

Laura M. Nichols
Executive Director

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CAMBRIDGE CONSUMERS' COUNCIL

831 Massachusetts Avenue
Cambridge, Massachusetts 02139



City of Cambridge

Working in Cooperation with
Office of Attorney General Martha Coakley

November 22, 2010

Robert W. Healy
City Manager
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Mr. Healy:

As you know, the Cambridge Consumers' Council ("CCC"), a City of Cambridge agency, works in cooperation with the Massachusetts Attorney General's Office in investigating and monitoring consumer problems and complaints. The CCC offers a free, voluntary mediation program aimed at resolving disputes so that neither party needs to pursue formal legal action.

In response to **Awaiting Report Item Number 10-171**, regarding false pricing at Radio Shack, our office is pleased to present the following:

The Office of the Attorney General enacts and enforces a series of pricing and advertising regulations, which establishes a standard for pricing and refund, return and cancellation privileges.

The statute, pursuant to *940 CMR 3.13(1)*, requires non-grocery merchants to mark most merchandise with the actual selling price. Merchants may not misrepresent the price or claim that it is reduced or offered for a limited time only, when this is untrue. Certain non-grocery retailers who utilize in-aisle electronic price scanner systems may not be subject to this requirement, but they must continue to provide shelf or rack pricing for items, and electronic scanner systems for consumers to use to check prices.

Should a dispute arise concerning the actual price of an item, pursuant to *940 CMR 3.13(1)(f)*, the "correct price" is considered to be the lowest of: (1) the advertised price in any circular, newspaper, magazine, television or radio commercial, or in any other medium, or any published correction thereof; (2) the price indicated on any store sign, shelf label, price tag or price sticker for the item; or (3) the price rung up by the store's automated retail system; provided, however, that the seller has no obligation to sell such item at the lowest represented price if it is the result of a gross error¹, if it is based on the price marked on another unit of the same item and the tendered item is marked only with a higher price, or if the price tag, label or sign shows evidence of obvious physical tampering.

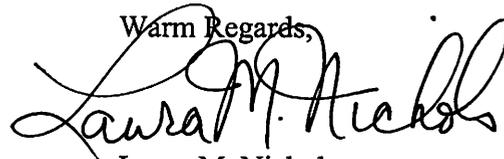
The pricing and refund, return and cancellation privileges established by the abovementioned statute are promulgated pursuant to *M.G.L. c. 93A, §2(c)* for purposes of determining whether conduct,

¹ A "gross error" is a price which was never intended as the selling price at any time during the previous 30 day period, and which, for an item with an actual selling price of not more than \$20.00, is less than half the price stated by the seller as the actual selling price, or which, for an item with an actual selling price of more than \$20.00, is more than 20% below the price stated by the seller as the actual selling price.

terminology or representations involve unfair methods of competition or unfair or deceptive acts or practices, in violation of the law, pursuant to *M.G.L. c. 93A, §2(a)*. Merchants or retailers, regardless of the location of the business, are subject to *M.G.L. c. 93A §2(a)* if they are engaged in any form of trade and commerce directly or indirectly affecting the people of the Commonwealth of Massachusetts as defined in *M.G.L. c. 93A, §1 and §11*.

In conclusion, our office believes that every effort should be made to ensure consumers are being presented with adequate pricing information, and merchants are using due diligence to ensure consumers are being charged accurate prices for goods in the marketplace. Should any issue like this arise in the future, please feel free to refer all complaints to our office for investigation. Please do not hesitate to contact me should you need any additional information.

Warm Regards,

A handwritten signature in black ink that reads "Laura M. Nichols". The signature is written in a cursive style with a large, stylized initial "L".

Laura M. Nichols
Executive Director