### Address

[ Information Centre  
Competition Bureau  
50 Victoria Street  
Gatineau, Quebec K1A 0C9 ]

### Telephone

[ Toll-free: 1-800-348-5358  
National Capital Region: 819-997-4282  
TTY (for hearing impaired) 1-800-642-3844 ]

### Facsimile

[ 819-997-0324 ]