

ROY JENSEN

www.consol.ca
rjensen@consol.ca

119 Glencoe Boulevard
Sherwood Park AB T8A 5J5
23 February 2006

Canada Competition Bureau
Alberta Ministry of Government Services

Staff

Enclosed is a formal complaint regarding the interpretation of the Scanner Price Accuracy Voluntary Code (Code) and underlying federal legislation by the Real Canadian Superstore and the Canadian Council of Grocery Distributors (retailers). Other signatories to the Code may also have this interpretation and, if so, are included in this complaint.

Complaint

The scope section of the Code (Attachment A) contains the statement pertinent to this complaint

“The Code applies to all scanned ... merchandise sold in stores, with the exception of ... individually price-ticketed items.”

The retailers interpret the term ‘individually ticketed’ to mean any merchandise with a ticket attached directly to the item. This broad interpretation excludes vast quantities of merchandise and provides an opportunity for retailers to renounce their responsibilities to their customers and dispense with accurate record-keeping of item pricing.

I request that

- ① ‘individually ticketed’ be redefined as ‘individual items within the general stock that have an altered price because of a feature unique to that item, (e.g., items that have been damaged, stained, etc.)’;
- ② section 4 of the Code be relabeled ‘Shelf Labels and Ticketed Merchandise’;
- ③ the text of the Code be edited to encompass the new definition and application; and
- ④ I receive the 10 \$ refund owed to me, plus costs and damages.

History

The Superstore had marked down *all* of its ski pants. *Every pair* had a sales ticket affixed to the original ticket indicating the new price (Attachment B). However, the pants scanned at their original price (Attachment C, from a pair purchased prior to the sale). The duty manager refused to provide the discount afforded by the Code because the item was ‘individually ticketed’.

A complaint was lodged (Attachment D) with the contact on the Scanning Code of Practice sign and handled by Jennifer Wray of the Canadian Council of Grocery Distributors. She advised that “the Superstore applied the code 100% correctly.”

Supporting and additional information

Furthermore, Ms. Wray stated

“The scanning code of practice does not apply to any individually price ticketed item, (when the price physically appears on the item) whether the sign is handwritten or computer generated. This exclusion usually applies to apparel, discount food products, meats, and random weight products (fruit, vegetables & nuts in most instances).” (Attachment E)

However, section 3.1 of the Code states, “Retailers will apply the Code, **both in letter and in spirit.**” (emphasis added)

The current interpretation and application of ‘individually ticketed’

- violates the spirit of the Code, which is suppose to “maintain a high level of scanner price accuracy” (s. 3.2);
- provides *zero incentive* for retailers to ensure that pricing is correct;
- provides *zero correlation* between the ticket price and the scanned price (consumers obviously expect there to be a 1:1 correspondence); and
- allows retailers to put forward the Code as a false badge of honor, since they then interpret the rules to absolve themselves of as much responsibility as possible.



Attachment F shows a range of merchandise that, based on the correspondence with Ms. Wray, is not covered by the Code. This selection — from clothing to meat to cheese — accounts for about 30 % of the floor space in a typical Superstore. Some clothing stores could purport to abide by the Code yet be 100 % exempt based on the current interpretation.

I request a full, transparent, and public investigation.

Roy Jensen
Roy Jensen, M.Sc., Ph.D.

cc Canadian Council of Grocery Distributors
Canadian Federation of Independent Grocers
Retail Council of Canada
Consumers Association of Canada
Real Canadian Superstore
CityTV

Enclosure

Attachment A

SCANNER PRICE ACCURACY VOLUNTARY CODE

STATEMENT OF INTENT

Canadian retailers are committed to accurate scanner pricing. Incorrect prices can result in poor customer relations and legal sanctions. Consequently many retailers are now implementing a variety of procedures that were developed to help achieve and maintain accurate scanner pricing.

The Scanner Price Accuracy Voluntary Code ("the Code") evolved from the collaborative efforts of the Retail Council of Canada (RCC), the Canadian Association of Chain Drug Stores (CACDS), the Canadian Federation of Independent Grocers (CFIG), and the Canadian Council of Grocery Distributors (CCGD). These associations are composed of national, regional and local retailers selling a wide assortment of general merchandise, as well as pharmaceutical and food products. This diversity in the Canadian retail environment underscores the advisability of a voluntary code that can be widely used.

The Scanner Price Accuracy Voluntary Code has been endorsed by the Competition Bureau.

PURPOSE

The purpose of the Code is to:

1. Visibly demonstrate retailer commitment to scanner price accuracy;
2. Provide retailers with a consistent national framework for dealing with scanner price accuracy issues; and
3. Provide the retail industry with a mechanism for consumer redress in scanner price accuracy cases, to be managed by the industry through an industry committee.

SCOPE

The Code applies to all scanned Universal Product Code (UPC) bar coded, and/or Price Look Up (PLU) merchandise sold in stores, with the exception of goods not easily accessible to the public (e.g. prescription drugs and behind-the-counter cosmetics), and individually priced-ticketed items. The Code does not apply in provinces or territories where existing legislation or regulation covers these concerns.

A retailer adopting the Code must abide by the policies outlined below.

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**Scanner Price Accuracy
Voluntary Code**



Endorsed by:





Attachment A (cont.)

SCANNER PRICE ACCURACY VOLUNTARY CODE

3. RETAILERS' RESPONSIBILITIES

- 3.1 Retailers will apply the Code, both in letter and in spirit.
- 3.2 Retailers will establish appropriate internal policies and procedures for maintaining a high level of scanner price accuracy.
- 3.3 Retailers will display the sign attached hereto as Attachment 1 at all store entrances or in a conspicuous location near the store entrances. Retailers will display the sign attached hereto as Attachment 2 at each checkout station within their stores.
- 3.4 Retailers will train staff on the Code generally and the Item Free Scanner Policy in particular.
- 3.5 Retailers will have copies of their current advertising material (e.g. flyers, etc.) available and readily accessible for customer reference.

4. SHELF LABELS

- 4.1 For those products that are not individually price-ticketed, a clear and legible label must be affixed to the shelf next to the product.
- 4.2 The shelf label (peg label, basket label) must contain an accurate description of the item and shall include the price of the item or where the item is sold at a price based on a unit of measurement, the price per unit of measurement.
- 4.3 The price on the shelf label must be in at least 28-point bold type print, and product description in at least 10-point type print.
- 4.4 A sign for a given product within the retailer's premises which is not displayed with that product (i.e., is displayed elsewhere within the retailer's premises) shall comply with the minimum requirements described above and be at least 38.71 sq. cm in size.

5. CUSTOMER RECEIPTS

- 5.1 The cash register receipt provided to the customer for a transaction must contain, at a minimum, the following information:
 - the retailer's name;
 - the date of the transaction;
 - the nature of each item purchased and/or any distinguishing mark (subject to the system's limitations); and
 - the price and description of each purchased item

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CODE OF PRACTICE

1. THE ITEM FREE SCANNER POLICY

Retailers will implement an Item Free Scanner Policy as follows:

- 1.1 On a claim being presented by the customer, where the scanned price of a product at checkout is higher than the price displayed in the store or than advertised by the store, the lower price will be honored, and
 - (a) if the correct price of the product is \$10 or less, the retailer will give the product to the customer free of charge; or
 - (b) if the correct price of the product is higher than \$10, the retailer will give the customer a discount of \$10 off the corrected price.
- 1.2 Where the same error recurs in scanning multiple units of a given product during a given transaction, the retailer will correct the scanning error in respect of each unit or the given product purchased, but is obliged to apply the policy set out in 1.1 (a) and (b) in respect of only one of the units.
- 1.3 Paragraph 1.1 only applies after the final sale price of the purchased item has been displayed at the checkout, including relevant rebate, discount or promotional coupons.
- 1.4 To be eligible for the Item Free Scanner Policy, the product must match the product description on the corresponding shelf tag.
- 1.5 The Item Free Scanner Policy does not apply if the barcode or shelf label for a given product has been tampered with.
- 1.6 The Item Free Scanner Policy does not apply to a product where, in respect of that product, the law:
 - (a) establishes a minimum price (or specified price); or
 - (b) does not permit the retailer to offer a discount or a rebate.

2. CORRECTION OF ERRORS

- 2.1 Once a scanner pricing error is brought to the attention of the retailer, appropriate steps should be taken as quickly as possible to correct the source of the error.
- 2.2 When a retailer cannot immediately correct a scanning error in respect of a product, it will post a correction notice in a conspicuous place. Once such a notice has been posted, the Item Free Scanner Policy is no longer in effect in respect of the relevant product.

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Attachment A (cont.)

CODE OF PRACTICE

Scanning Code of Practice

If the scanned price of a non-price ticketed item is higher than the shelf price or any other displayed price, the customer is entitled to receive the first item free, up to a \$10 maximum. If a Code of Practice problem cannot be resolved at the store level, please call 1-866-499-4599 to register your complaint.

Code de procédure d'application pour le balayage électronique

Si le prix d'un produit non étiqueté lu par balayage est plus élevé que le prix affiché en magasin ou tout autre prix affiché, le client obtiendra le premier article gratuitement, jusqu'à un maximum de 10 \$. Si un problème concernant le Code de procédure d'application pour le balayage électronique ne peut être réglé en magasin, vous pouvez appeler au numéro 1-866-499-4599 afin d'y soumettre votre plainte.

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ASSOCIATION CANADIENNE DES CHAÎNES DE MARCHANDISES
CANADIAN ASSOCIATION OF CHAIN STORES



LA FÉDÉRATION DES ENTREPRENEURS
THE CANADIAN ASSOCIATION OF INDEPENDENT BUSINESS OWNERS



Retail Council of Canada
Conseil canadien de la vente au détail



Conseil canadien de la vente au détail
Canadian Council of Chain Distributors



Canada

CODE OF PRACTICE

6. CODE MAINTENANCE AND ADMINISTRATION

6.1 A Scanner Price Accuracy Committee ("the Committee") will be created to review the Code on an annual basis and to recommend required amendments. The Committee should be composed of representatives of CACDS, CHG, CCGD, RCC and the Consumers' Association of Canada (CAC).

6.2 The Committee should be responsible for keeping the Code up to date.

6.3 The Committee should meet at least twice a year in order to supervise national implementation of the Code and consider any recommended changes to it.

6.4 The Committee should create sector specific panels (i.e. Grocery, Drug or General Merchandise). Each panel should:

- (a) be composed of representatives of the respective trade associations and the CAC;
- (b) review any outstanding complaints arising from the Item Free Scanner Policy; and
- (c) recommend ways of resolving the complaint and provide relevant direction to the appropriate contact person.

6.5 The Committee shall prepare an annual report for the Competition Bureau concerning the number of complaints received and their resolution.

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CODE OF PRACTICE

7. CONSUMER COMPLAINT PROCESS

7.1 When a scanner price error occurs, the cashier will be authorized to implement the Item Free Scanner Policy.

7.2 A customer dissatisfied with the cashier's decision will be directed to the store manager or supervisor.

7.3 If the store manager or supervisor cannot resolve the dispute, the customer should be directed to a designated company representative.

7.4 The time period for considering a particular complaint should be left to the discretion of the retailer. However, generally complaints should be resolved as expeditiously as possible and, in any event, no later than one month after the error is alleged to have occurred.

7.5 In the event that the dispute between the retailer and the consumer cannot be resolved:

- (a) either party may refer the complaint to the Scanner Price Accuracy Committee; and
- (b) if the dispute remains unresolved it may, at the request of either party, be referred to a designated arbitrator on a cost recovery basis.

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Attachment B



Attachment C



Attachment D

ROY JENSEN

www.consol.ca
rjensen@consol.ca

119 Glencoe Boulevard
Sherwood Park AB T8A 5J5
07 January 2006

Scanner Price Accuracy Committee

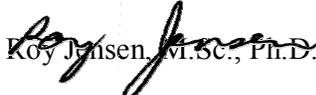
I wish to file a complaint against the Real Canadian Superstore (Superstore) for failing to abide by the Scanning Code of Practice (Code).

On 29 December 2005, I purchased a pair of ski pants from the Superstore. All pairs of pants on the rack had sales tickets attached to the original ticket on each garment (Attachment A) and there were signs in the store advertising 50 % off winter clothing.

At the cashier, the pants scanned at the regular price (Attachment B, from a pair purchased prior to the sale). When the sale ticket was pointed out to the cashier, she manually corrected the price (Attachment C). Upon requesting the 10 \$ discount in accordance with item 1.1 of the Code, the duty manager refused, arguing that the Code doesn't apply because the sales ticket was attached to the original ticket on the garment. I submit that the manager misinterpreted the Scope section of the Code, "...with the exception of ... individually ticketed items." 'Individually ticketed', in my opinion, must refer to individual articles within the stock reduced for some reason (stained, damaged, etc.), rather than price changes applied to *all* items in stock. The latter is the case herein: all items on the rack were ticketed with the lower sale price.

Considering an extrapolation of the Superstores argument: There is no shelf tag or general signage on most clothing racks in the Superstore. Thus, based on the Superstores definition, each item is 'individually ticketed' with the original ticket and/or subsequent sales tickets. The Superstore is arguing that, if the barcode lookup price didn't match the price printed on the ticket of any garment, the Code would not apply because each is individually ticketed, which is absurd!

I request my complaint be heard by the Scanner Price Accuracy Committee. If within their purview, I request an order for costs and damages against the Superstore.


Roy Jensen, M.Sc., Ph.D.

cc Superstore Head Office
Superstore Sherwood Park
Retail Council of Canada

Enclosure

Attachment E (emphasis added)

To: "Roy Jensen" <rjensen@consol.ca>
Subject: RE: Scan Code of Practice Issue - Superstore, Sherwood Park - JENSEN - Superstore.pdf
From: "Jennifer Wray" <jwray@ccgd.ca>
Date: Fri, 13 Jan 2006 12:04:11 -0500
Cc: "Ruth Whyte" <rwhyte@retailcouncil.org>,
"Justin Sherwood" <JSherwood@ccgd.ca>,
"Gary Sands" <GaryS@cfg.ca>

Good Morning Roy,

We thank you for your letter and have reviewed the documentation provided in your email. In this case, the Superstore applied the code 100% correctly.

The scanning code of practice does not apply to any individually price ticketed item, (when the price physically appears on the item) whether the sign is handwritten or computer generated. This exclusion usually applies to apparel, discount food products, meats, and random weight products (fruit, vegetables & nuts in most instances).

Please feel free to call Justin Sherwood at (403) 250 6608 he is the Vice President responsible for scanner price accuracy at CCGD if you would like to discuss this matter further.

We've noted this in our logs and will ensure to keep your information in our files.

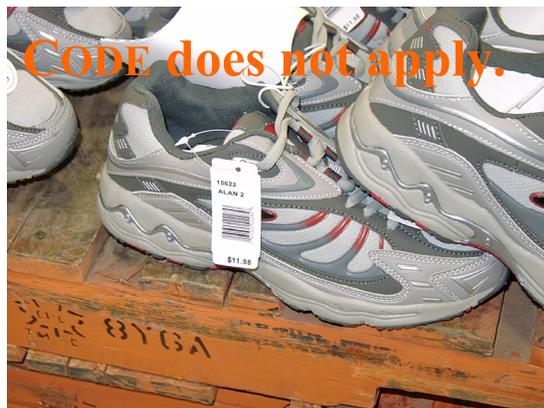
Again, thank-you for your correspondence.

Sincerely,

Jenn

Jennifer Wray
Executive Assistant to David Wilkes & Kim McKinnon
Canadian Council of Grocery Distributors (CCGD)
Ph: 416 922 6228 ext 322
Fax: 416 922 5909
1 Concorde Gate, Suite 604
Toronto, ON
M3C 2N6

Attachment F



Attachment F (cont.)



Old Attachment C (referenced in original complaint of 07 January 2006)

the real Canadian Superstore
 Refunds/Exchanges will be considered
 within 14 days with valid receipt
 Gift returns extended until Jan 15/06
 Your cashier is ADA

2 @ 0.04 ea Unit Price	
CHKSTND BAGS001218	0.08 G
1 @ 3.89 ea Mult 2 / 6.98	
OW BREAD	3.89
1 @ 3.89 ea Mult 2 / 6.98	
OW BREAD	3.09
LARGE EGGS 000006	1.98
SKI PANT	29.98 G
SKI PANT	29.98 G
2 OF 3 / 0.96	
LEMONS 004053	0.64

7.0% G.S.T.105642805	4.20

Balance Due	73.84

CL	Void	
SKI PANT		29.98-G
CL	Void	
SKI PANT		29.98-G

7.0% G.S.T.105642805		0.01

Balance Due		9.69

SKI PANT	14.94 G

7.0% G.S.T.105642805	1.05

Balance Due	25.67

SKI PANT	14.94 G

7.0% G.S.T.105642805	2.10

Balance Due	41.66

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STORE:1567 LANE:11 CASHIER:00076297
 CARD NUMBER:*****1202 S

** DIRECT PAYMENT ** Purchase
 PAYMENT FROM Chequing
 \$41.66

REF#: 002002001041 TC#:00007332
 TERM:WD156711 ISO:00
 2005/12/29 17:57:53

001-APPROVED 195803

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Debit Card	41.66
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Your PC points balance is
 13455 points.

Free groceries fast with PC points!
 Pick up a brochure or connect
 at www.pcfincancial.ca

Change Due	0.00
Total Tax Paid	2.10

2005/12/29 17:58 1567 0205 11 00076297

Due to anticipated heavy
 Customer traffic on Boxing Day we
 will be unable to process any
 refunds on Dec 26th