

ADVERTISING Guide

for real estate and mortgage agencies and brokers

Guide updated on May 2, 2013

Published and produced by
the Organisme d'autoréglementation du courtage immobilier du Québec

4905, Lapinière Blvd., Suite 2200

Brossard (Québec) J4Z 0G2

Published: March 2012

This document is a revised and updated version of the document entitled “Provisions concerning advertising, customer solicitation and representations by a member” published by the Association des courtiers et agents immobiliers du Québec (ACAIQ) in June 1994. One of the objects of this revision is to take into account the OACIQ Discipline Committee’s interpretation of the provisions of the Real Estate Brokerage Act and the regulations thereunder relating to advertising, the soliciting of clients and representations. This revised version also includes information regarding new communication technologies (e.g. email and Internet).



Table of Contents

1. Introduction	6
1.1 The Real Estate Brokerage Act and advertising by brokers and agencies	7
1.2 Guidelines	8
1.3 The agency is also responsible for enforcing advertising rules	9
2. Preliminary comments	10
2.1 Name under which an agency does business	11
2.1.1 Operating name of a broker acting on his own account	11
2.1.2 Choice of name and requirements of the Act respecting legal publicity	11
2.1.3 Practical aspects of your name selection	12
2.2 Compliance with Charter of the French language	13
2.3 Conditions of use of the OACIQ logo by licence holders	13
3. Basic rules regarding advertising, the soliciting of clients and representations	14
3.1 Identification of brokers and agencies (mandatory statements)	15
3.1.1 Rules applicable to technological methods of communication	15
3.1.2 Advertising rules concerning brokers carrying out their activities within a business corporation	17
3.2 Examples of advertisements	18
3.2.1 Business cards	19
3.2.2 Signs	29
3.2.3 Advertising on an agency's website	30
3.2.4 Advertising on an broker's website	31
3.2.5 Email	32
3.2.6 Advertising in periodicals (including newspapers, magazines, Yellow Pages™ and Internet classifieds)	33
3.3 Other statements	34
3.3.1 Supplementary rules contained in the franchise agreement	34
3.3.2 Prohibited practices: engaging in advertising that is false, misleading or incomplete, or that leaves out a material fact	34
3.3.3 Other prohibited practices	35
3.3.3.1 Web addresses	36
3.3.4 Practical applications	36
4. Advertising and the brokerage contract	40
4.1 General rules	41
4.2 In the absence of a brokerage contract	42
4.2.1 Advertising after a brokerage contract has expired	43
4.3 Advertising rules specific to sub-franchising	43
4.4 Advertising completed transactions	44
4.4.1 The "SOLD" notice	44
4.4.1.1 "SOLD in X days" advertising	44
4.4.1.2 Advertising by the buyer's broker bound by a Brokerage contract – Purchase	45
4.4.2 Publication of sold price	46
4.4.3 Publication of number of transactions closed	46
4.5 Advertising an interest rate	50

5. Specific rules regarding the detailed description sheet	52
5.1 Example of statements on detailed description sheet	53
6. Joint advertising	56
6.1 Joint advertising with someone who is not a real estate or mortgage agency or broker	57
6.2 Team advertising (real estate brokers working for the same real estate agency)	58
6.3 Joint advertising by a group of real estate agencies and brokers	60
6.4 Advertising by franchised and sub-franchised real estate agencies	62
6.4.1 Franchiser holding an agency licence	65
7. Publication of disciplinary decisions by the OACIQ Discipline Committee	66
8. Advertising and the Internet	68
8.1 Advertising and the Internet	69
8.2 Allowing third parties to advertise on an agency's or broker's website	71
8.3 Hyperlinks	72
9. Promotional advertising	74
9.1 Publicity contests	75
9.2 Promotions on signs and other incentives	75
9.3 Remuneration reductions and other benefits	76
9.3.1 Performance guarantees offered by real estate agencies and brokers	77
9.3.2 Promotion offered by a third party	77
10. Telephone solicitation	78
10.1 Telephone solicitation and the National Do Not Call List	79
10.2 Companies offering telephone solicitation related services	80
10.2.1 Telephone information on a listing	80
10.2.2 Potential buyer and seller search services, at a real estate broker's request	81
10.2.3 Distinction to be made with an assistant providing this type of services	81
11. Impact of a licence suspension or revocation on advertising	82
12. Conclusion	84



1. Introduction

1. Introduction

1.1 The Real Estate Brokerage Act and advertising by brokers and agencies

The Real Estate Brokerage Act (R.S.Q. c. C-73.2), which came into force on May 1, 2010, replaced the former Real Estate Brokerage Act (R.S.Q. c. C-73.1), which had been in force since 1994. Like the previous act, the current Real Estate Brokerage Act (REBA) and the regulations adopted thereunder provide a set of rules regarding advertising and representations made by real estate and mortgage brokers and agencies. These rules are aimed mainly at preventing advertising that is false, misleading or incomplete or that leaves out a material fact, and the proper identification of brokers and agencies in their advertising and representations. In accordance with the Act and the regulations thereunder, some of these rules apply not only to brokers and agencies, but also to any individual or partnership (e.g. franchisers, real estate boards) that promote real estate or mortgage brokerage services. The regulations include specific rules regarding what must appear on a detailed description sheet or similar document used to describe an immovable covered by a brokerage contract.

These rules are spelled out mainly under section 22 of the Act and sections 110 to 118 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising. They are part of what the Supreme Court of Canada has identified as the two main objectives of regulating professional advertising, i.e. 1) to maintain a high standard of professionalism for the profession, as opposed to commercialism, and 2) to protect the public from irresponsible and misleading advertising (*Rocket v. The Royal College of Dental Surgeons of Ontario*, [1990] 2 S.C.R. 232, p. 249).

Real estate brokerage and mortgage brokerage are governed by specific legislation whose prime objective is to protect the public by overseeing the activities of brokers and agencies based on rules of conduct arising out of professional law and consumer law. This aspect must be taken into account when interpreting the Real Estate Brokerage Act.

The practices used must be consistent with the requirements of the Real Estate Brokerage Act and the regulations thereunder and reflect the high degree of professionalism which brokers and agencies are required to uphold. These requirements apply to all sectors of real estate brokerage governed by the Act, including residential, commercial, mortgage and other forms of brokerage.

It is understood that the principles set out in this document are not binding on the Discipline Committee of the Organisme d'autoréglementation du courtage immobilier (hereinafter called the OACIQ or the Organization). However, abiding by these principles will considerably reduce the risk of being the subject of a request for assistance regarding professional advertising by real estate and mortgage brokers.

1.2 Guidelines

This document does not contain the answer to every question regarding advertising. Its purpose is to provide guidelines to help real estate brokers and agencies prepare their advertising and to identify those behaviours which constitute violations to the rules contained in the Act.

1.3 The agency is also responsible for enforcing advertising rules

Brokers, agencies and other individuals concerned by the regulations are of course responsible for following the rules regarding their own advertising and representations, and the information they provide regarding immovables covered by a brokerage contract. Each is individually responsible for complying with these rules.

However, keep in mind that when a broker acts for an agency, the agency has specific responsibilities as an employer or as "overseer" of the work of the brokers carrying on their activities on his behalf. Among other things, the agency is liable for any injury caused to a person by the fault of one of its brokers (section 18 of the Real Estate Brokerage Act), and it must ensure that the brokers acting on its behalf comply with the provisions of the Real Estate Brokerage Act and the regulations thereunder (section 19 of the Real Estate Brokerage Act). In addition, the executive officer of an agency is personally responsible for ensuring that the individuals employed by or authorized to act on behalf of the agency comply with the Act and the regulations thereunder (section 70 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising). The agency and its executive officer must therefore ensure that any advertising issued by the agency or on its behalf by brokers is in accordance with the applicable rules.



2. Preliminary comments

2. Preliminary comments

The examples contained in this document are only suggestions as to what is allowed in terms of advertising or illustrations of practices to be avoided. Licence holders may present their advertising differently from these examples, as long as it contains all mandatory statements and otherwise complies with all other advertising rules, including by not being false, misleading or incomplete and not leaving out a material fact. The examples use fictitious names and addresses.

2.1 Name under which an agency does business

A real estate or mortgage agency may be a natural person, a legal person (company) or a partnership. It may choose to do business under only one assumed name. Although in principle an enterprise may do business under several assumed names, in the field of real estate brokerage, agencies are required to do business under only one name, whether its own name or an assumed name, because the use of several names can create confusion. The only exception allowed to this rule is the use of an English version of the name used. In addition, any name used by a broker should not suggest that it designates more than one agency or that this agency is not the holder of a licence issued by the Organization. For example, expressions such as “associated agencies”, “agency group” or “no middleman agency” are not allowed.

The licence issued to an agency by the OACIQ shows the name of the agency (in the case of a company, this could be 1234-5678 Québec Inc.) and, if applicable, the assumed name under which the agency has chosen to do business (1234-5678 Québec Inc. operating as Les immeubles de chez nous). In this example, the agency will always have to do business under the name “Les immeubles de chez nous” since this is the name under which it has chosen to do business in the field of real estate brokerage.

2.1.1 Operating name of a broker acting on his own account

A real estate broker acting on his own account may not operate under a name other than his own or the name under which he is normally known, as appearing on his licence.

However, if this broker was the holder of a chartered real estate broker’s certificate issued by the ACAIQ when the Real Estate Brokerage Act (R.S.Q. c. C-73.2) came into force and operated under an assumed name at the time, he may continue to do so.

2.1.2 Choice of name and requirements of the Act respecting legal publicity

The Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (the “Act respecting legal publicity”) requires natural persons operating under a name that does not include their own name and surname, as well as all legal persons and partnerships doing business in Québec, to “register”. Registration consists in filing a declaration (or constituting act in the case of a legal person) with the Registraire des entreprises du Québec in which the enterprise provides information that will be published in a register accessible to the public. The information that an enterprise must declare include its name (birth name of natural person, enterprise’s name as per its constituting act) and any other name which an enterprise intends to use in the course of its business (assumed name).

The Act respecting legal publicity sets certain limits regarding the name under which one can do business in Québec. These limits are as follows:

- the name must comply with the Charter of the French language;
- the name must not include an expression reserved for someone else;
- the name must not be immoral, obscene or scandalous;
- the name must include the legal form when required by law (e.g. "Inc.");
- the name must not falsely lead to believe that the enterprise is a non-profit group;
- the name must not falsely lead to believe that the enterprise is or is connected to a public authority;
- the name must not falsely lead to believe that the enterprise is connected to another (e.g. affiliated);
- the name must not be identical to or easily confused with the name of another enterprise;
- the name must not be misleading (e.g. it must not inaccurately describe the enterprise's activities).

To avoid having a name that is identical to or that can be confused with that of an existing enterprise, the Registraire des entreprises du Québec requires legal persons to include a name search report with their constituting documents. You can generate your own name search report at no cost on the Registraire des entreprises website at <http://www.registreentreprises.gouv.qc.ca/en/default.aspx/> (choose "Online Services" or "Consult an enterprise's file"). For a fee, you can also request a name search from the Registraire des entreprises by filling out and mailing a request form or by requesting a report online.

The criteria and authorizations required regarding names can also be verified with the OACIQ. The Organization will be able to tell you whether the name you want is already being used by another real estate agency or if this name is too similar to an existing one and risks creating confusion.

However, verifications made with the OACIQ do not exempt a legal person from obtaining the name search report required by the Registraire des entreprises du Québec.

2.1.3 Practical aspects of your name selection

A real estate or mortgage agency that chooses an assumed name must keep a few practical aspects in mind. It is suggested that you choose a name that is not too long, since under real estate brokerage regulations, all advertising, soliciting of clients or representations must include the full name as it appears on the licence. Any assumed name chosen must always appear in full in any representations regarding real estate or mortgage brokerage (signs, classified ads, business cards, etc.). The agency and its brokers must include the agency's name in all advertising and never have the option of using a short form even if, under certain circumstances, it would seem practical to do so.

As well, although an agency's name may include the phrase "real estate agency" or "mortgage agency", it should be noted that in most cases, advertising rules require that the words "real estate agency" or "mortgage agency" be included in all advertising.

This following business card illustrates the redundancy this can create:



2.2 Compliance with Charter of the French language

To make sure you comply with the provisions of the Charter of the French language which may apply to you, it is recommended to ask for assistance from the Office québécois de la langue française for advice regarding your choice of name and signage policies. The OLF's website can be found at www.olf.gouv.qc.ca.

2.3 Conditions of use of the OACIQ logo by licence holders

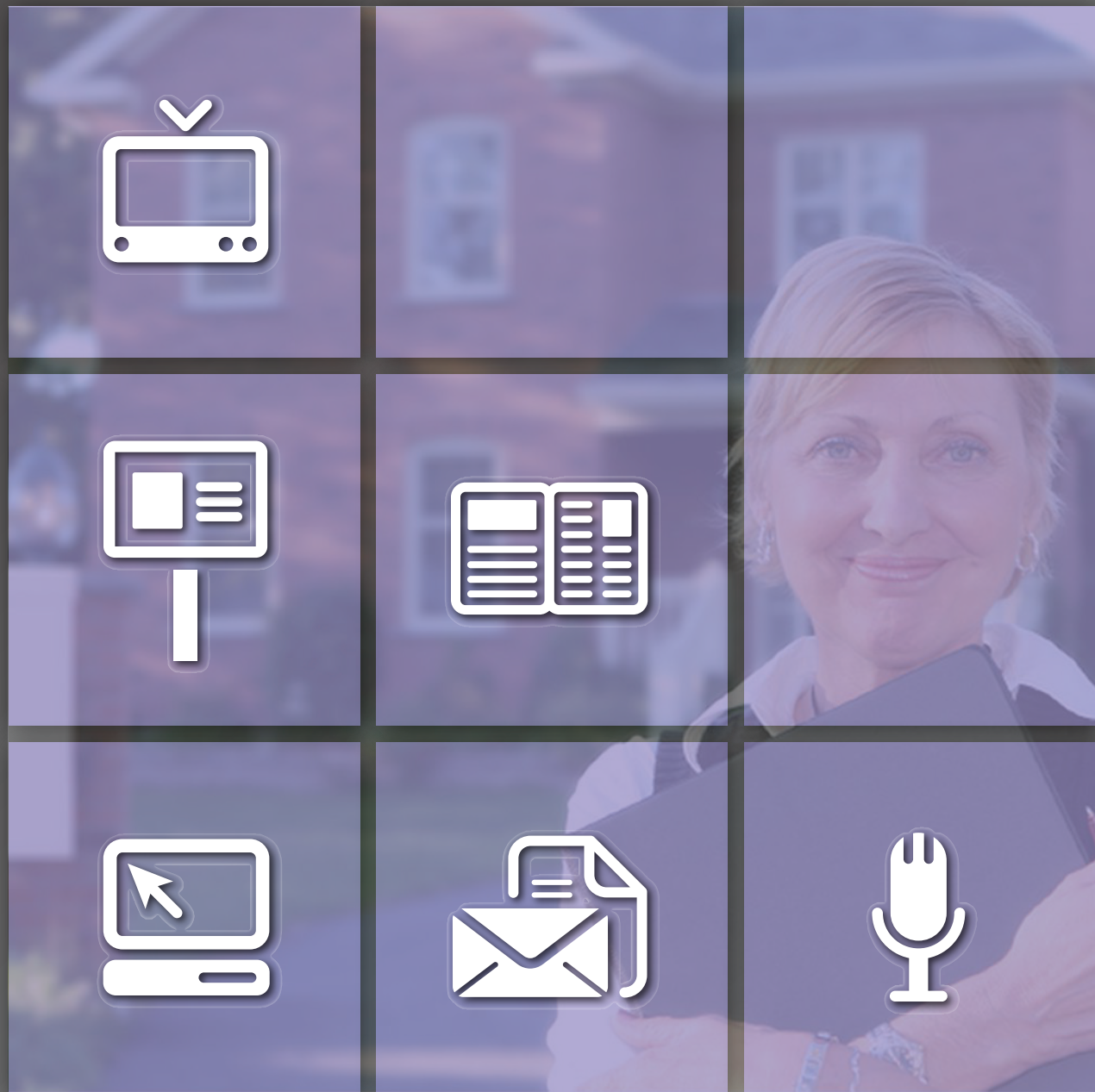
To indicate membership in the OACIQ, agencies or brokers may want to include the OACIQ logo in their advertising, documents or business cards. Since the OACIQ logo is a registered trademark, its use must comply with the following rules:

1. the logo user must be the holder of a licence issued by the OACIQ;
2. the logo must be reproduced in one of the following three versions:



3. when the OACIQ logo is used in close proximity to an agency's logo, the latter must clearly prevail over the OACIQ logo;
4. the logo must be used with the word "Licence Holder" as illustrated above.

The OACIQ logo is available in electronic version on the OACIQ extranet site. It is also important to note that this logo cannot be used on any forms used in real estate or mortgage brokerage other than those published by the OACIQ.



3. Basic rules regarding advertising, the soliciting of clients and representations

3. Basic rules regarding advertising, the soliciting of clients and representations

3.1 Identification of brokers and agencies (mandatory statements)

The statements which must appear in any advertising, soliciting of client or representations in relation with the activity of real estate brokerage are spelled out in sections 114 to 117 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising and summarized in the tables below according to type of advertising (business cards, periodicals, radio, etc.). An explanation of basic advertising rules follows illustrated by examples.

The various alternatives offered to identify the licence held by a broker or agency are designed to give them as much latitude as possible to identify themselves according to their actual practice.

3.1.1 Rules applicable to technological methods of communication

The requirements regarding advertising, soliciting and representations must be complied with by real estate agencies and brokers who use technological methods of communication, even if these are operated by a third party. An example would be the publication of information concerning a property for sale on the website of a franchiser or of the Canadian Real Estate Association's Multiple Listing Service®.

1. Real estate agency	
All types of advertising, soliciting, except periodicals (business cards, signs, brochures, radio, television, email, Internet, etc.)	Periodicals (newspapers, magazines)
<ol style="list-style-type: none"> 1. The name of the agency as it appears on the licence; 2. One or more of the following designations identifying the licence held by the agency: <ol style="list-style-type: none"> a. Real estate agency; b. Residential real estate agency; c. Commercial real estate agency; d. Real estate mortgage agency. 	<ol style="list-style-type: none"> 1. The name of the agency as it appears on the licence; 2. One or more of the following designations identifying the licence held by the agency: <ol style="list-style-type: none"> a. Real estate agency (or the abbreviation R.E. Agcy); b. Residential real estate agency (or the abbreviation Res. R.E. Agcy); c. Commercial real estate agency (or the abbreviation Comm. R.E. Agcy); d. Real estate mortgage agency (or the abbreviation R.E. Mrtg. Agcy).

1. a. Mortgage agency	
All types of advertising, soliciting, except periodicals (business cards, signs, brochures, radio, television, email, Internet, etc.)	Periodicals (newspapers, magazines)
<ol style="list-style-type: none"> 1. The name of the agency as it appears on the licence; 2. The designation "mortgage agency". 	<ol style="list-style-type: none"> 1. The name of the agency as it appears on the licence; 2. The designation "mortgage agency" or the abbreviation Mtrg Agcy.¹

2. Real estate broker	
All types of advertising, soliciting, except periodicals (business cards, signs, brochures, radio, television, email, Internet, etc.)	Periodicals (newspapers, magazines)
<ol style="list-style-type: none"> 1. The surname and first name of the broker, as it appears on the licence; 2. One or more of the following designations, identifying the fields in which the broker is authorized to practice²: <ol style="list-style-type: none"> a. Real estate broker; b. Residential real estate broker; c. Commercial real estate broker; d. Real estate mortgage broker; 3. The "certified" designation if the person is qualified to act as executive officer of an agency (optional); 4. For a broker acting for an agency, the name of the agency, followed by one of the following designations used by the agency to identify the licence held (see agency chart). 	<ol style="list-style-type: none"> 1. The surname and first name of the broker, as it appears on the licence; 2. One or more of the following designations, identifying the licence held by the broker⁴. The statements are the same, except that the following abbreviations may be used: <ol style="list-style-type: none"> a. Real estate broker (or the following abbreviation: R.E. Bkr); b. Residential real estate broker (or the following abbreviation: Res. R.E. Bkr); c. Commercial real estate broker (or the following abbreviation: Comm. R.E. Bkr); d. Real estate mortgage broker (or the following abbreviation: R.E. Mrtg. Bkr); 3. For a broker acting for an agency, the name of the agency.

3. Mortgage broker	
All types of advertising, soliciting, except periodicals (business cards, signs, brochures, radio, television, email, Internet, etc.)	Periodicals (newspapers, magazines)
<ol style="list-style-type: none"> 1. The name of the broker as it appears on the licence; 2. The designation "mortgage broker"; 3. The "certified" designation if the person is qualified to act as executive officer of an agency (optional); 4. For a broker acting for an agency, the name of the agency, followed by "mortgage agency" in the case of a mortgage agency, or, if a real estate agency, one of the following designations used by the agency: <ol style="list-style-type: none"> a. Real estate agency; b. Residential real estate agency; c. Commercial real estate agency; d. Real estate mortgage agency. 	<ol style="list-style-type: none"> 1. The name of the broker as it appears on the licence; 2. The designation "mortgage broker" or the following abbreviation: Mtrg. Bkr; 3. For a broker acting for an agency, the name of the agency.

¹ The holder of a real estate agency licence and a mortgage agency licence may indicate either or both licences.

² The choice of designation used to identify the broker and agency licence should be made together by the broker and the executive officer of the agency for which he acts.

³ Idem

⁴ Idem

Other statements

It is possible to add other statements in advertising, soliciting or representations as long as they are not "false, misleading or incomplete and do not leave out a material fact", and do not contravene any other real estate brokerage rule. For example, although not a mandatory statement, the agency or broker should indicate the telephone number where they can be reached, mailing address, email or website address. It is also important to note that any licence holder's photo used in advertising or representations must not date more than five years. If information or statistics are provided, the sources must be indicated. The agency may also decide to apply internal rules concerning telephone numbers. These other statements are covered specifically in pages 34 to 39 of this document.

Statement suggested on the agency's or broker's website to avoid any confusion as to the territory on which the agency or broker is authorized to carry out their activities:

Following the name indicated on the licence, the statement *"is authorized to pursue the activity of real estate brokerage in the province of Québec"*.

Because the Internet does not recognize boundaries or jurisdictions, any advertising, soliciting of clients or representations related to the activity of real estate brokerage may be viewed by anyone, anywhere in the world. The main purpose of this statement is to reduce the risk of illegal solicitation of clients in a territory where the agency or the broker are not authorized to pursue their activities.

3.1.2 Advertising rules concerning brokers carrying out their activities within a business corporation

Since January 1, 2012, amendments made to the Real Estate Brokerage Act and its regulations allow a broker acting on behalf of an agency to carry out his activities within a business corporation (company) which he controls. To learn about the conditions to do so, we encourage you to review Section 34.1 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising.

However, very specific rules regarding advertising apply to brokers who choose to operate in this way.

First of all, the broker must choose a company name which includes his full name as it appears on the licence issued by the Organization. Therefore, a broker cannot only write his initials in the name of his business corporation. Moreover, the chosen name must not cause any confusion. Thus, the broker cannot use the word "agency" in the name of his company.

When a broker operates within a business corporation, representations and advertising must be made by this company. In addition to his last name and first name, type of licence held and the agency name, he must indicate the full name of this company. The broker may omit to indicate his last name and first name and the type of licence held if he specifies, following the name of the company, the statement "business corporation of a real estate broker" or "business corporation of a mortgage broker" or for restricted licences, "business corporation of a residential real estate broker", "business corporation of a real estate mortgage broker" or "business corporation of a commercial real estate broker".

Here is a chart containing the mandatory minimum statements required (two options) in any kind of advertising, *except periodicals* (see chart under 3.1.1) pursuant to Sections 114 and 115.1 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:

Broker's name	Robert Therrien
Type of licence held by the broker	Real estate broker (or mortgage broker)
The name of the business corporation	Robert Therrien Inc. or Les immeubles Robert Therrien Inc.
The name of the agency	Immeubles ABC Inc.
Type of licence held by the agency	Real estate agency

Name of the business corporation followed by the statement "business corporation of a real estate broker" or "business corporation of a mortgage broker"	Robert Therrien Inc., business corporation of a real estate (or mortgage) broker or Les immeubles Robert Therrien Inc., business corporation of a real estate (or mortgage) broker
Name of the agency	Immeubles ABC Inc.
Type of licence held by the agency	Real estate agency

3.2 Examples of advertisements

The five main rules to follow for advertisements are as follows:

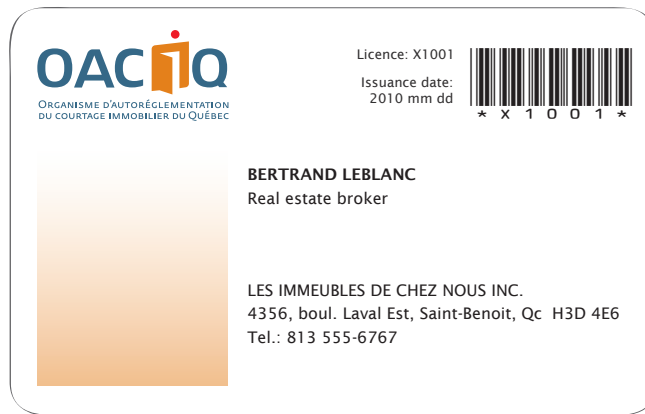
1. The name of the agency or broker must appear in such a way that they are easily identified and cannot be confused with anyone else.
2. Use wording for the name, brand name, slogan or logo that cannot create confusion.
3. Line up the words that make up the agency's name one after the other, i.e. do not separate the various components of the name in a way that might suggest that a sub-franchised agency, a sub-franchising agency and a provincial franchiser form a single brokerage firm. The specifics of advertising in a franchising environment are discussed in more detail on page 34 of this document.
4. Use the same type size for all words that form an agency's name, or at least present them so that there is no confusion as to the agency's actual name.
5. Do not use abbreviations to identify the type of licence, except for advertising in periodicals.

3.2.1 Business cards

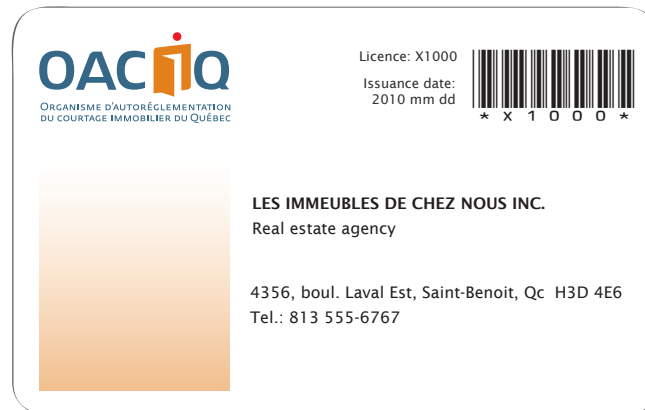
Case 1:

Real estate broker acting for a real estate agency operating under its own name or its company name, i.e. the only name appearing on the licence.

The real estate broker holds the following licence:



This is the licence of the real estate agency for which this broker acts:



The following business card meets the requirements of sections 114 and 115 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:

LES IMMEUBLES DE CHEZ NOUS INC.
Real estate agency

Bertrand Leblanc
Real estate broker

4356, boulevard Laval Est
Saint-Benoit (Québec)
H3D 4E6

Tel.: 813 555-6767

Name of agency (company name) and type of licence
(could be "residential real estate agency",
"commercial real estate agency",
"real estate mortgage agency")

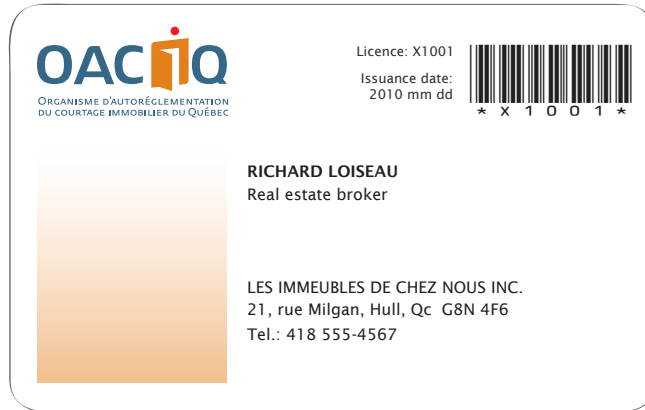
Name of broker and type of licence
(could be "residential real estate broker",
"commercial real estate broker",
"real estate mortgage broker")

Although address and phone number
are not mandatory, we suggest
including them.

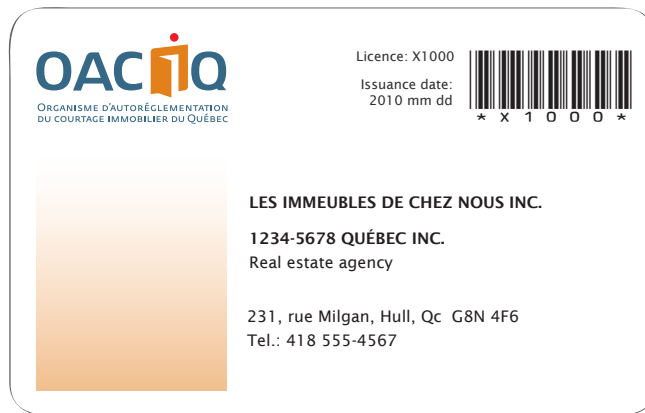
Case 2:

Real estate broker acting for an agency (e.g. a numbered company) or partnership carrying out its activities under an assumed name (formerly called a company name).

A broker acting for this agency is the holder of the following licence:



A legal person is the holder of the following agency licence:



The following business card meets the requirements of sections 114 and 115 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:

Richard Loiseau
Real estate broker

Les immeubles de chez-nous
Real estate agency
231 Milgan Street, Hull (Quebec) G8N 4F6
Tel.: 418 555-4567

Name of broker and type of licence (could be "residential real estate broker", "commercial real estate broker", "real estate mortgage broker")

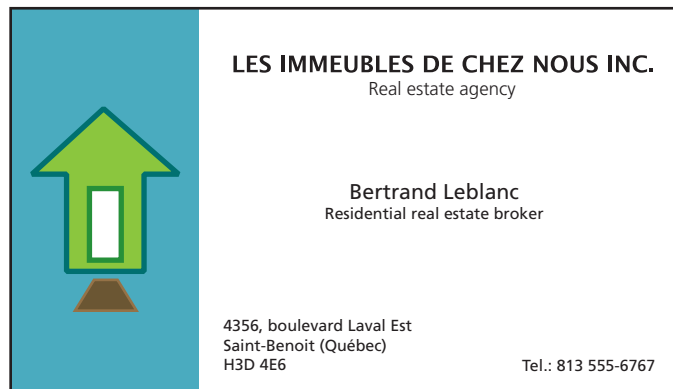
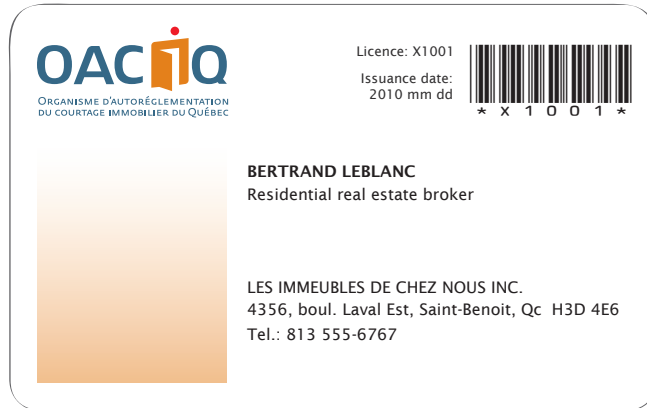
Assumed name of agency and type of licence (could be "residential real estate agency", "commercial real estate agency", "real estate mortgage agency")

Although address and phone number are not mandatory, we suggest including them.

The broker may add his photo on his business card. The photo must not date more than five years.

Verification with the OACIQ or the Registraire des entreprises will reveal that “Visites libres de l’Outaouais” is the operating name of the company 1234-5678 Québec Inc. carrying out its activities under the name “Les immeubles de chez-nous”.

Real estate broker restricted to residential brokerage (or commercial or residential and commercial) and acting for a real estate agency:



Mortgage broker working for a real estate agency:

OACIQ
ORGANISME D'AUTORÉGLÉMENTATION
DU COURTAGE IMMOBILIER DU QUÉBEC

Licence: X1001
Issuance date:
2010 mm dd

* X 1 0 0 1 *

BERTRAND LEBLANC
Mortgage broker

LES IMMEUBLES DE CHEZ NOUS INC.
4356, boul. Laval Est, Saint-Benoit, Qc H3D 4E6
Tel.: 813 555-6767

LES IMMEUBLES DE CHEZ NOUS INC.
Real estate agency

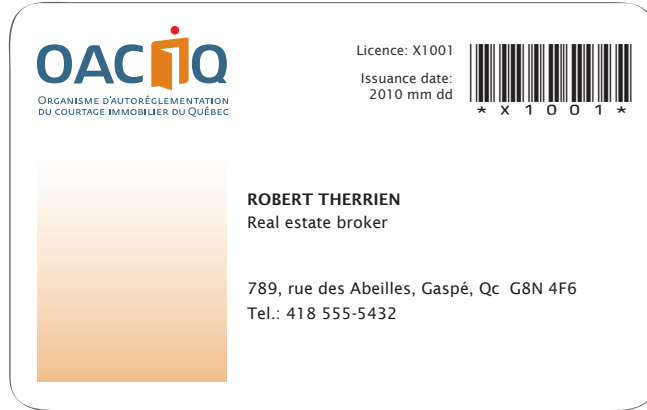
Bertrand Leblanc
Mortgage broker

4356, boulevard Laval Est
Saint-Benoit (Québec)
H3D 4E6

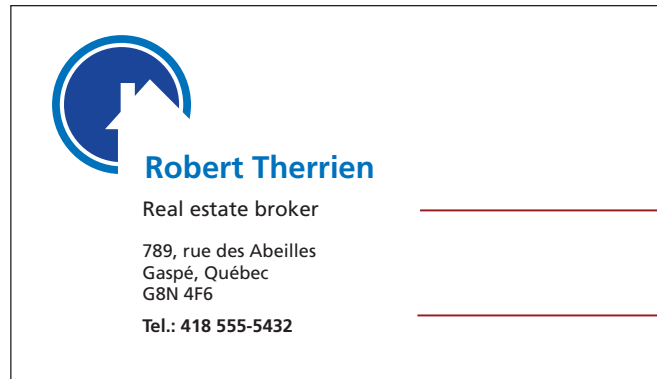
Tel.: 813 555-6767

Could be
"Real estate mortgage agency"

Case 3:
Real estate broker acting on his own account.



The following business card meets the requirements of sections 114 and 115 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:



Name of broker and type of licence
(could be "residential real estate broker",
"commercial real estate broker",
"real estate mortgage broker")

Although address and phone number
are not mandatory, we suggest including them.

Case 4:
Real estate agency that is a natural person.

A natural person is the holder of the following real estate agency licence:



The following business card meets the requirements of sections 116 and 117 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:



Agency licence (could be "residential real estate agency", "commercial real estate agency", "real estate mortgage agency")

The business card of a real estate broker acting for a real estate agency:



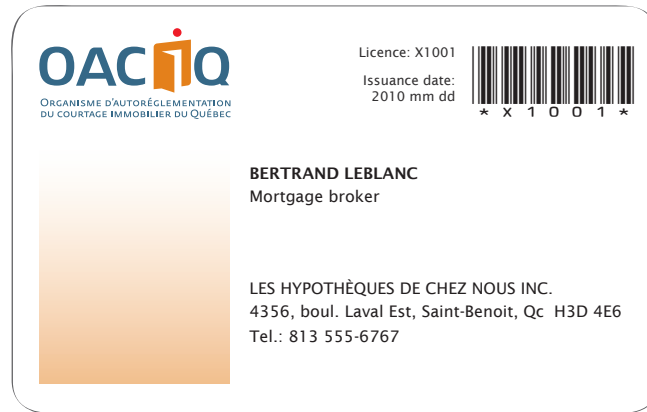
Name of broker and type of licence (could be "residential real estate broker", "commercial real estate broker", "real estate mortgage broker")

Agency licence (could be "residential real estate agency", "commercial real estate agency", "real estate mortgage agency")

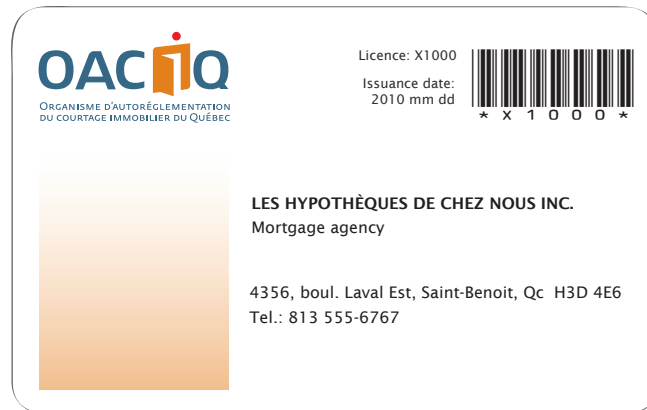
Although address and phone number are not mandatory, we suggest including them.

**Case 5:
Mortgage broker working for a mortgage agency.**

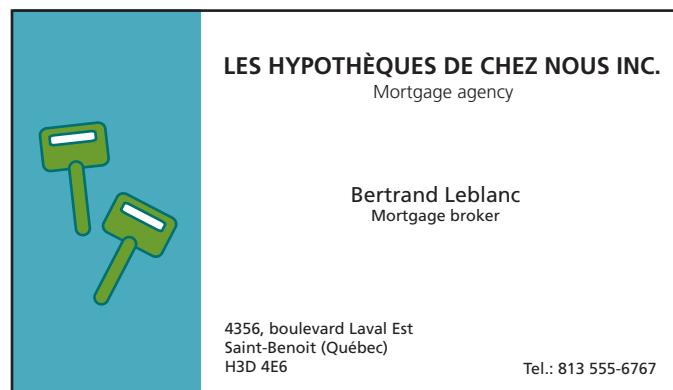
A mortgage broker acting for this agency holds the following licence:



This is the licence of the mortgage agency for which the broker acts:



The following business card meets the requirements of sections 114 and 115 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:



Case 6:

Broker holding both licences working for an agency that holds both licences (real estate and mortgage).

If the agency holds both licences, it may:

- advertise itself as a real estate agency;
- advertise itself as a mortgage agency;
- advertise itself as both.

If the agency decides to advertise itself as a mortgage agency only, all brokers will have to advertise themselves as mortgage brokers even if they hold both licences.

Broker who holds both licences:



Brokers who hold only a real estate broker's licence may advertise themselves as real estate mortgage brokers.

Broker who holds a real estate broker's licence:



Case 7:

Business card of a real estate or mortgage broker who has the qualifications to act as executive officer of an agency.



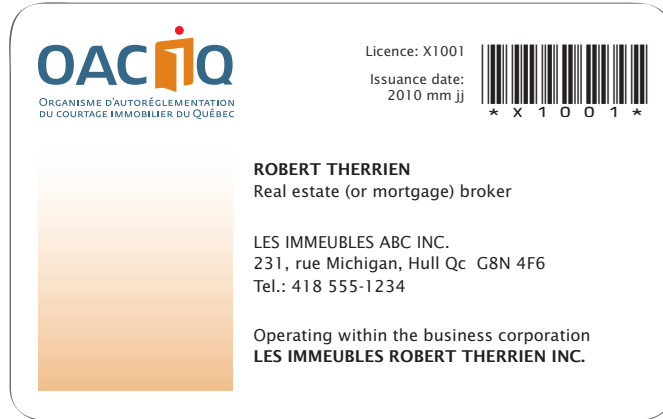
In this example, the broker acts on his own account. The broker could have used the "certified" designation only (i.e. "Certified real estate broker")



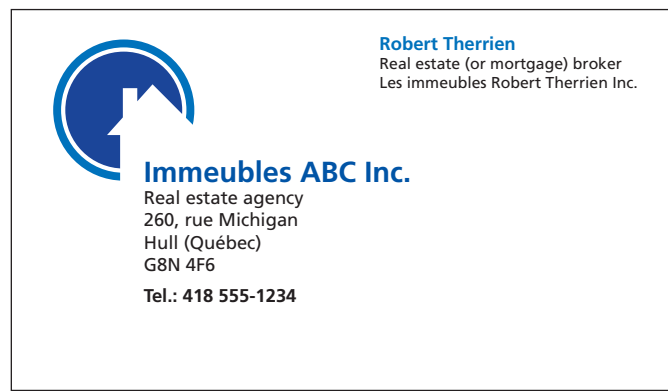
Example of a broker acting on his own account

Case 8:

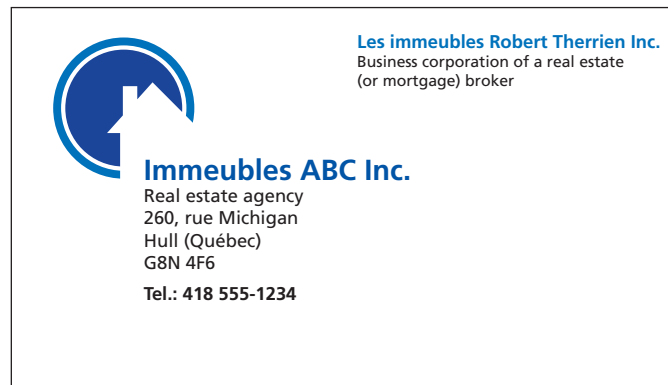
Models of business cards for brokers carrying out their activities within a business corporation.



First option:



Second option:



3.2.2 Signs

The following sign meets the requirements of sections 114 and 115 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising.

Real estate broker acting for a real estate agency:

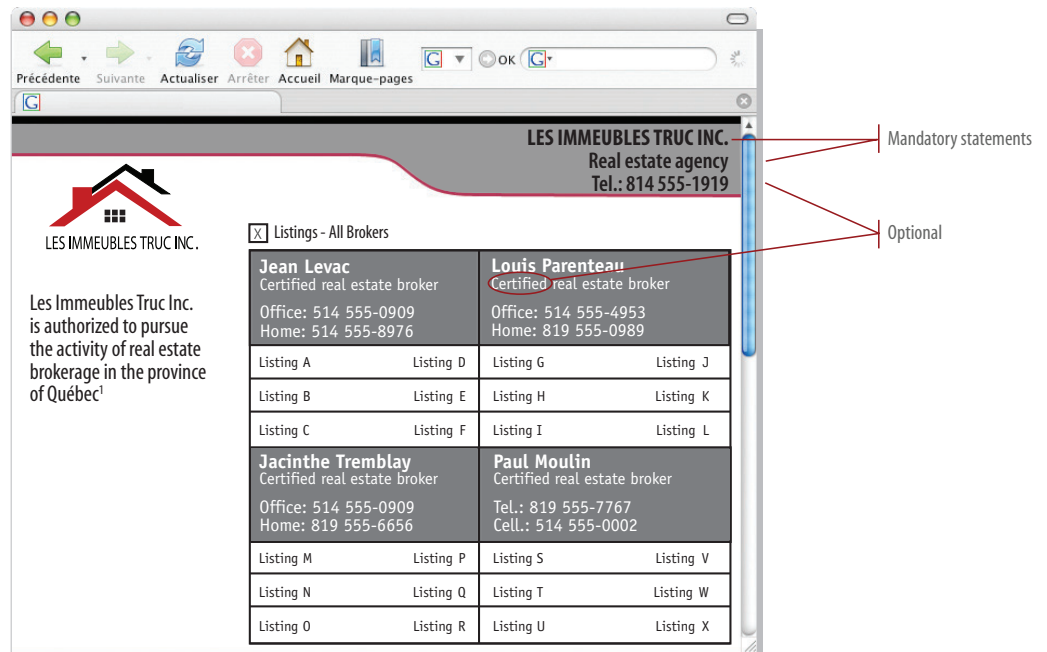
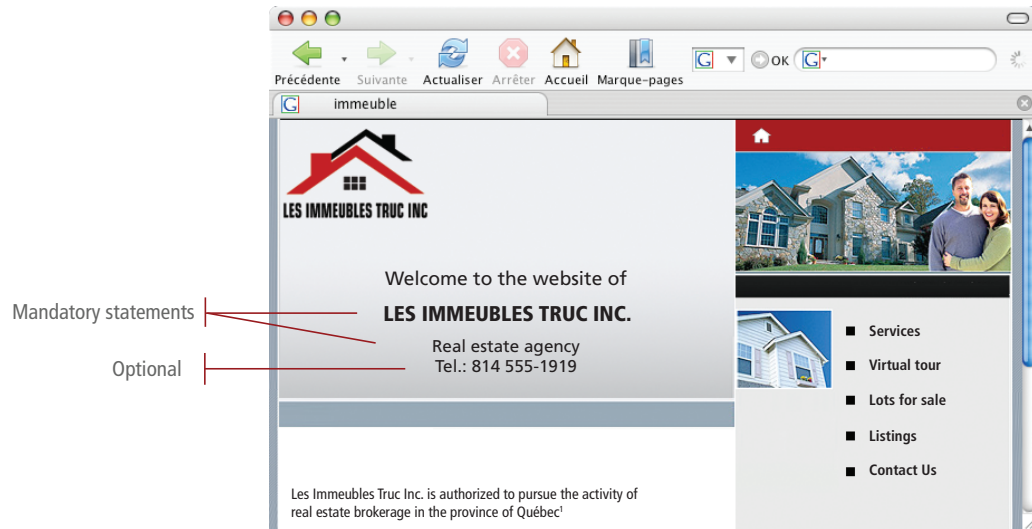


¹ It can include the telephone number of the establishment as well as any other number.

Signs are subject to specific laws and regulations. A real estate agency or broker must verify local regulations, co-ownership rules and the law regarding roadside advertising. These verifications can be made with the appropriate authorities such as municipalities, co-ownership syndicates and the Ministry of Transport.

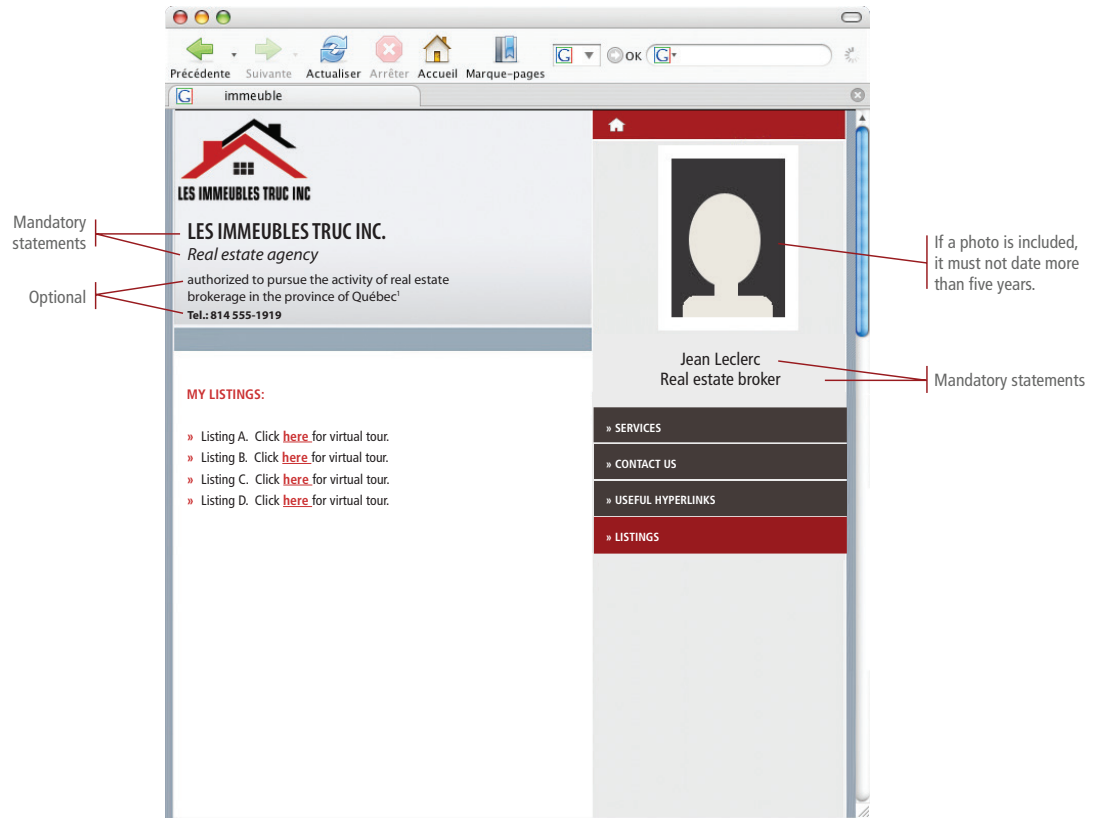
Where the client has requested that the immovable be listed on a listing service (e.g. MLS/SIA), the sign may only be placed once the listing is up (see page 53).

3.2.3 Advertising on an agency's website



¹ The statement on a website to the effect that the agency or broker is authorized to pursue activities in the province of Québec is not mandatory.

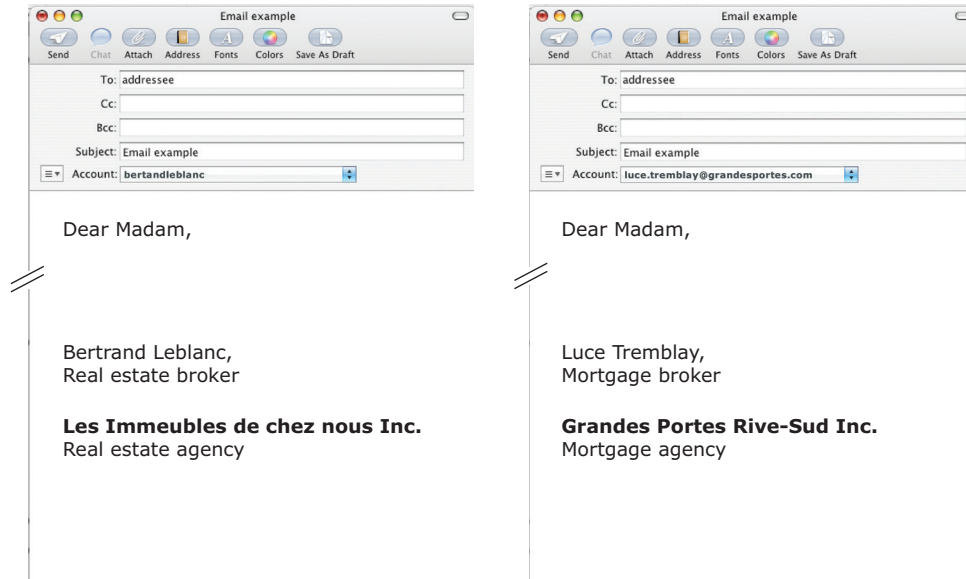
3.2.4 Advertising on a broker's website



¹The statement on a website to the effect that the agency or broker is authorized to pursue activities in the province of Québec is not mandatory.

3.2.5 Email

The following email examples meet the requirements of sections 114 and 115 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising:



Various email systems allow for the creation of signatures that include these statements and will automatically be added to all your emails.

It is also recommended to add a "confidentiality clause" at the bottom of your emails, which can also be added automatically as part of the signature block.

There are several types of confidentiality clauses. The following suits our purpose:

« [Avis de confidentialité] Le contenu de ce message, incluant tout document joint, est confidentiel et s'adresse exclusivement à son destinataire. Si vous n'êtes pas ce destinataire, soyez avisé que la lecture de ce document, sa reproduction et sa distribution sont strictement interdites. En pareil cas, veuillez immédiatement aviser l'émetteur de l'erreur et détruire intégralement ce message. Prenez également note que le mode de transmission de ce message ne permet pas d'en garantir l'intégrité. »

[Notice of confidentiality] The information contained in this e-mail and all attachments is confidential and is for the sole use of its intended recipient. If you are not the intended recipient, please note that it is strictly forbidden to read, copy or distribute this document. If you receive this message in error, please notify the sender immediately and delete this message and all attachments from your system. Considering its mode of transmission, the integrity of this message cannot be guaranteed. »

3.2.6 Advertising in periodicals (including newspapers, magazines, Yellow Pages™ and Internet classifieds)

We will now examine a few examples of ads in periodicals, which include newspapers, magazines, Yellow Pages™ and business white pages in the phone directory.

Ads in a periodical by a real estate broker must include the name and first name as they appear on the broker's licence. Please note that this statement may be replaced by an authorized abbreviation. The broker must also indicate the name of the agency for which he carries on his activities, if applicable. The type of licence held by the agency is not required in a periodical.

The following ads meet regulatory requirements:

CLASSIFIEDS	
<p>Luc Dumont, real estate broker Les immeubles de chez nous Inc. Cottage for sale, Saint-Césaire, 1800 sf, 3 rooms. Tel.: 450 555-8787</p>	<p>8 □ for rent, yard, near metro Les immeubles du Plateau Real estate agency Isabelle Lecours, R.E. Bkr. Tel.: 514 555-0856.</p>
<p>Bungalow in Saint-Hubert. Luce Dubreuil, real estate broker Tel.: 450 555-9988. Les immeubles de chez nous Saint-Hubert, R.E. Agcy.¹</p>	<p>Furnished cottage – summer rental (on Trout Lake). Adrienne Dubois*, R.E. Bkr. Tel. 450 555-3432</p>

*In this example broker Adrienne Dubois works on her own account.

¹ Optional

Ad in which an agency includes all its brokers' listings			
 <p>LES IMMEUBLES DE CHEZ NOUS INC.¹ R.E. Agcy or Real estate agency²</p> <p style="text-align: right;">Telephone: 514 555-0909⁴</p>			
<p>Luc Demers, Real estate broker³ Office: 514 555-0909⁴ Cell.: 514 555-0000 Home: 514 555-8976 lucdemers@videotron.ca</p>		<p>Carl Lemay, Certified real estate broker* Office: 514 555-4953⁴ Cell.: 514 555-0001</p>	
Listing A	Listing D	Listing G	Listing J
Listing B	Listing E	Listing H	Listing K
Listing C	Listing F	Listing I	Listing L

* In this example, Carl Lemay has the qualifications to act as executive officer of an agency.

¹ Name of agency mandatory.

² Words "Real estate agency" (or an authorized abbreviation) mandatory.

³ Licence category mandatory. This statement may be replaced by an authorized abbreviation.

⁴ Phone numbers may include home, agency and/or cell.

3.3 Other statements

3.3.1 Supplementary rules contained in the franchise agreement

In general, the franchise concept allows franchisees to take advantage mainly of the franchiser's name, but also of its structure, advertising and general business experience. Franchisees may be required by contract to follow set guidelines, including regarding advertising.

The degree of control which a franchiser has over its franchisees may vary.

Advertising rules also apply to franchisers. Also, it remains essential for a franchisee to make sure that the requirements of his franchiser regarding advertising, if any, are consistent with the rules contained in this document, including those emanating from the provisions of the Real Estate Brokerage Act and the regulations thereunder. The rights and obligations contained in the franchise agreement must not contradict the above.

The same applies to the franchisee/sub-franchisee relationship which exists in real estate brokerage.

3.3.2 Prohibited practices: engaging in advertising that is false, misleading or incomplete, or that leaves out a material fact

Section 112 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising strictly prohibits agencies and brokers or anyone else advertising or making representations in relation to the activity of broker (e.g. franchisers, real estate boards) from disseminating advertising that is false, misleading, incomplete or that leaves out a material fact, including in terms of asking price or selling price, competence, effectiveness of the services provided or benefits related thereto, or the costs of a loan secured by immovable hypothec. In addition, any service provided must be consistent with the advertising of representations made.

Examples:

The following examples illustrate practices that have been condemned by the Discipline Committee of the Association des courtiers et agents immobiliers du Québec (ACAIQ) under the previous Real Estate Brokerage Act:

- advertising a price through a real estate board's Multiple Listing Service® that is not the price agreed to with the seller in the brokerage contract or in any amendment thereto;
- advertising a sold price other than the price actually agreed to between the buyer and the seller;
- indicating the amount of school and municipal taxes without indicating the amount of any special taxes of which the broker is aware (incomplete advertising);
- indicating on a description sheet concerning the sale of a co-ownership property that there is access to a pool without specifying that this access is subject to annual user fees (incomplete advertising);
- indicating on a property's description sheet that it is possible to operate a business there whereas this is subject to obtaining a derogation to the municipality's zoning by-law.

For a claim to be considered not to be "false, misleading or incomplete, or leaving out a material fact", it must be verifiable and the public must receive sufficient information not to be deceived or misled. Agencies and brokers must provide enough information so that a reasonable person cannot attribute more than one meaning to the message conveyed, in order that the public be properly informed as to the actual meaning of the message.

The real estate agency or broker must:

- provide enough information so that a reasonable person cannot attribute more than one meaning to the message conveyed;
- upon request from any person, be able to demonstrate the accuracy of the information using serious and solid proof.

Although the ACAIQ Discipline Committee rendered its decisions based on a slightly different set of rules than those under the current Real Estate Brokerage Act, the basic principles remain.

3.3.3 Other prohibited practices

Section 113 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising prohibits representing or advertising in real estate brokerage that:

1. suggests that the licence holder or person is authorized to engage in a brokerage transaction referred to in section 1 of the Real Estate Brokerage Act when in fact the licence holder is not legally qualified to do so at the time of the representations. For example, in the case of a licence holder whose licence is suspended or subject to a restriction: a broker who cannot engage in residential real estate brokerage cannot advertise himself as "real estate broker";
2. falsely suggests that the licence holder holds a specialist title;
3. contains information or uses wording, a name, trademark, slogan or logo that can create confusion;
4. contains a statistic for which no source is given;
5. contains a photograph of the licence holder taken more than five years earlier.

Section 48 of the new Real Estate Brokerage Act states that the Organization may determine, by regulation, the specialist titles that an agency or a broker may use. Such a title may only be conferred by the OACIQ. The OACIQ has not yet adopted any regulation allowing for the granting of a specialist title. Any title or designation leading others to believe that an agency or broker holds a specialist title in a given area of real estate brokerage is therefore currently prohibited. However, an agency or broker may advertise a preferred field(s) of practice. For example, the terms "agricultural real estate brokerage" or "co-ownership brokerage" are acceptable. However, the terms "specializing in", "specialized in", "specialist in" or "specialties" are prohibited.

The purpose of these provisions is to avoid any confusion in the public's mind regarding a title or wording used in advertising.

These rules apply to brokers and agencies, but also to anyone engaging in the promotion of real estate or mortgage service, including franchisers, real estate boards, brokerage associations or agency associations.

In addition, the public must not be led to confuse one agency or broker with another due to lack of clear identification.

3.3.3.1 Web addresses

On the topic of wording or names that can create confusion, the issue of domain names (address to access a website) and email addresses is worthy of comment.

It is common for a person wanting to look up the website of a real estate agency or broker not to know the exact address. In such cases, the person may use several web search engines. Often, this means the person will try to find the agency's or broker's site using a known element of the name. For example, someone looking for a website for Grandes Portes St-Bruno Inc. whose domain name is www.grandesportes.qc.ca may search the expression "grandes portes", which would logically lead them to the desired website. Therefore another real estate broker (e.g. Les Immeubles Truc Inc.) may not use the domain name www.grandesportes.com without violating the rule prohibiting the use of a name that can create confusion, even if the agency is identified clearly and without ambiguity under its real name on its website's home page.

Likewise, the practice of using a domain name that is too close to that of an organization that is well known in the field of real estate brokerage should be avoided (e.g. www.chambreimmobiliere.qc.ca).

In short, the domain name or email address chosen by a real estate agency or broker must have a logical connection with the name under which they operate.

3.3.4 Practical applications

Advertising that includes objective and true facts usually meets these criteria.

a) *Professional affiliations*

Real estate agencies and brokers may of course mention their membership in associations such as the OACIQ or a real estate board, as well as any client identification network to which they belong.

In addition, any professional affiliation mentioned must be in force. For example, a real estate broker who includes the FRI designation must have met all membership criteria for this designation, including payment of any related fees.

Ex.: A mortgage broker with the AMP designation must comply with the requirements regarding this designation.

b) *Professional designations*

If a real estate broker is the holder of a professional designation such as that of engineer or lawyer, he may mention it as long as he is a member in good standing of the appropriate professional order.

c) *Education and other training*

If a real estate broker has completed a recognized level of education, for example if he holds a college or university degree, he may mention it.

Other types of recognized training may be advertised, including training in arbitration or home staging, or the number of continuing education units (CEUs) issued by an organization such as the OACIQ.

d) *Corporate clubs*

A number of agencies and agency networks (franchisers) have established internal prizes and competitions through which they award high achievers certain honorific titles. These include such designations as "Chairman's Club", "100% Club", "President's Gold Award", "Executive Club", "Million Dollar Club", "Top Producer Award", etc. In addition to being numerous, the rules for granting these various designations vary greatly from one agency to the next. Consequently, the use of these titles in any advertising, soliciting or representations by a real estate agency or broker is allowed only if the criteria used to award them are available upon request and the location where this information can be found is mentioned in such advertising, soliciting or representations. Without these details, the holder should not publicize them. In every case, the year the designation was received must be indicated.

"100% Club – 20XX": The average consumer can reasonably have a doubt about the meaning of this expression. For example, "100%" could mean that this individual has successfully concluded 100% of the listings he took in a given period (which period is not indicated). It could also be interpreted as a guarantee of satisfaction, i.e. "100% of clients have declared themselves satisfied with this person's services". For this designation to be acceptable, the criteria for membership in this club will have to be spelled out in the ad, otherwise it must be omitted.

"Executive Club – 20XX": The lack of details can create confusion in the average consumer's mind. Are members of the "Executive Club" among the company's decision makers? Do they have special skills that warrant the addition of this designation? For this designation to be acceptable, the ad will have to specify where to find the criteria for membership in this club.

e) *Comparative advertising*

Comparative advertising is an ad in which an agency or broker or even a group of agencies (e.g. a network of franchisees) compare their performance to that of other agencies, brokers, or groups of agencies. An example of this type of advertising is one where an agency provides figures to compare its performance with that of its main competitors, often using a chart or graph. Although this type of advertising is not prohibited, it must be used with the utmost caution. This means that all the details needed to understand the context of the comparison must be provided, including the source of the data. The information used must of course be strictly accurate and the ad must not create any confusion as to what is being compared, the period (month, year) and the territory concerned. Keeping in mind the general impression that the advertising will convey to the public, the data must not be organized or edited in a way that will result in exaggerating performance. Thus advertising stating that the brokers are the best, without any other detail, would be considered incomplete.

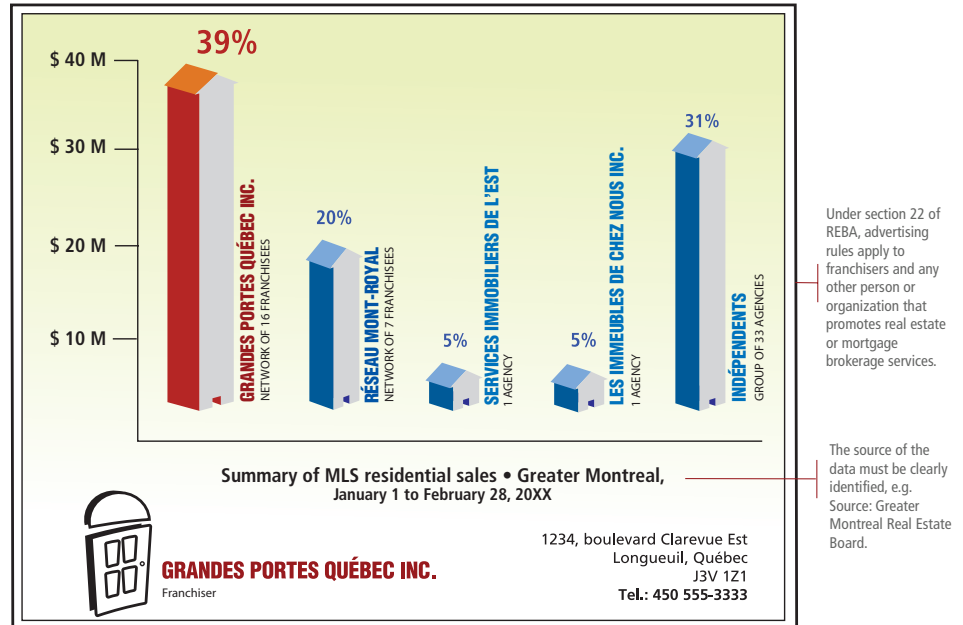
"RIGAUD OFFICE'S #1 FOR THE PAST YEAR": This may seem to have only one interpretation.

This person was the establishment's top performer for the past year. However, this expression suggests that he was #1 of his establishment in every respect, including in terms of numbers of properties listed and sold, remuneration (commissions) received, etc. If this can be demonstrated, the ad may remain as is. The expression "RIGAUD OFFICE'S TOP BROKER FOR THE PAST YEAR" may be clearer.

"8th top seller in Québec": The notion of "top seller" is hard to pin down, but let us suppose that it actually means that the person is among those who sold the most properties in Québec. Is this person the best top seller of their agency? The top in the entire profession? Has the person been top seller for 10 years or only this year? Unless it is clarified, this statement cannot be used.

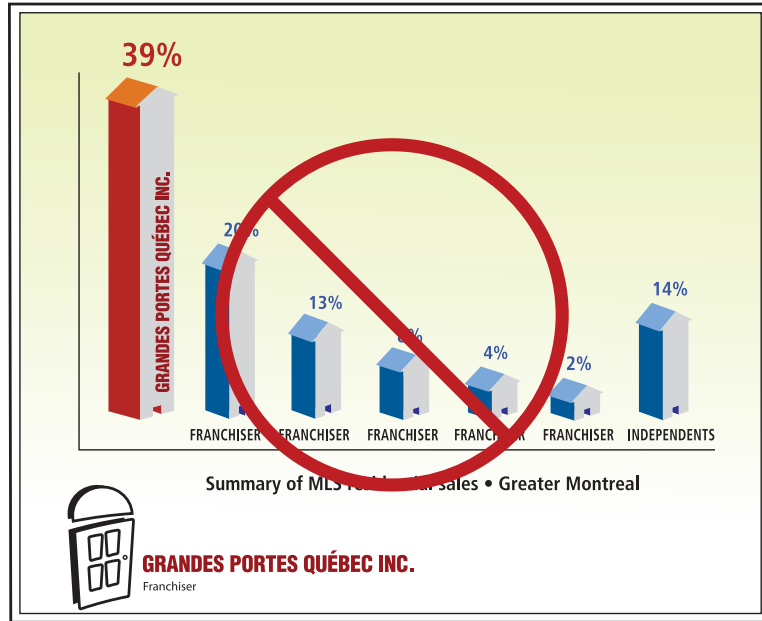
"#1 SELLER FOR JANUARY": Is this person the number one seller in Québec, in their franchisee network, their branch? Unless it is clarified, this statement cannot be used.

The following ad is acceptable as it contains statements that are verifiable and quantifiable and does not create confusion:



This ad clearly indicates what is being compared and the consumer can appreciate the performances illustrated. The ad indicates that sales volumes are being compared here, expressed as dollars and as percentages and illustrated using a histogram (columns). This histogram is, appropriately, proportionate to the sales volume. The ad specifies the period covered by the comparison and the territory concerned. It clearly shows that what is being compared is a network of 16 franchisees in the region with, first, another network of seven franchisees, then with two clearly identified real estate agencies, and finally with 33 other agencies or brokers that have been grouped for comparison purposes. It is understood that this ad cannot be published outside the territory which it reflects, i.e. the Greater Montreal area.

The following ad concerns the same objective facts as the previous one, but is not acceptable:



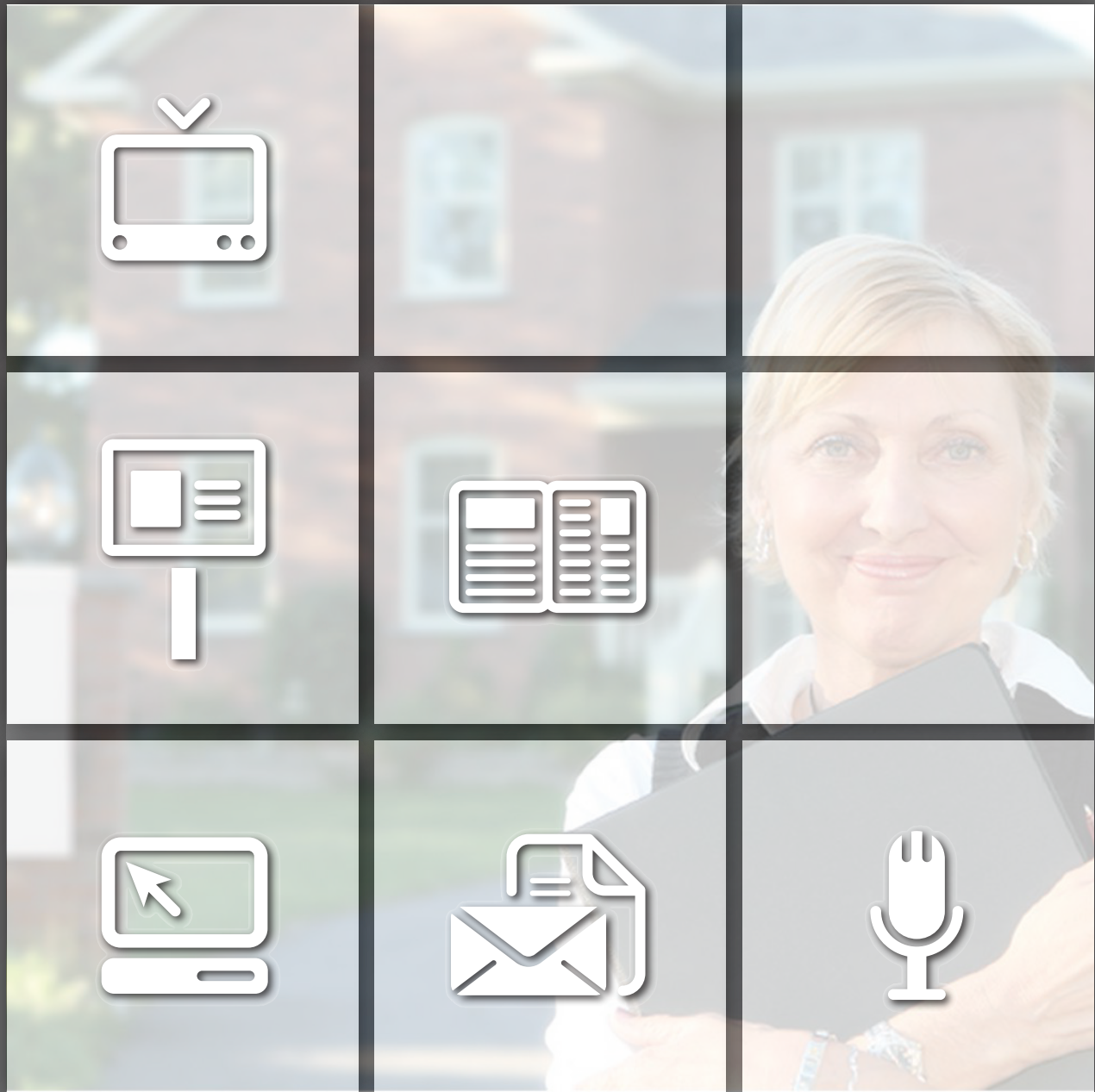
This example appears to refer to objective facts, i.e. sales volumes of various agencies. However, these facts would be difficult to verify since there is no reference to the period covered. The consumer has no way of knowing if the ad contains figures for the last month or the last five years. In addition, this ad certainly creates confusion since it might suggest that only agencies are being compared with each other whereas, as illustrated in the previous example, this is not the case. And finally, the source of the information is not indicated.

f) *Number of years of experience*

The number of years of experience in the field of real estate may be indicated. In addition to being true and provable, the number of years must correspond to years of experience acquired as a real estate broker. A person who has been a real estate broker for 10 years, but spent 15 years before that as a leasing manager cannot claim “25 years of experience”.

In addition, the number of years of experience of the individuals that form a group cannot be added together to give the group’s total years of experience. For example an agency that employs three brokers each with 15 years of experience cannot advertise “45 years of experience”. Experience can only be indicated for an individual.

“20 years of experience”: This person would have 20 years of real estate brokerage experience. This statement, in context, seems to have only one meaning. It would probably be easy to prove. If indeed these facts are true (the experience cannot have been acquired in a field other than real estate brokerage), this statement is allowed.



4. Advertising and the brokerage contract

4. Advertising and the brokerage contract

4.1 General rules

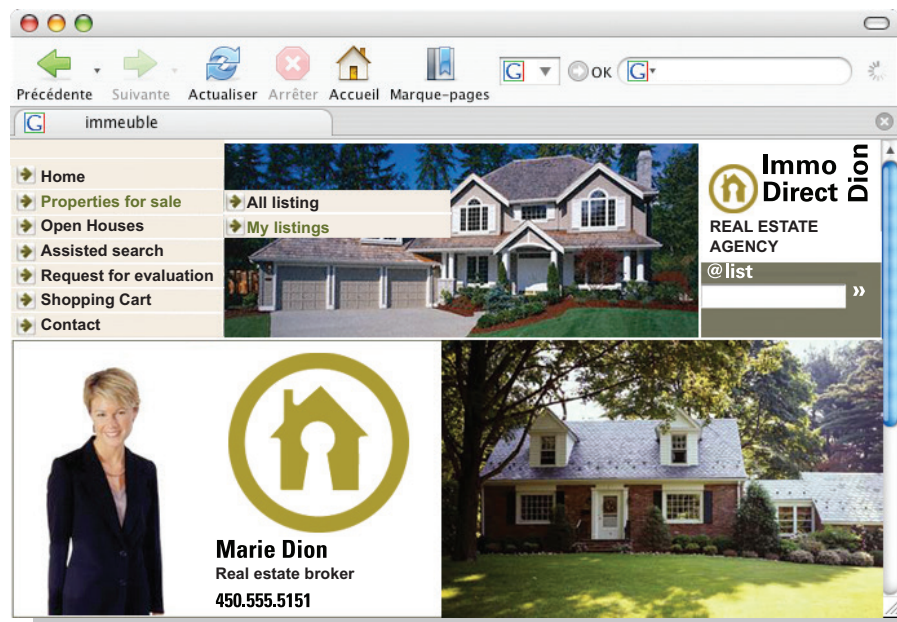
Generally speaking, advertising, soliciting or representations made by real estate or mortgage agencies and brokers fall into two main categories. The first category includes advertising for the services offered by the agency or broker. The purpose is to draw the attention of potential clients to these services and not to a specific property for sale or lease or on a type of financing offered by a specific financial institution. Examples of this are television or radio ads extolling the merits of such or such franchiser or network of agencies.

The second category concerns one or more brokerage transactions and includes advertising, soliciting or representations by a real estate agency or broker regarding an immovable. This type of advertising is done in newspapers and trade magazines and on specialized websites. The purpose is to advertise one or more properties for sale or lease. It can also concern a specific mortgage product. The same goes for detailed description sheets available on the Internet or given out to buyers' brokers or potential buyers.

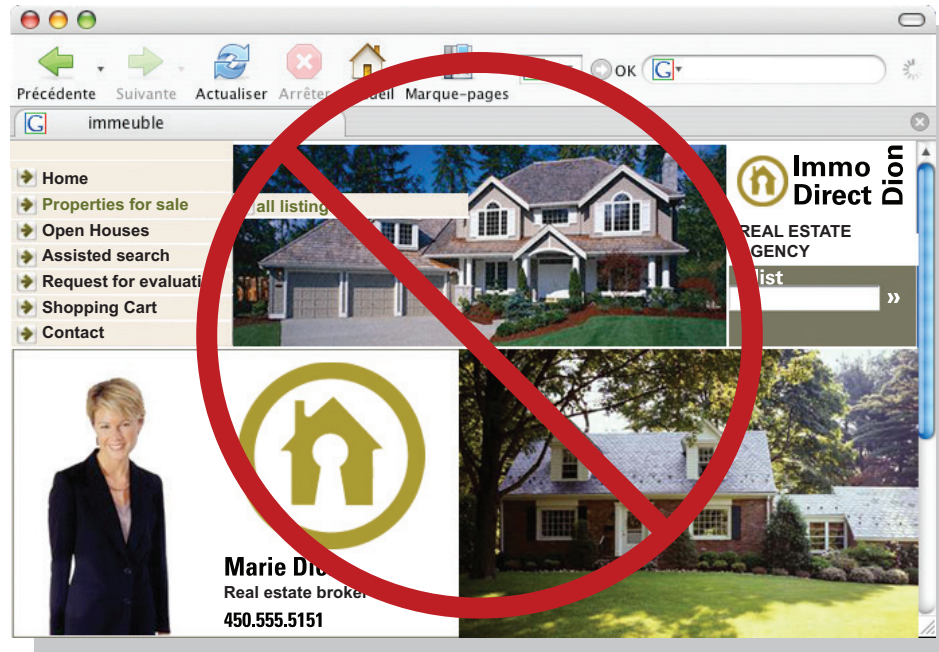
According to section 111 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising, an agency or broker must, in order to advertise or disseminate information in connection with brokerage transactions, have the express written authorization of the person or partnership on whose behalf the brokerage transaction is conducted. In practice, this simply means that a real estate agency or broker can advertise an immovable for sale or lease only if they have a brokerage contract authorizing them to do so. Likewise, a mortgage agency or broker cannot advertise mortgage rates offered by a financial institution specifically authorized to do so.

Caution must be used when a listing agency or broker authorizes another agency or broker to advertise an immovable referred to in a brokerage contract. The agency or broker authorized to advertise must be sure not to lead consumers to believe that they are the listing party. This situation often occurs on real estate agencies' or brokers' websites. This is an example of a website home page that is acceptable and another that could create confusion:

This website is acceptable since these properties listed by real estate broker Marie Dion are distinguished from other listings using the tabs "All listings" and "My listings".



This website creates confusion because the phrase "all listings" suggests that all properties are being sold through real estate broker Marie Dion.



4.2 In the absence of a brokerage contract

In the absence of a brokerage contract or a written agreement as the case may be, a real estate agency or broker may not do any advertising whatsoever regarding an immovable, an enterprise or a mortgage rate offered by a specific financial institution. This rule may appear simple, but certain situations require caution. Of course, a real estate agency or broker cannot put a sign in front of a property to announce that it is for sale or sold where no brokerage contract exists on this property. A common example of this consists in continuing to advertise an immovable for sale after the brokerage contract has expired, which is not allowed. Real estate agencies and brokers must be vigilant to avoid an ad appearing in a periodical or on a website after the brokerage contract has expired. It is crucial to deal with reputable service providers and to do the necessary follow-up with them. The agency or broker who advertises an immovable for which the brokerage contract has expired cannot justify this by saying that they have no control over the date of publication of a periodical or the updating of a website hosted by a third party. When placing an ad in a publication, the agency or broker must make sure that the brokerage contract will be in force for the entire publication period.

It is important to remember that a brokerage contract expires at the date and time indicated in the contract or at any other time agreed to by the seller and the agency or broker after signing. In the case of a brokerage contract concluded between a broker and a natural person regarding a residential immovable containing less than five dwellings, any agreement concerning the date and time of expiration of the brokerage contract must be indicated in writing on the appropriate form, failing which the contract will automatically expire thirty days after signing. In addition, any contract whose expiration date has not been reached expires once its object is realized (e.g. if the brokerage contract is for the sale of an immovable, it will expire at the signing of the act of sale).

4.2.1 Advertising after a brokerage contract has expired

If an agency or broker cannot advertise a property on which they have no brokerage contract, it follows that they must cease any publicity as soon as a contract expires or is terminated.

This means, among other things, that the agency or broker must:

- immediately remove the listing from the real estate board's Multiple Listing Service® and from any website advertising this property through their intermediary;
- remove any signs advertising the property;
- cease publicity in all other forms of media, including radio, television, newspapers, periodicals and other specialized publications.

Most media sources that publish or broadcast advertising by real estate agencies and brokers require orders to be placed in advance, sometimes with a deadline several days or even weeks before actual publication.

Many cases have been reported where the agency or broker had a brokerage contract at the time of placing the publicity order, but the contract was not in force for the entire advertising period. In some cases, the listing had by then been given to another broker.

The example below illustrates this problem:

- Broker A of ABC Realty lists Mr. Seller's property on March 1, 20XX for a period of three months. The contract will expire on May 31, 20XX.
- Broker A would like to advertise the property in a real estate magazine immediately, but unfortunately the deadline for the March issue has already passed. However, he immediately reserves ad space in the April and May issues.
- Confident that his client will renew the brokerage contract and wanting to avoid a repeat of what happened in March, on May 15, the deadline for the June issue, Broker A reserves space to continue advertising the property.
- Mr. Seller decides not to renew his brokerage contract and, on June 3, signs a new contract with Broker X of XYZ Realty.
- In the June issue of the real estate magazine, the property is advertised by ABC Realty whereas the listing is now held by XYZ Realty. This irregularity is quickly reported to the OACIQ's Assistance Service.

In order to avoid such situations, the OACIQ reminds agencies and brokers to follow the guideline below:

Before reserving advertising space, an agency or broker must make sure that the brokerage contract will be in force for the entire advertising period, i.e. until publication of the next issue.

If this means that an extension to the contract will be required, the agency or broker must obtain this extension in advance, or otherwise refrain from reserving the space.

4.3 Advertising rules specific to sub-franchising

Advertising by franchised or sub-franchised agencies also requires caution. A real estate agency (e.g. Grandes Portes Rive-Sud Inc.) may have granted a franchise to another agency (e.g. Grandes Portes Rive-Sud Benoît Tremblay Inc.), which operates in close collaboration and shares office space with the former. The franchised agency of course may not advertise a property covered by a brokerage contract held by the franchising agency unless authorized to do so by the latter.

4.4 Advertising completed transactions

4.4.1 The "SOLD" notice

It is of course a legitimate desire for a real estate agency or broker to want to advertise the fact that they have just sold an immovable. A simple and common way to do this is to post a "VENDU" notice on the sign advertising the property for sale. The agency or broker may also want to publish a photo of the immovable with the word "SOLD" in a newspaper or other publication.

The rule by which an agency or broker may only advertise an immovable if authorized to do so under a brokerage contract applies to any publicity concerning sold immovables. Therefore, the seller's agency or broker may expressly authorize the buyer's broker or agency (whether bound by a brokerage contract or not) to advertise the sale of an immovable, for example, by placing a sign in front of the property sold to the client. The buyer's agency or broker shall then indicate that it or he was involved in this sale as collaborator. The buyer's agency or broker may, for example, add the words "in collaboration" after the word "SOLD".

On the other hand, the rule by which all publicity regarding an immovable must cease as soon as the brokerage contract expires applies to the "SOLD" sign. Such a sign must be removed as soon as the brokerage contract expires or as soon as the deed of sale is signed, whichever first occurs. The parties may however agree to sign an extension to the brokerage contract until the sale is notarized to keep the sign in place.

In addition, Apart from the "VENDU" sign, it is possible to continue to advertise the sale of an immovable until the signing of the act of sale, even after the brokerage contract has expired (e.g. in a newspaper, magazine or an advertising flyer).

SUMMARY OF RULES REGARDING "SOLD" ADVERTISING:

(From the OACIQ website : "Publication of sold price", article no. 122847)

These rules apply only once all conditions are fulfilled.

Periodicals, newspapers and Internet

- Advertising an immovable as "SOLD" until the signing of the deed of sale is allowed, even if the brokerage contract is expired.
- Make sure advertisements are kept up to date by indicating that the immovable is "SOLD".
- The price indicated must be the same as the price appearing in the brokerage contract and not the one shown on the accepted promise to purchase.

Sign

- Any sign must be removed immediately at the earliest of the expiration of the brokerage contract or the signing of the deed of sale.

4.4.1.1 "SOLD in X days" advertising

When an agency or broker wishes to advertise that an immovable has been sold in a given number of days, the days must be calculated from the date of signing of the brokerage contract to the date of fulfilment of all the conditions, excluding the signing of the act of sale. The days must never be calculated from the date of acceptance of a promise to purchase.

4.4.1.2 Advertising by the buyer's broker bound by a Brokerage contract – Purchase

a) In the case of an immovable covered by a Brokerage contract – Sale

As mentioned above, in a case where a brokerage contract was given to a broker by the seller, the agency or broker representing the buyer cannot put a sign in front of the property sold to his client or do any other type of publicity regarding this sale unless specifically authorized to do so by an agreement with the seller's broker. They must specify that they collaborated in the publicity and the sign must be removed in the following cases, whichever first occurs: 1) when the Brokerage contract – Sale is expired or 2) when the deed of sale is signed, unless authorized by the buyer in writing in the Brokerage contract – Purchase to keep the sign after becoming owner of the property, as described below (see section c).

b) In the case of an immovable sold by its owner (FSBO)

In the case of an immovable sold by its owner, the buyer's broker shall conclude an agreement with the seller to advertise the sale of the immovable. To avoid any real or apparent conflict of interest, this agreement must be discussed and concluded with the seller only once the promise to purchase is accepted and that all the conditions are fulfilled, except the signing of the deed of sale before the notary. He can obtain this agreement only after having been authorized by the buyer in the brokerage contract. The broker may then place his sign, as in the case where the buyer's broker gets the permission from the broker who has a Brokerage contract – Sale.

In all cases where the buyer's broker places such sign, he cannot indicate that the property is "Sold" or "Sold in collaboration with broker X". He may rather indicate, for example, that the property is "Bought through _____, real estate broker from _____ agency"

c) Advertising after the signing of the deed of sale

The buyer's broker who wants to be authorized to advertise a brokerage transaction (e.g. in his sign, advertising flyer or in a newspaper) after the deed of sale is notarized must obtain his client's consent in the Brokerage contract – Purchase. The latter's authorization can be restricted only to the period when he is himself owner of the immovable (i.e. after the signing of the deed of sale).

The consent clause to advertise the sale of the immovable must indicate the time period (e.g. the same as that indicated in the brokerage contract or any other reasonable time period) and the fact that this right shall survive the expiry of the Brokerage contract – Purchase if the notarized deed occurs before the expiry date indicated in this contract, because this one expires automatically when its object is accomplished, which is the purchase of an immovable, regardless of the expiry date that was indicated (in other words, it expires once the deed of sale is signed before the notary). For example, a brokerage contract is concluded for a period of 10 months. The deed of sale occurs at the beginning of the 9th month. The broker who uses such a clause may advertise the sale of the property until 1 month after the signing of the deed of sale.

The clause must also indicate that the time period will be reduced in the case where the buyer puts the immovable up for sale before the end of the time period provided for advertising to avoid ending up with two signs for the same property, i.e. one "For sale" and one "Bought with".

4.4.2 Publication of sold price

(From the OACIQ website : "Publication of sold price", article no. 122847)

As long as the act of sale has not been published in the Registre foncier du Québec, the price indicated in the act of sale constitutes confidential information and must be treated as such by real estate agencies and brokers. They may not make this price public without the written consent of the parties to the transaction, nor use it in any advertising or allow anyone else to do so.

A sale is not officially recognized until the act of sale has been signed and published in the Registre foncier.

Should a sale abort prior to its publication in the Registre foncier, the seller could be at a disadvantage in negotiations with new buyers, who would already know the price that was accepted..

- If that is the case, how come an agency or broker can communicate the sold price to the real estate board's MLS as soon as the conditions are lifted or after the act of sale?

The sold price is part of the non-public component of MLS, which is only accessible to members. They need to know that the property has been sold in order to be able to stop offering it to potential buyers right away.

They must also know the sold price in order to establish reliable comparables and set realistic prices for new listings. The bank of "SOLD" properties is only accessible to members of the profession and cannot be used for advertising nor be made available to the general public, including via a website.

4.4.3 Publication of number of transactions closed

A common advertising practice in real estate brokerage consists in an agency or broker or a network of agencies advertising the number of sales closed within a given period. It is of course important to make sure that the information published is verifiable and includes enough detail not to mislead the public. This type of publicity must always specify the territory concerned (the data must be representative of the region in which the advertising is done) and, if applicable, the period covered.

In general, what is made public is the number of sales in which the agency or broker was acting under a brokerage contract granted by the seller. Therefore what is advertised are the sales made as listing agency or broker. However, nothing prevents an agency or broker from advertising the sales in which they took part as the buyer's representative ("collaborator"). For example, an agency or broker may announce the overall number of transactions in which they participated. Obviously, however, a seller's agency or broker acting alone in a transaction may not count this sale as two transactions, i.e. one as listing broker and one as buyer's broker. Likewise, an agency that has both the listing and the buyers' brokers in its employ for a given transaction may not count a transaction twice. Only one transaction was completed by this agency. Calculating the number of completed transactions this way would result in artificially inflating the number of sales.

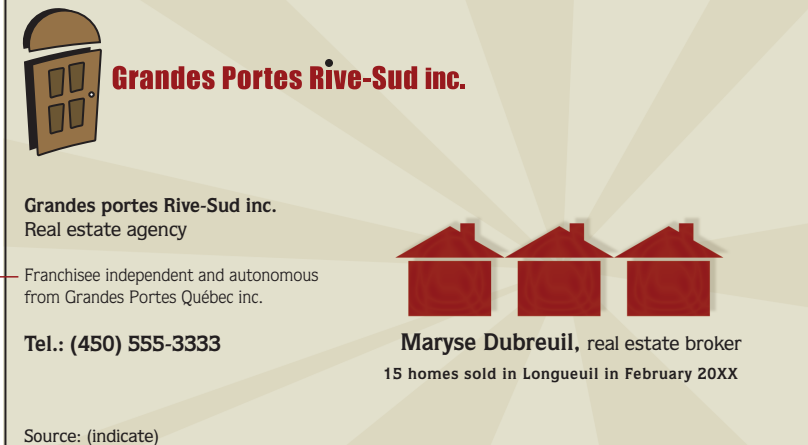
Finally, the agency or broker must remain consistent in the way they calculate the number of sales in which they participated for the purpose of advertising. They may choose to count a sale as soon as all the conditions of an accepted promise to purchase, except for the signing of the act of sale, have been fulfilled, or only once the act of sale has been signed. The agency or broker may legitimately choose to advertise their sales using either of these methods, but once they choose one method, they must stick to it. Thus an ad for a given period should never include both the sales that have been notarized and those for which all the conditions have been fulfilled except the signing of the act of sale. Also, in order to be consistent and project an image that is realistic over time, an agency or broker should avoid calculating transactions using one method in one ad and a different method in a subsequent ad.

SUMMARY:

In calculating the total number of transactions, each transaction must be counted only once, either as an "accepted promise to purchase" OR as a "notarized sale".

The following examples are consistent with the above rule:

Agency or broker announcing the number of properties sold: in this example, the agency or broker must have participated in 15 sales on which he held the brokerage contract.



Grandes Portes Rive-Sud inc.

Grandes portes Rive-Sud inc.
Real estate agency

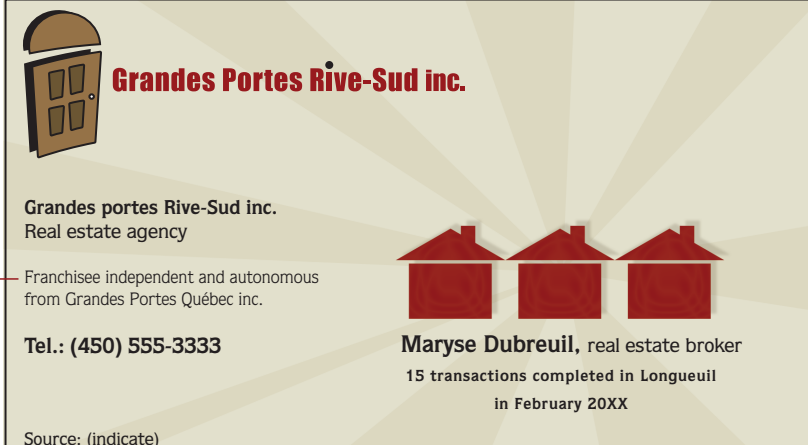
Optional | Franchisee independent and autonomous from Grandes Portes Québec inc.

Tel.: (450) 555-3333

Maryse Dubreuil, real estate broker
15 homes sold in Longueuil in February 20XX

Source: (indicate)

Agency or broker announcing the number of transactions in which she participated, whether as lister or collaborator.



Grandes Portes Rive-Sud inc.

Grandes portes Rive-Sud inc.
Real estate agency

Optional | Franchisee independent and autonomous from Grandes Portes Québec inc.

Tel.: (450) 555-3333

Maryse Dubreuil, real estate broker
15 transactions completed in Longueuil in February 20XX

Source: (indicate)

In this ad, the broker must have participated in 15 transactions. For example:


- As seller's broker for: 5 of these transactions
 - As buyer's broker for: 10 different transactions
- Total: 15 transactions.**

Although this real estate broker may have been both “seller’s and buyer’s broker” on 4 of the 5 transactions on which she held the brokerage contract, she may not calculate her total transactions as follows:

As buyer’s broker only	10
As seller’s and buyer’s broker on 4 sales	$2 \times 4 = +8$
As seller’s broker only	+1
Total:	19 transactions

Doing so would result in artificially inflating the number of transactions completed.

Network of franchised agencies announcing the number of properties sold by all the agencies in the group



Grandes Portes Rive-Sud Inc.
Network of independent and autonomous franchised real estate agencies

MORE HOMES SOLD
than any other agency network for
the month of
February 20XX¹

300 homes sold in Québec in February 20XX

Source: (indicate)

The franchised agencies of Grandes Portes Québec Inc. must have a reliable and objective source to demonstrate that they indeed sold more properties than any other network of real estate agencies.

In addition, in this example, the sales mentioned in the ad are sales for which member agencies of the Grandes Portes Québec Inc. network acted as listing agencies, with each transaction counted only once.

IMPORTANT!

Based on this example, a real estate agency that is a member of this network could not use this publicity using the total sales figures for the network. This would suggest that it has carried out all these transactions whereas this is not the case, since the transactions were completed by all of the agencies in this network.

4.5 Advertising an interest rate

Interest rates may be advertised, subject to the following rules.

When an interest rate is subject to certain conditions, the main condition must appear in the ad. If there are other conditions, the statement "Other conditions apply" must be included. Also, the date or period where these rates are in effect must appear in the ad.

Example of improper advertisement:

DESROCHES
mortgage brokerage

**BEST RATES
GUARANTEED**

1-year rate	5.20%
3-year rate	5.24%
5-year rate	5.14%

Toll-free (1-800)
555-2121

Montreal (514)
555-1515

After verification, it appears that the 5.14% rate is only available on mortgage loans over \$400,000. This ad suggests that this rate is available on any loan amount. In addition, the wording "Best rates guaranteed" is incomplete.

Example of acceptable ad published in a newspaper:

DESROCHES
Mortgage agency

GET GOOD RATES

1-year rate	5.20%
3-year rate	5.24%
5-year rate	5.14% *

* Available on mortgage loans over \$400,000.
Other conditions apply.

Rates in effect on May 14, 20XX

Toll-free (1-800)
555-2121

Montreal (514)
555-1515



**5. Specific rules regarding
the detailed description sheet**

5. Specific rules regarding the detailed description sheet

5.1 Example of statements on detailed description sheet

Whatever form it takes, any description sheet or similar document available to the public describing an immovable covered by a brokerage contract must indicate, if applicable:

- if the immovable is being sold with no legal warranty;
- a statement to the effect that the document or description sheet does not constitute an offer or a promise that may bind the seller, but is an invitation to submit such offers or promises (when the brokerage contract is for the sale of an immovable);
- the availability of the notice of disclosure required (if the licence holder to whom the brokerage contract was entrusted has an interest in the immovable);
- the existence of declarations by the owner of the immovable for sale or lease and the availability of substantiating documents;
- the name of the broker or agency entrusted with the brokerage contract followed by the licence held;
- the information needed to allow a collaborator to complete a promise to purchase, including the identity of the seller, except if the latter has given written instructions requesting that his name not be published on a listing sheet.

This information must be indicated clearly in a font type of the same colour and at least the same size as the information contained in the document or property description.

A buyer's broker who prints a description sheet from the multiple listing system® of a real estate board (SIA or MLS sheet) to give to a potential buyer must not remove the name of the listing agency or broker from the sheet, leaving only the heading with their own name and photo. The same goes for real estate agencies or brokers who advertise information on their websites regarding a property listed by someone else.

The detailed description sheets available to the public must always contain the name of the listing agency or broker, according to these minimum standards:

- Each sheet should contain the name of the listing agency or broker entrusted with the brokerage contract, followed by the type of licence held.
- This statement must appear at the top of the detailed description sheet and, for description sheets available on the Internet, it must be visible without the browser having to scroll.
- The name of the listing agency or broker must be reproduced as it appears on the sheet from which the listing information was taken.
- The statement must appear in a font that is the same colour and at least the same size as the rest of the information contained on the detailed description sheet.
- The statement must appear when the description sheet is printed out.

Putting a property on the market

Important note: "If a party represented wishes to use an information listing service in connection with an immovable or enterprise (e.g. MLS/SIA), the broker or agency must list the immovable or enterprise with that service without delay. The listing must be made before the marketing of the immovable or enterprise or performance of the brokerage contract begins (ex.: advertising), unless written instructions to the contrary are given by the party represented."

In addition, the agency or broker authorized by the listing party to advertise several properties for sale must not lead others to believe that they are the listing party.

Notes	
Property located in a desirable area, 4 sides brick, functional kitchen, bathroom renovated 2009, family room in basement. This sale is made without legal warranty of quality, at the buyer's risk and peril. This contract does not constitute a promise or offer to sell which, upon acceptance, would bind the seller to the buyer, but rather a general invitation to the public to submit promises to purchase. The licence holder declares that he has an interest in the immovable. Notice of disclosure available.	
Declarations by the seller	Yes DS-12345
Buyer's broker(s)	
Les immeubles de chez nous Inc. real estate agency 813 555-6767 immeubles@decheznous.com http://www.decheznous.com	Bertrand Leblanc Real estate broker 514 555-9999 bleblanc@decheznous.com



6. Joint advertising

6. Joint advertising

6.1 Joint advertising with someone who is not a real estate or mortgage agency or broker

Nothing prevents an agency or a group of agencies that publish a magazine advertising their services and the properties on which they hold a brokerage contract from running ads from other categories of professionals.

Likewise, an agency or broker who wishes to put out a promotional brochure that includes information on their own services and those of other professionals may do so as long as the agency or broker advertise their services separately from those of other professionals. The agency or broker can even have their brochure sponsored by various providers of services related to their own.

However, advertising for real estate brokerage services may not be combined with advertising for other professional services (notaries, accountants, chartered appraisers, building experts, etc.) or any other person in a way that suggests that these people are authorized to engage in real estate brokerage transactions.

Advertising brochure for a real estate agency that does not create confusion and does not suggest that anyone other than the broker engages in real estate brokerage activities.

Les immeubles Trucs Inc.
Real estate agency
Tel.: 819 555-1919

Let Us Take Care Of You!

Find out all about our compagny and the real estate brokerage services we offer.

 Marc Tremblay Notary tel.:(450) 444-5555	 Jean Laroche Land surveyor (450) 554-5555	 Marie Lortie architect (514) 545-4444
---	---	---

6.2 Team advertising

(Real estate brokers working for the same real estate agency)

Within an agency, several brokers may get together and form a team. They may advertise themselves as such, but there must be no confusion with the agency name. In any advertising, the real estate agency's name must appear clearly and must be located near the team's name so that the client who is dealing or proposing to deal with the team can easily identify the agency name with which he is dealing or will be dealing.

(Teams consisting of real estate brokers belonging to two separate real estate agencies)

However, if the team includes the holder of an agency licence that is a sub-franchise of the agency, whereas the other members of the team are brokers representing the franchising real estate agency, or if they belong to two different agencies, these distinctions must be made clear in the advertisement and the name of the two agencies should appear clearly while indicating for which agency each broker is working.

In an ad featuring a team photo, each person must be identified with the agency he represents, and non-licence holders must be identified according to their administrative function.

Optional statement if ad is in a periodical

IMMEUBLE ABC inc.
Real estate agency
450-444-5678

TEAM ROLAND TREMBLAY

Mandatory statement, may be replaced by an abbreviation if ad is in a periodical

Ginette Dubé Real estate broker	Pierre Paré Residential real estate broker	Jean Guay Real estate broker	Roland Tremblay Real estate broker

Example of a problem ad

The name of the team is predominant compared to the name of the agency, which goes against the rules.

Also, the expression “The best team in town” is confusing and incomplete. It would be clearer simply to put the name of the team (see Practical applications on page 36 of this Guide).



6.3 Joint advertising by a group of real estate agencies and brokers

Nothing prevents several agencies or brokers acting on their own account from forming a group to share costs including phone, fax and secretarial services. Furthermore, nothing prevents these agencies or brokers from advertising jointly. In each case, it is important that each agency or broker be clearly and distinctly identified according to the above rules. These agencies or brokers cannot designate themselves collectively using terms such as "associated brokers" or "brokerage group".

In addition, if real estate agencies publish a joint advertisement that lists the brokers in their employ, these brokers must be identified in such a way that there can be no confusion as to the identity of the agency for which each of these brokers is authorized to act.

Example of joint advertising by a group of brokers acting on their own account:

Brokers at your services Tel.: 819 555-4953			
Yvan Nault Certified real estate broker* Office: 819 555-4953 Home: 819 555-8976		Courtier Cyr¹ Certified real estate broker* Office: 819 555-4953 Home: 819 555-0989	
Listing A	Listing D	Listing G	Listing J
Listing B	Listing E	Listing H	Listing K
Listing C	Listing F	Listing I	Listing L
Ann Leahy Certified real estate broker* Office: 819 555-4953 Home: 819 555-6656		Immeubles Benoît¹ Certified real estate broker* Office: 819 555-4953 Home: 819 555-7757	
Listing M	Listing P	Listing S	Listing V
Listing N	Listing Q	Listing T	Listing W
Listing O	Listing R	Listing U	Listing X

*The word "Certified" is not required in a newspaper ad.

¹These individuals are allowed to use an assumed name because they were using it before May 1, 2010.

Example of problem ad

An ad must not suggest a connection between agencies or brokers occupying the same physical space and sharing certain services, as is the case here:

Brokerage Group Tel.: 819 555-4953 Certified real estate brokers			
Courtiers regroupés Van Nault Office: 819 555-4953 Home: 819 555-0976		Courtiers regroupés Cyr Inc. Office: 819 555-4953 Home: 819 555-0989	
Listing A	Listing D	Listing G	Listing J
Listing B	Listing E	Listing H	Listing K
Listing C	Listing F	Listing I	Listing L
Ann Leahy courtier Office: 819 555-4953 Home: 819 555-6006		Immobilier Benoît Office: 819 555-4953 Home: 819 555-7777	
Listing M	Listing P	Listing S	Listing V
Listing N	Listing Q	Listing T	Listing W
Listing O	Listing R	Listing U	Listing X

In this example, the name "Brokerage Group" does not represent one real estate agency, but rather four separate brokers advertising under this name without being an agency. This practice is not allowed. For one thing, several agencies or brokers cannot practice under the same name. For another, the name used and the way the ad is structured give the impression that these agencies are engaging in brokerage activities together, as part of the same enterprise, which is not the case.

In addition, the words "real estate agency" should appear after each agency's name.

6.4 Advertising by franchised and sub-franchised real estate agencies

The franchising practice by which an agency is a member of a group of franchised agencies operating under one banner is common in real estate brokerage. In these cases, the master franchiser, often a province- or nation-wide company, is rarely a licence holder, but rather essentially a provider of services to the franchised agencies. Thus the franchiser is responsible for province-wide advertising presenting the general merits of the agencies gathered under its banner. In franchising, each franchised enterprise is an agency. Under these circumstances, advertising by the franchiser for the benefit of all franchised agencies should not suggest that there is a single agency covering the entire territory. We remind you that where advertising is concerned, franchisers, even if they are not licence holders, are governed by the same rules as licence holders.

Franchiser:	Grandes Portes Québec Inc.
Franchisee and sub-franchiser:	Grandes Portes Rive-Sud Inc.
Sub-franchisees:	Grandes Portes Rive-Sud Benoît Tremblay Inc. Grandes Portes Rive-Sud Yves Langlois Grandes Portes Rive-Sud Julie Brault

Several agencies that are part of a franchise network actually have their own network of franchised agencies.

Generally speaking, these sub-franchised agencies do business under the franchised agency's name, to which they add distinctive words.

This is illustrated in the following example:

Like any real estate agency, franchised and sub-franchised agencies can be legal persons (companies), partnerships or natural persons. Several sub-franchisees simply add their initials to the sub-franchiser's company name. In our example, the first sub-franchisee would be called Grandes Portes Rive-Sud B. T. Inc.

Although this formula is sometimes used, it could be create confusion when it comes to names and brands and should be avoided.

Being able to identify and distinguish each of the franchised and sub-franchised brokers is evidently of utmost importance in advertising. Each broker must be clearly and distinctly identified in accordance with the rules outlined above. In addition, there must be no confusion regarding the identity of the brokers working for the franchised agency and those working for a sub-franchised agency. Likewise, there must be no confusion about the fact that a person is a sub-franchised agency of the franchised broker, and not a real estate broker in its employ. The following ad meets these requirements:

Grandes Portes Rive-Sud inc. and its franchisees			
Grandes Portes Rive-Sud Tremblay Inc. Real estate agency Tel.: 450 555-3333		Grandes Portes Rive-Sud Langlois Real estate agency Tel.: 450 555-4398	
Listing A	Listing D	Listing G	Listing J
Listing B	Listing E	Listing H	Listing K
Listing C	Listing F	Listing I	Listing L
Grandes Portes Rive-Sud Cyr Inc. Real estate agency Johanne Boudreault, certified real estate broker Office: 450 555-3333 Home: 450 555-4213		Grandes Portes Rive-Sud Landry Inc. Real estate agency Sylvie Tanguay, certified real estate broker Office: 450 555-3333 Home: 450 555-9098	
Listing M	Listing O	Listing Q	Listing S
Listing N	Listing P	Listing R	Listing T
Grandes Portes Rive-Sud Inc. Real estate agency Maryse Dubreuil, certified real estate broker Office: 450 555-3333 Home: 450 555-7980			
Listing U	Listing W		
Listing V	Listing Y		

Optional

Example of problem ad

An ad must not suggest a connection between franchised agencies occupying a common physical space and sharing certain services, as in the following:

Grandes Portes # 1 in Québec! Tel. : 450 555-3333 South Shore			
Grandes Portes Rive-Sud B.T. Inc. Office: 450 555-3333 Home: 450 555-2121		Grandes Portes Rive-Sud Langlois Office: 450 555-3333 Home: 450 555-4390	
Listing A	Listing D	Listing G	Listing J
Listing B	Listing E	Listing H	Listing K
Listing C	Listing F	Listing I	Listing L
Grandes Portes Rive-Sud J.B. Inc. Office: 450 555-3333 Home: 450 555-4213		Grandes Portes Rive-Sud S.T. Inc. Office: 450 555-3333 Home: 450 555-9000	
Listing M	Listing P	Listing S	Listing V
Listing N	Listing Q	Listing T	Listing W
Listing O	Listing R	Listing U	Listing X

This ad suggests that all agencies belong to the same enterprise, i.e. Grandes Portes Rive-Sud, which is not the case. The fact that three of these names are only differentiated by initials could add to the confusion.

But there is more: apart from the fact that the mandatory words “real estate agency” do not appear, the ad is structured in such a way that the emphasis is placed on the first part of the franchisee’s name, i.e. Grandes Portes, which happens to be the name of the franchiser. This creates a risk that the public will be misled by suggesting that Grandes Portes Rive-Sud and all sub-franchised agencies are part of one and the same brokerage firm.

Finally, the words “#1 in Québec!” may falsely suggest that the agency mentioned in the ad is an integral part of a province- or nation-wide brokerage firm made up of all the franchisees within a given network, with each appropriating the total sales volume of all the franchised agencies in a given network. Whereas it is true that the provincial or national company exists, more often than not it is only a group of franchisees, not a brokerage firm as such.

Other ads don't even indicate the name of the sub-franchising agency and sub-franchised agencies and simply use the first part of the provincial or national franchiser's name:

Grandes Portes # 1 in Québec!	
Listing A Benoît Tremblay Tel.: 450 555-6757	Listing D Luc Beaudry Tel.: 450 555-4758
Listing B Lise Landry Tel.: 450 555-3445	Listing E Benoît Tremblay Tel.: 450 555-6757
Listing C Benoît Tremblay Tel.: 450 555-6757	Listing F Lise Landry Tel.: 450 555-3445

As required under section 114 of the OACIQ Regulation, a real estate broker must clearly indicate the complete name of the agency for which he carries out his activities as well as the type of licence which he holds, except if the ad is in a periodical.

6.4.1 Franchiser holding an agency licence

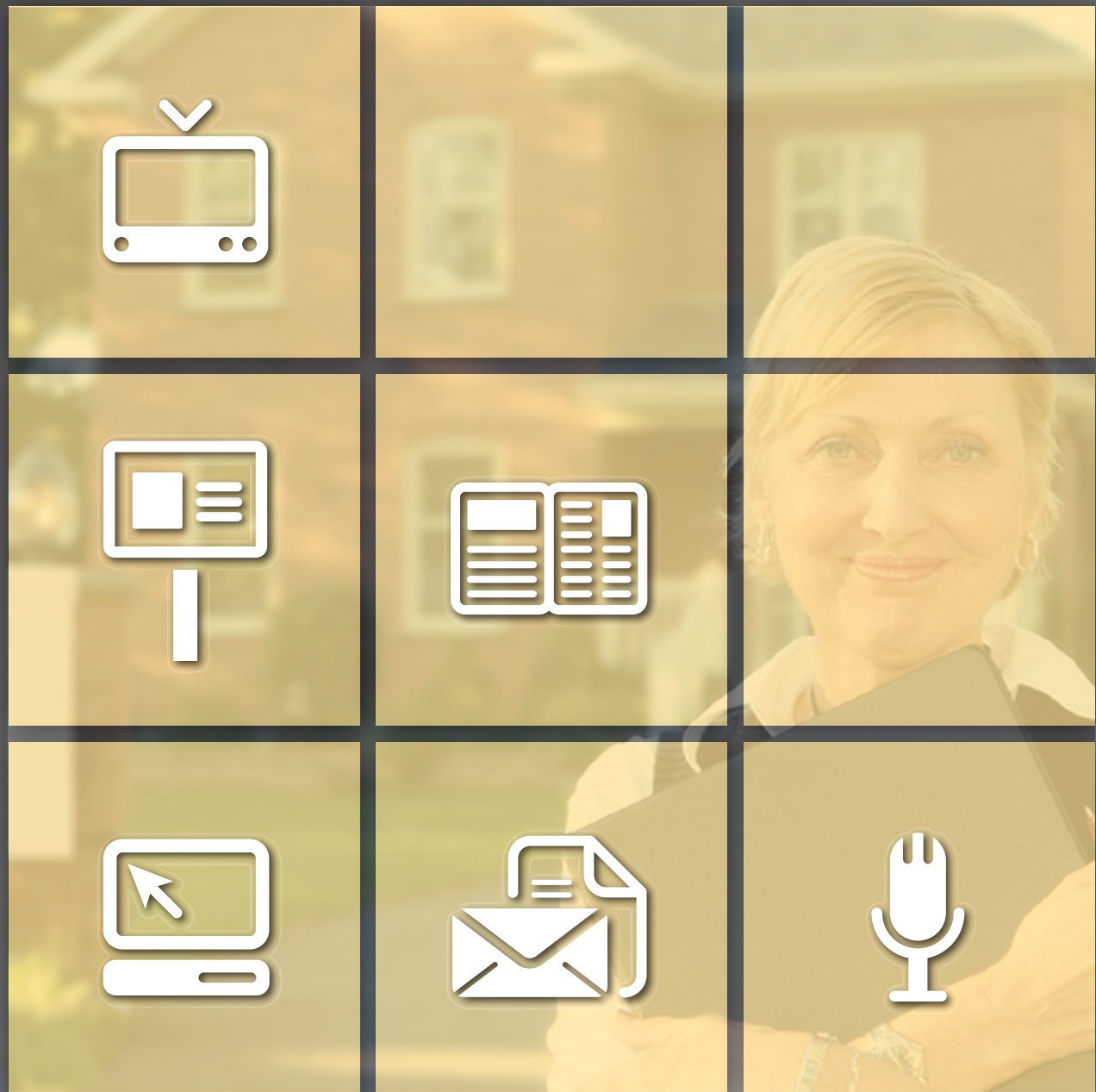
Is a real estate brokerage franchiser required to hold an agency licence in order to advertise? In principle the answer is no, as long as the franchiser's activities are strictly limited to franchising.

However, publicity by franchisers could be impacted in some cases by section 124 of the new Real Estate Brokerage Act, which reads as follows:

"124. Subject to sections 2 and 3 and to special authorizations granted by the Organization, any person who does not hold the licence required under this Act and in any manner claims to be a broker or an agency, uses a title that may lead others to believe that the person is a broker or an agency, engages in the activities of a broker or an agency, claims to have the right to engage in such activities or acts in such a way as to lead others to believe that the person is authorized to engage in such activities is guilty of an offence.

For the purposes of the first paragraph, if the prosecuting party proves that the defendant engaged in a brokerage transaction described in section 1, the transaction is deemed to have been engaged in in exchange for remuneration."

Advertising rules apply to franchisers and any other individual or partnership promoting real estate or mortgage brokerage services.



**7. Publication of disciplinary decisions by
the OACIQ Discipline Committee**

7. Publication of disciplinary decisions by the OACIQ Discipline Committee

All decisions rendered by the OACIQ Discipline Committee are public. Anyone may access these by applying to the secretary of the Discipline Committee; one can also access all decisions rendered by the Committee in the last five years by visiting the OACIQ website.

The fact that these decisions are public, however, does not authorize anyone to make improper use of them. It is important to note therefore that under the Regulation respecting brokerage requirements, professional conduct of brokers and advertising, no real estate broker or executive officer of an agency may use a decision rendered by the Discipline Committee for the purpose of harming an agency or broker (section 94).



8. Advertising and the Internet

8. Advertising and the Internet

8.1 Advertising and the Internet

(From the OACIQ website: "Advertising and distribution of information on the Internet", Article No. 1731)

As mentioned before, the rules applicable to this type of representations are the same as for any other type of advertising, soliciting or representations in the field of real estate or mortgage brokerage.

However, some of the specific features and practices involved in this method of communication require clarification. To begin with, due to the absence of any territorial boundaries on the Internet, it is recommended that real estate agencies and brokers include this wording on their websites: "Authorized to pursue the activity of real estate brokerage in the province of Québec, Canada".

Licence holders have an ethical obligation to ensure that information provided to the public or to other brokers has been verified in accordance with generally accepted practices, so as to guarantee accuracy (Section 5 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising). This obligation is ongoing and necessarily implies a continual updating of the information

The information contained in a website used by a broker for the purpose of advertising, soliciting clients or making representations regarding real estate brokerage activities must always be up to date, whether the site is operated by the agency, the broker or by a third party (e.g. website of a franchiser or of the Multiple Listing Service® of a real estate board, etc.) The public as well as other real estate brokers visiting an agency's or a broker's website or a website specializing in real estate and used by brokers to disseminate information regarding their services must be able to rely on the information such sites contain.

If changes need to be made to information regarding a property featured on a website, the agency or broker must make the changes without delay. In this regard, if the agency or broker publishes their "listings" on a site operated by a third party and have no control over the speed with which the site is updated, they must ensure that the operator is able to process change requests promptly. Agencies and brokers cannot release themselves from their responsibility of ensuring the accuracy of the information he distributes by invoking problems arising from the service provider with whom they have chosen to do business.

Special attention must be paid to the information concerning properties advertised on a website. This information, including any mention to the effect that an immovable is for sale or has been sold, must be removed from the website as soon as the transaction referred to in the brokerage contract has been completed (e.g. for the sale of an immovable, as soon as the act of sale is signed before the notary) or as soon as the brokerage contract expires. Sold properties, however, may continue to be advertised on a website until the signing of the act of sale even if the brokerage contract has expired.

Close attention must also be paid to the information available on an agency's website regarding the brokers acting or authorized to act on its behalf. The executive manager of the agency must ensure that all brokers concerned are still in the agency's employ and that their brokerage licences have not been revoked or suspended. Any restriction to residential or commercial brokerage must also be mentioned.

Websites, whether in real estate brokerage or in any other field, often contain mentions of non-guarantee or non-liability. In real estate brokerage, these and other similar disclaimers are prohibited.

Thus a real estate agency or broker may not post the following types of disclaimers on a website:

Example of non-guarantee clause

“The information contained on this website is accurate to the extent that verifications would allow. It is provided as a guide only and accuracy cannot be guaranteed.
Visitors to this site are urged to verify the information concerning these properties by contacting the listing real estate broker.”

Example of non-liability clause

“The agency, its executive officer, staff, the brokers in its employ or authorized to act on its behalf or any other representative of the agency cannot be held liable for any damage arising directly or indirectly from the information contained on this website and the use thereof.”

As mentioned above, real estate agencies and brokers have an ethical obligation to ensure that the information disseminated to the public or to other real estate brokers has been verified in accordance with generally accepted practices so as to guarantee its accuracy (Section 5 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising). Including a non-guarantee clause such as the above example is incompatible with this rule.

In addition, section 6 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising states the following:

“A licence holder engaging in brokerage activities may not elude or attempt to elude professional civil liability, including by inserting in a contract of professional services a clause that directly or indirectly, fully or partially, excludes that liability.”

The above example of non-liability clause obviously violates this rule.

8.2 Allowing third parties to advertise on an agency's or broker's website

(From the OACIQ website: "Advertising and distribution of information on the Internet", Article No. 1731)

To increase the volume of information contained on their website, a real estate agency or broker could be tempted to allow unlicensed individuals to display information or to advertise services that are related to those provided by the agency or broker. This may be in the form of a distinct section of the site where the contact information of lawyers, chartered appraisers, land surveyors, etc., could be found. This practice is permissible as long as the person viewing the site is not led to believe that these people or enterprises are authorized to provide real estate brokerage services, if such is not the case. In fact, as mentioned above, current regulations governing real estate brokerage specifically prohibit an executive officer of an agency or a broker to allow or encourage illegal practice as broker or agency by an individual or partnership that is not a licence holder. Agencies and brokers are also prohibited from allowing any unlicensed individual from using their name. It is important, therefore, to exercise great caution in this area, because "hosting" on a website someone who is not a licence holder but offers, directly or indirectly, real estate related services could in some cases create confusion and go against the above rules.

In addition, a real estate agency or broker cannot allow property owners to whom they are not bound by a brokerage contract to display properties they wish to sell or rent on the agency's or broker's website, even free of charge. The regulations require that all advertisements, solicitations or representations relating to a brokerage transaction be expressly authorized in writing by the person for whom the brokerage transaction is being carried out (for more on this topic, refer to page 41 of this document).

8.3 Hyperlinks

(From the OACIQ website: "Advertising and distribution of information on the Internet", Article No. 1731)

A website often contains what are known as "hyperlinks", i.e. a symbol or word which, when selected (clicked) takes the web browser to another site (not to be confused with a symbol or word that takes the browser to another page or section of the same site). These hyperlinks are often found under a heading called "Other useful links".

Nothing prevents an agency or broker from including hyperlinks on their website. However, there must be no confusion for the person who is clicking on the offered hyperlink; this person must be aware that by doing so, they are being taken to a website that is distinct from the original one and not to another page of the same site. This is especially important if a hyperlink leads to the website of another real estate professional (for instance a land surveyor's or notary's website), which could lead the browser to believe that this person is authorized to pursue the activity of real estate broker whereas this is not the case.

A hyperlink should not take the browser to a secondary page of another website, but rather to the first or home page of the site to which it links.

The practice providing hyperlink access to the content of another website as if it were part of the site initially visited is acceptable as long as the source of the information is clearly indicated. When "framing" information emanating from the website of another real estate agency or broker, the latter's authorization must first be obtained and the fact that the information comes from another real estate agency or broker must be indicated and the site specifically identified (e.g. "information taken from the website of ABC Properties Inc., real estate agency"). This statement must appear in the upper portion of the screen in a font size and colour at least equivalent to the rest of the information on the screen.

A broker operating his own website in which he publishes information about his services and the properties on which he has a brokerage contract (his listings) may sometimes include a hyperlink to sites containing the listings of other brokers (for example, the site of the agency that employs him). This hyperlink may lead to a secondary page rather than to the site's home page. It is important in such cases that the distinction between the listings of different brokers be clear and that there be no confusion over the fact that the browser has left the broker's personal website.

Moreover, there must be no confusion about the fact that the hyperlink does not constitute a reference or a recommendation of the person or services presented on the linked site, nor a guarantee of the information contained on the site.

A special statement could be added to the effect that the agency or broker operating the site has no control over the content of the sites accessible by hyperlink. If appropriate, it should specify that there is no connection between the agency or broker and the operators of these other sites. Finally, it should also specify that the hyperlink connection does not represent an endorsement by the agency or broker of the quality or the reliability of the information, services or goods featured on these sites. This could read as follows:

By clicking on a hyperlink, you will be exiting the site operated by_____. The hyperlinks contained on this site do not represent an endorsement or recommendation of the persons or services thus linked. _____ has no control over the content of the sites accessed by hyperlink and cannot guarantee the quality of the information contain therein.

Finally, it is advisable for the agency or broker who wish to include a hyperlink on their website to obtain prior approval to do so.



9. Promotional advertising

9. Promotional advertising

9.1 Publicity contests

Real estate agencies and brokers sometimes use publicity contests to promote their services. When it is a broker who wishes to organize such a contest, he must first inform the executive officer of his agency and obtain authorization.

Under the Act respecting Lotteries, publicity contests and amusement machines, a “publicity contest” means a contest which results in the awarding of a prize (e.g. a trip South), carried on for the object of promoting the commercial interests of the person for whom it is held (e.g. the agency). Such contests are subject to special regulations that come under the Régie des alcools, des courses et des jeux (the Régie). These regulations include numerous requirements, including:

- the payment of fees to the Régie;
- documents to be provided to Régie;
- the content of contest rules and accessibility to the public;
- the content of the messages used to advertise the contest;
- cancellation of the contest;
- the awarding of prizes;
- the timelines in which to fulfill these obligations.

For any question regarding the organising of publicity contests, real estate agencies and brokers should contact the Régie des alcools, des courses et des jeux or visit its website at www.racj.gouv.qc.ca.

9.2 Promotions on signs and other incentives

Sometimes a real estate agency or broker offers potential buyers an incentive to make a promise to purchase on a particular property or to use their services for the purchase of a property.

Such incentives regarding a specific property often take the form of a promotion which the agency or broker will succinctly refer to on the sign placed in front of the property. These incentives will appear as “6 months interest-free”, “\$1,500 cash back”, etc.

This type of statement prompts two comments. Obviously, the statement must reflect reality and not deceive the legitimate expectations of the buyers. For example, it is unlikely that the statement “Free Move” truly reflects reality. For one thing, moving is never free. By this the agency or broker probably mean that they will pick up a portion of the cost of the move. It is highly unlikely that the agency or broker intends to cover the entire cost of a move. It would be better to indicate simply that the agency or broker will reimburse moving costs up to a certain amount. The buyer will have the same benefit in the end, but will know exactly what to expect.

In addition, this type of promotion on a sign should not cause an obstacle to collaboration and end up being unfair to buyers. Thus the offer cannot favour buyers who choose to present a promise to purchase directly through the seller’s broker over those who have their own real estate broker representing them. This would of course result in unfair treatment for the latter in addition to hampering collaboration, since the buyers would have an incentive to go through the listing agency or broker only and to renounce the privilege of being represented by their own broker. In short, any “on-sign” promotion concerning an immovable cannot be discriminatory to buyers and the broker representing them.

Nothing prevents an agency or broker who wish to advertise their services (in a newspaper, for example) from using an ad that does not refer to a specific property and exclusively offering buyers and sellers doing business with them incentives such as those mentioned above. By not being linked to a specific property, the promotion then becomes a simple incentive and does not hamper collaboration or create discrimination. The main requirements to be eligible for the promotion as well as any restrictions must appear in the ad.

In addition, if there are other conditions attached, a mention to the effect that complete terms and conditions are available at a given location, for example on a real estate agency's website, or upon request must also appear in the ad.

Example of an acceptable ad placed in a newspaper:

WE PAY YOUR MOVING COST



LES IMMEUBLES TRUC INC.
REAL ESTATE AGENCY

will reimburse up to \$600 of your
moving costs when you purchase a property
through one of his brokers

Valid until June 30, 20XX

CONTACT US AT 814 555-1919

This ad means that any buyer who purchases a property through one of the brokers representing the agency, whether or not the property is listed by this agency, will be eligible for this promotion.

9.3 Remuneration reductions and other benefits

Ads from real estate agencies or brokers offering reductions in remuneration, cash rebates or other benefits and premiums to buyers and sellers doing business with them are allowed. However, they must follow certain rules to avoid confusion.

It is important to specify who, of the agency or the broker, is offering the promotion.

A rebate to the seller therefore constitutes a reduction in remuneration.

As for the buyer, any advantage gained through a promotion is more like a gift that will have to be paid independently from the agency's remuneration.

Ads concerning such promotions must follow these rules:

- The essential conditions for obtaining a rebate must appear in the ad. For example, if the offer is conditional to the client signing a brokerage contract with a minimum basic remuneration, this has to be indicated.
- The ad must indicate the duration of the promotion, otherwise it will apply until such time as the agency or broker publishes a notice announcing that it is terminated.
- Such a promotion cannot allow an agency or broker to pay money to someone referring clients but not authorized to engage in brokerage transactions.
- The promotion's non-essential conditions must be available and a statement to this effect must appear in the ad.
- If the promotion is being offered by a broker, it must be approved by the executive officer of the agency. Keep in mind that promotions by one broker could lead consumers to believe that they apply to all brokers working for that agency.

9.3.1 Performance guarantees offered by real estate agencies and brokers

A real estate agency or broker may want to offer a performance guarantee, such as a reduction in remuneration, if the property is not sold within 90 days.

This type of guarantee must clearly indicate what the consequence will be if the desired performance is not attained and the guarantee becomes applicable. If conditions are attached, the essential conditions must appear in any advertisement. Other conditions must be available upon request.

This guarantee must be mentioned in the brokerage contract.

Caution

If the performance guarantee is linked to an evaluation of the market value by the broker, the evaluation must reflect the reality of the market and proof must be kept in the file.

It is not recommended for a broker to guarantee performance, failing which he will buy the property himself at a price previously established by him. Again, this could place him in a conflict of interest situation.

If a broker wants to offer a guarantee, he must obtain prior authorization from the executive officer of his agency, since the latter is responsible for the agency's advertising.

9.3.2 Promotion offered by a third party

Sometimes a seller may want to offer an incentive (gift, trip or other benefit) to the buyer.

The real estate agency or broker can promote the incentive. In the case of a broker, he must first obtain the consent of his agency. The publicity must clearly indicate that this incentive is being offered by the seller and not by the real estate agency or broker and that this promotion only applies to that particular property.

In addition, should the seller not respect the terms of the promotion, the real estate agency or broker could be held professionally liable, both from an ethical and a legal standpoint.



10. Telephone solicitation

10. Telephone solicitation

10.1 Telephone solicitation and the National Do Not Call List

All brokers and agencies that canvass using unverified telephone lists are subject to the Unsolicited Telecommunications Rules by the Canadian Radio-television Telecommunications Commission (CRTC). These rules prohibit the use of telecommunications for the purpose of telemarketing to consumers whose number is registered on the DNCL. Consumers whose number is not registered on the DNCL may continue to be solicited.

Thus, when a consumer's number is registered on the DNCL, a broker or agency will have to obtain written prior consent from the consumer explicitly authorizing the agency or broker to contact him for telemarketing purposes.

In addition, brokers and agencies must register with the DNCL administrator and pay the established subscription fees in order to obtain lists of those numbers which are not to be solicited. The CRTC is responsible for administering the DNCL, but it has contracted with Bell Canada to administer the list on its behalf.

Brokers and agencies will be required to maintain an up-to-date call list that excludes telephone numbers registered on the DNCL as well as the numbers of any consumers who have directly requested to be excluded from the list, without going through the DNCL.

Exemptions

You are still allowed to contact someone with whom you already have a business relationship, as this type of call is exempt from the DNCL.

In summary, brokers and agencies must change their telephone solicitation practices as follows:

- They must register with the DNCL administrator and pay the subscription fees;
- They must have an up-to-date call list that excludes numbers registered on the DNCL;
- They must maintain an up-to-date list of consumers who have asked directly to be excluded from their lists without going through the DNCL;
- They must keep the information used in the course of their activities, in case of complaint;
- They must abstain from soliciting any person whose number is registered on the DNCL or who has directly requested to be taken off their list.

Information regarding the DNCL is available on the CRTC website at: www.crtc.gc.ca/eng/dncl.htm.

10.2 Companies offering telephone solicitation related services

Some companies offer brokers and agencies various services to make their jobs easier. For example, there are automated telephone information services that can provide potential buyers with information regarding a property being sold by a broker, or automated telephone solicitations services to help identify potential sellers or buyers in a given area, for a broker or agency.

Before doing business with this type of company, however, it is important that real estate brokers and agencies make sure they follow the rules regarding advertising, representations and the soliciting of clients. If the services offered constitute real estate brokerage services, the company may only provide them if it holds a real estate broker's licence.

10.2.1 Telephone information on a listing

In this type of service, buyers interested in a listing can obtain information on a property by calling the number indicated on the seller's broker's sign in front of the property. Calls from buyers are routed to an automated call processing system. Buyers can listen to a pre-recorded description of the property, based on information provided by the seller's broker, and are given the name of the seller's broker for the property.

In this specific case, whether the message is recorded by the service company or by the broker himself, the broker is always the one who is deemed to be providing the information on a property on which he has a brokerage contract.

This type of service constitutes representations or advertising by the real estate broker concerning one of his listings, equivalent to a classified ad or the posting of a property on the broker's or the agency's website.

Brokers or agencies using this type of service must make sure that they are properly identified in the telephone message with:

- the complete name as it appears on the licence;
- the category of licence held;
- in the case of an agency, the telephone number of its principal establishment in Québec (head office) or of any other establishment;
- in the case of a broker:
 - the complete name of the agency that employs him and the category of licence held;
 - the telephone number of the establishment to which he is assigned.

It is also important to ensure that no joint advertising is done with the company offering the service, as the latter does not hold a real estate brokerage licence.

10.2.2 Potential buyer and seller search services, at a real estate broker's request

These services usually take the form of telephone "surveys" targeting the residents of a given area. They are contacted using a computerized telephone system and are required to answer a number of questions using their telephone keypad. They are asked whether they intend to buy or sell in the near future and if they would like a call-back from a real estate agency or broker.

In this case, the following requirements must be met:

- The advertising must conform to the above requirements in terms of complete identification of the real estate broker or agency;
- Solicitation must not be done jointly with the telephone service company, in other words only the agency or broker for whom the survey is being conducted is to be identified. The service company must not be identified;
- The pre-recorded message must clearly state the reason for contacting the residents (i.e. to set up a list of people interested in buying or selling a property on behalf of the agency or broker who requested the survey).

When these requirements are met, it is in fact the agency or broker who is soliciting clients. Consequently, the company offering solicitation services does not need to hold a real estate agency or broker licence.

10.2.3 Distinction to be made with an assistant providing this type of services

The two types of services described above are different from the case where a natural person who is not the holder of an agency or broker's licence but who acts on behalf of a licence holder provides information or solicits clients (e.g. the secretary of the agency or broker). In this case, the natural person is illegally performing the role of broker by providing information on a property directly and by interacting with potential buyers. This is no longer a matter of advertising using a media, but rather it concerns the work of the real estate broker in terms of representations made on one of his listings.

For more details on this, read the article *When the real estate broker is an employer* (No. 120798) from the OACIQ website.



11. Impact of a licence suspension or revocation on advertising

11. Impact of a licence suspension or revocation on advertising

(Section 17 of the Regulation respecting the issue of broker's and agency licences)

Generally speaking, a broker or agency must:

- cease all advertising in periodicals (newspapers, magazines, etc.);
- cease all soliciting of clients via mail, email or phone;
- remove any advertising signs or other advertisements;
- remove all road signs;
- cease all advertising on his own and his agency's website (including the list of brokers assigned to the establishment);
- notify their real estate board and remove any listing on MLS (or the agency must appoint a replacement);
- remove all billboards on thoroughfares and highways;
- remove all ads on company or personal vehicles;
- remove all signs on buses, public benches, in arenas or other public places.

Real estate agency's responsibility

A real estate agency that has a broker acting on its behalf whose licence is suspended or revoked must ensure that the name of this broker is removed from any advertisement. The agency must follow up with the broker whose licence is suspended or revoked to make sure all advertising is removed without delay; the agency must also appoint a replacement to take over the brokerage contracts for which this broker was responsible.

The agency is always notified in writing of the suspension or revocation of the licence of one of its brokers, and consequently must develop a clear procedure to quickly cease all advertising containing this broker's name.

Length of the suspension

Short-term suspensions (e.g. less than 30 days) can create practical difficulties when it comes to removing advertisements. However, the broker must demonstrate good faith by taking all possible steps with suppliers to cease his advertisements.

Concerning advertising in periodicals, you must contact them without delay and give instructions regarding the removal of your advertisements in upcoming issues. For example, if one of your ads appears in a monthly publication and your suspension will overlap the following month, you must remove the ad for that month.

Example: licence suspended from May 12 to June 12. Ask that the ad be pulled for the month of June.

When in doubt regarding what to do or in case of difficulty with the removal of advertisements, we recommend that you contact the Info OACIQ Centre.

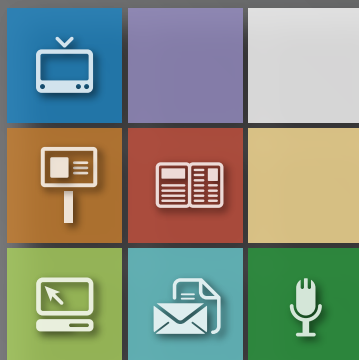


12. Conclusion

12. Conclusion

This document discussed several topics, including minimum requirements regarding advertising, the soliciting of clients and representations, but cannot claim to have covered all situations that may present themselves.

For any question concerning the rules set out in the Real Estate Brokerage Act and the regulations thereunder regarding advertising, the soliciting of clients and representations related to the practice of real estate brokerage, please contact the INFO OACIQ Information Centre by phone at 450 462-9800 or 1 800 440-7170 or by email at info@oaciq.com.



Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ)

4905 Lapinière Blvd., Suite 2200, Brossard (Québec) J4Z 0G2
Telephone: 450 676-4800 or 1 800 440-5110 • Fax: 450 676-7801
Info OACIQ: 450 462-9800 or 1 800 440-7170
www.oaciq.com • info@oaciq.com

