

ONLINE RETAIL PRICE POLICY (ORPP) EXPLANATION

1. **Why has Truck Hero implemented an Online Retail Price Policy (ORPP)?**

The products sold by the Truck Hero companies are of high quality with a premium image earned through extensive product and market development activities and superior service to end users. Some resellers located in either or both of the United States of America (“USA”) and Canada that sell any or all Truck Hero products to end users (collectively, “Retailers” or individually, a “Retailer”) have taken or may take advantage of this fact by advertising and selling such products as loss leaders or by promoting and applying unfair discounts.

In an effort to help protect the reputation of the Truck Hero companies, insure the long-term viability of its brands and protect the investment of those Retailers that provide valuable services to end users, Truck Hero, effective as of April 1, 2015 (the “Policy Effective Date”), has unilaterally adopted by unilateral policy an Online Retail Price Policy (ORPP) (the “Policy”) that establishes a minimum resale price (“Minimum Resale Price” or “MRP” and referring to either the singular or the plural or both, “MRP(s)”) for each of certain products sold by the Truck Hero companies (under such trademarks and names as Extang, Truxedo, Undercover, BedRug, Advantage, Retrax and BAK)—**a price below which Retailers may not electronically or in print media offer or sell such product.**

2. **What products are covered by the Policy?**

The Policy applies to each product for which a MRP is specified in the then-current price list(s) or product list(s) provided or otherwise made available to a Retailer by Truck Hero or otherwise communicated in writing or electronically by Truck Hero to such Retailer (individually, a “Covered Product” and collectively, the “Covered Products”). At any time, Truck Hero may vary the Minimum Resale Price for a Covered Product or add to or delete any or all of the Covered Products, which may, among other things, be based on whether such product(s) is or are offered or sold under or subject to one or more select Truck Hero program(s) or any other Truck Hero policy or in any other situation announced by Truck Hero from time to time. Truck Hero will endeavor to provide prior notice of each new MRP or such change in the Covered Products, generally not less than five (5) days in advance. While Truck Hero will communicate each MRP and such change through the price list(s) or product list(s) provided or made available to each Retailer by Truck Hero or otherwise communicated by notice from Truck Hero intended for such Retailer, each Retailer is responsible for making sure that it is aware of the appropriate MRP(s) and the Covered Products in each circumstance.

As indicated in the Policy, parts of the Policy may also apply to other or all Truck Hero products, but only each of those for which Truck Hero has specified a MRP is a “Covered Product.”

3. **Since each Minimum Resale Price set by the Policy applies only to electronic and printed offers and sales, what does this term mean?**

While each Retailer remains free to sell at any price(s) it chooses, the Policy applies to the price(s) at which any or all of the Covered Products is or are offered and sold in any and all forms of Electronic Content containing Price Information, regardless whether consisting of advertising, promotion, proposal, quotation, checkout, receipt, catalog or otherwise, made available or provided by or on behalf of a Retailer for any or all of the Covered Products (collectively, “Electronic Marketing”). In other words, the Minimum Resale Price established by Truck Hero for a Covered Product does not apply to other forms of offer and sale involving that product, such as in-person at brick and mortar locations.

For purposes of the Policy: (a) “Price Information” means information regarding price, whether, express or implied, such as a discrete price, price formula, reference to price or anything related to price (e.g., representations or inferences regarding savings, discount or value) and anything which Truck Hero considers to be the substantive equivalent and (b) “Electronic Content” means information which (i) can be accessed directly through any hypertext link, by any other method which uses hypertext transfer protocol (http) or anything which Truck Hero considers to be the substantive equivalent or (ii), to the extent not covered by the preceding description, is provided by or on (A) one or more mobile apps or mobile sites for devices (such as tablets and smartphones), (B) social media (e.g., Twitter feeds and Facebook), (C) Internet shopping sites, marketplaces and comparison search engines (CSEs) to which such Partner supplies pricing information (e.g., Google Shopping, Buy.com, eBay, Amazon and PriceGrabber), (D) electronic solicitations (e.g., texting and e-mail) and (E) all electronic media advertisements (e.g., e-mail newsletters and electronic advertisements (such as pop-ups and banners) and print media). **When applied to websites, the Policy considers Price Information found outside-the-cart (or other container), in-the-cart (or other container) and at checkout to be subject to the Policy.**



4. **Is Truck Hero setting the price charged by Retailers in their Electronic Marketing of the Covered Products?**

No. Each Retailer may offer or charge any price it wishes, provided that such Retailer's net adjusted price for a Covered Product is at or above the corresponding MRP established by Truck Hero from time to time and communicated to such Retailer.

The "net adjusted price" means the lower of the price at which a Covered Product is offered by or for the benefit of a Retailer to a customer (potential or actual) or that actually paid to or for the benefit of a Retailer for a Covered Product by such customer after (a) applying all discounts and similar price reductions, (b) excluding certain taxes, shipment and installation charges and (c) giving effect to the value of free or reduced-price bundles. Specifically, net adjusted price will be calculated by:

- taking into account all discounts, deductions, rebates and allowances offered or given to such customer (regardless of source, whether given or taken at the time of sale or otherwise and considered by Truck Hero to be part of such offer or sale), except that an offer or sale using or applying a rebate, coupon or the equivalent (as determined by Truck Hero) will not be considered part of net adjusted price if such rebate, coupon or the equivalent is provided by Truck Hero or its designee(s) (i) directly to such customer or (ii) to such Retailer for provision to and use by such customer);
- excluding, if to be paid or paid by such customer, all applicable taxes and all shipping, delivery and insurance charges (However, if such Retailer offers to pay or pays any or all of such taxes and such charges that otherwise would be paid by such customer, the amount so offered or paid by such Retailer will be considered a discount, except as otherwise provided in the Policy.);
- subtracting, in the case of free goods, services and similar benefits for such customer offered or provided by such Retailer, the fair market value (as determined by Truck Hero) of all such goods, services and benefits (regardless of source, whether given or taken at the time of sale or otherwise and considered by Truck Hero to be part of such offer or sale); and
- subtracting, in the case of reduced-price goods and services and similar benefits for such customer offered or provided by such Retailer, the difference between: (i) the fair market value (as determined by Truck Hero) of all such goods, services and benefits (regardless of source, whether given or taken at the time of sale or otherwise and considered by Truck Hero to be part of such offer or sale) and (ii) the amount to be paid or actually paid for such goods, services and benefits.

What this means is that the Retailer's "bottom-line" price to its customers for each of the Truck Hero products covered by the Policy must be at or above the applicable price described in the Policy. The bottom-line price is after all discounts, deductions, rebates and allowances and excludes taxes, shipping, delivery and insurance (if paid by the customer). In addition, the fair market value of free goods and services is treated as a discount against the price of the Covered Product, as is the excess of the fair market value of reduced-price goods and services over the amount to be paid or actually paid.

In other words, the value of free goods and services and the extent by which the value exceeds the amount to be paid or paid for reduced-price goods and services (regardless of whether they come from Truck Hero, another supplier, the Retailer or anyone else) will be considered as discounts against the price to be paid or actually paid by the customer if Truck Hero considers such goods or services to be included in the offer or sale of a product covered by the Policy.

The fair market value for each Covered Product provided for free or at a reduced price with the purchase of another Covered Product will be its Minimum Resale Price. From time to time, Truck Hero may communicate to a Retailer in writing or electronically what it considers to be the fair market value for particular goods or services.

5. **Are certain free or reduced-price services not treated as discounts?**

Yes. Free or reduced-price shipping and/or installation may be offered or provided by a Retailer without it being considered to be a discount when offered or provided in connection with a purchase that includes at least one of the Covered Products, provided that, as determined by Truck Hero: (a) such offer or provision applies to all other products in the category in which such Covered Product or such Covered Products reside(s) and (b) the value thereof is reasonable.

6. **Are there any exemptions from the Policy?**

Yes. As long as a Retailer does not otherwise violate the Policy, such Retailer offering or selling to a potential or actual customer one or more of the Covered Products after the Policy Effective Date, April 1, 2015, below its or their respective MRP(s) is exempt from the Policy and will not violate it, if such offering or selling is consistent with an exemption described in the Policy (collectively, the "Exemptions"). The Exemptions are as follows and apply to offering or selling which is part of a potential or actual sale by such Retailer:

- bona fide advertising and promotional materials that cannot reasonably be modified prior to the Policy Effective Date or the effective date of a change in the MRP(s), the Covered Products or the Policy until such time that it is reasonable to revise such materials (as determined by Truck Hero) to be consistent with the Policy;
- each bona fide written contract between such Retailer and a customer that became effective (a) prior to March 15, 2015 (the "Policy Announcement Date") or (b) after the Policy Announcement Date, if performance by such Retailer under such contract is completed prior to the Policy Effective Date;
- in the case of a change in the MRP(s), the Covered Products or the Policy, each bona fide written contract between such Retailer and a customer that became effective the day before such change is announced by Truck Hero;



- the offer or sale of one or more of the Covered Products based on a bona fide proposal or quotation given prior to (a) the Policy Announcement Date or (b) the effective date of a change in the MRP(s), the Covered Products or the Policy which makes such proposal, quotation or sale non-compliant with the Policy (as long as, if the Policy was in place at the time such proposal, quotation or sale was given or made, it complied with the Policy), provided that, in either case, (i) such proposal or quotation is effective for no longer than thirty (30) days after the Policy Effective Date or ten (10) days after the effective date of such change and (ii) each of the Covered Products subject to such accepted proposal or quotation will be delivered to such customer no later than thirty (30) days after such acceptance;
- conveying prices to customer in direct response to a specific customer inquiry (a) during his or her in-person visit to a brick-and-mortar location or (b) by an individualized live telephone call or individualized e-mail (but not automated bounce-back e-mail);
- the offer or sale under one or more special programs (if any) designated by Truck Hero;
- the accrual of “points” or other things of value (“Loyalty Points”) in connection with the purchase of any or all Truck Hero products and the application of Loyalty Points, even if such application results in price(s) for any or all of the Covered Products below its or their respective MRP(s), as long as: (a) Loyalty Points may be accrued and applied to all or almost all of the products offered by such Retailer and (b) the accumulation rate for Loyalty Points applicable to the purchase of any or all Truck Hero products is no more than that applicable to all or almost all other brands of products offered by such Retailer (as determined by Truck Hero regardless of category).
- the offer or sale of one or more units of any or all of the Covered Products that are used, rather than new, such as demonstration or display units; and
- the offer or sale of one or more items of the Covered Products to an employee of such Retailer for his or her personal use (and not for resale), provided that such offer is reasonable (as determined by Truck Hero).

If such Retailer otherwise violates the Policy or Truck Hero determines that such Retailer does not qualify for or abused any or all of the Exemptions, such exemption(s) will be deemed withdrawn by Truck Hero retroactive to the Policy Effective Date or such other date specified by Truck Hero. Except in extraordinary circumstances, Truck Hero will not consider any requests for other exemptions.

7. Will Truck Hero consider requests for additional exemptions?

Only in extraordinary circumstances will Truck Hero consider any requests for additional exemptions.

8. Apart from offering or selling a Covered Product at a price below its MRP using Electronic Marketing, do certain other practices violate the Policy?

Yes. A Retailer (directly or through another party on behalf or for the benefit of such Retailer) using or engaging in any or all of the following terms, descriptions, conditions, offers or activities (or the substantive equivalent of any or all of them as determined by Truck Hero) in connection (directly or indirectly) with the offering or sale of any or all of the Covered Products (or, if so noted below, any or all Truck Hero products, regardless whether it or they is or are one or more of the Covered Products) will be deemed to be a violation of the Policy with the same effect as offering or selling a Covered Product at less than its Minimum Resale Price:

- offering to match or matching a lower price via Electronic Marketing that is provided by another seller if such offer or sale results in a price less than the relevant MRP(s);
- in connection with the advertising, promotion or sale of any or all of the Covered Products using Electronic Marketing: (a) a strike-through of any MRP(s) regardless whether one or more other prices is or are shown or (b) the failure to show a price for each of the Covered Products depicted, described or to which a reference is otherwise made;
- other than as expressly authorized by Truck Hero, with respect to any or all items of Truck Hero products (or, if so designated by Truck Hero, just one or more particular items of Truck Hero products), knowingly or negligently directly or indirectly (a) advertising, promoting or selling in either or both of the following ways: (i) outside the USA and Canada and (ii) online in any fashion (unless and only to the extent each website used for such purpose by such Retailer is expressly approved by Truck Hero for such use and which approval has not been rescinded by Truck Hero in whole or part) and (b) selling in any or all of the following ways: (i) to anyone for resale other than to any or all of the Authorized Retailers. Such Retailer may drop ship to one or more end users only (not to resellers), on behalf of any or all the Authorized Retailers, so long as such Retailer has not received Truck Hero notice to the contrary which rescinds the approval of Truck Hero therefor), (ii) to each individual and entity appearing on the then-current Do-Not-Sell List (including without limitation drop shipping on behalf thereof), except to the extent as may be permitted therein and (iii) except as otherwise permitted by the Policy, to anyone other than the Authorized Customers, including without limitation to the Special Accounts (for purposes of the Policy: (A) the “Authorized Customers” means actual and prospective end user purchasers (but not resellers) of any or all item(s) of the Truck Hero products permitted by Truck Hero and (B) the “Special Accounts” means, collectively, each individual or entity so designated by notice from Truck Hero);
- except as otherwise permitted by the Policy, if a price for a Covered Product is shown in Electronic Marketing or as part of a sale via Electronic Marketing permitted by the Policy and (a) the price for such product does not appear on the initial webpage or other location mentioning, depicting or describing such product or (b) such price varies with respect to such product (exclusive of applicable taxes and all shipping, delivery and insurance charges) across any or all of (i) such initial webpage or location, (ii) the in-the-cart (or other container) price, (iii) the checkout price and (iv) the substantive equivalent of any or all of them as determined by Truck Hero;
- an invitation to click, rollover, call, e-mail, visit a location (such as a website, store or showroom) or otherwise communicate to obtain Price Information, except indicating the ability of customers to make specific inquiries by telephone or e-mail or in person to obtain a price is permissible, as long as (a), in the case of a call, e-mail or in-person visit (to a brick-and-mortar location), such an invitation is



- provided in general terms only (such as “Call for today’s special” rather than “Call to save 10%”) and (ii), in the case of a call or e-mail, neither automated call(s) nor automated “bounce-back” e-mail is or are used to transmit Price Information;
- the promotion or sale to group purchasers using Electronic Marketing, except at price(s) no less than each applicable MRP;
- advertising or promoting via Electronic Marketing a trade-in offer for any or all Truck Hero product(s) or any other product(s) in connection with or applicable to any or all of the Covered Products, regardless whether a specific trade-in price or value is advertised or promoted;
- except as otherwise directed by the Policy, on any or all proposals, quotations, contracts, invoices and receipts provided to or prepared for the benefit of any or all of such Retailer’s potential and actual customers in connection with the offer or sale of any or all of the Covered Products through Electronic Marketing (individually and collectively, “Customer Communications”), the failure of such Retailer to itemize the price charged for each of the products and services shown or referred to on such Customer Communications, regardless whether such Customer Communications contain(s) any reference to any or all of the Covered Products; and
- one or more tactics which Truck Hero determines is or are intended to circumvent application of the Policy.

For purposes of the Policy: (a) “Do-Not-Sell List” means notice from Truck Hero which indicates that (i) one or more individuals or entities is or are not authorized by Truck Hero to promote or resell Truck Hero products or (ii) the designation of a reseller as an Authorized Retailer has been revoked in whole or part with respect to all Truck Hero products or revoked only with respect to certain of such products and (b) the “Authorized Retailers” means, collectively, each reseller designated as such by notice from Truck Hero, but only to the extent that such reseller is not on the then-current Do-Not-Sell List (individually, an “Authorized Retailer”).

9. **What happens if a Retailer violates the Online Retail Price Policy (ORPP)?**

During the period beginning on the Policy Effective Date, April 1, 2015, and continuing until the Policy no longer is in effect as described in a future written or electronic notice to such Retailer from Truck Hero (the “Policy Period”), immediately following verification by Truck Hero to its satisfaction that such Retailer has violated the Policy (a) by using any form(s) of Electronic Marketing to (i) make available in any way (whether through advertising, promotion, proposal, quotation or otherwise and regardless of place) (individually and collectively, “offering” and its variants), (ii) sell (online or otherwise) or (iii) otherwise provide (except in exchange for bona fide returns) one or more of the Covered Products during the Policy Period at a net adjusted price less than the corresponding MRP(s) established by Truck Hero from time to time and communicated to such Retailer or (b) by being deemed to have so offered, sold or provided:

Step 1: If such violation is due to:

(A) **an offer**, such Retailer, after receiving notice of such violation from Truck Hero, will remove or stop or cause to be removed or stopped the offending reference(s), text or conduct (if Truck Hero determines that it or they can be) within the Allotted Period (for purposes of the Policy, the “Allotted Period” means the time period specified in the notice of violation provided by Truck Hero to such Retailer, which typically will be one of the following: [1] no later than one (1) business day (usually for a violation involving the Internet); [2] no later than three (3) business days (generally for all other cases); or [3] by the conclusion of the period otherwise specified by Truck Hero) or

(B) **an offending reference or references, text or conduct that Truck Hero determines cannot be removed or stopped, a sale or otherwise providing one or more of the Covered Products**, Truck Hero will provide notice of such violation to such Retailer.

Step 2: In the event that the offending reference(s), text or conduct that triggered Step 1 is or are not removed or stopped (if Truck Hero determines that it or they can be) within the Allotted Period, Truck Hero will elect to either: (A) provide additional notice to such Retailer that reminds such Retailer of the Allotted Period or resets the Allotted Period or (B) implement the action described in Step 3.

Step 3: If (A) Step 2(A) was elected and the offending reference(s), text or conduct that triggered Step 1 is or are not removed or stopped (if Truck Hero determines that it or they can be) in a manner consistent with such election, (B) Step 2(B) is elected or (C) such Retailer violates the Policy again, then, effective as of the date specified in notice from Truck Hero to such Retailer and continuing until Truck Hero provides notice to such Retailer otherwise, if ever, the authorization of such Retailer to purchase any or all of the Truck Hero products designated by Truck Hero (the “Designated Products”) will be immediately revoked by Truck Hero, so that all pending orders (even if accepted) from such Retailer will be cancelled and no new orders will be accepted from such Retailer for any or all of the Designated Products.

At any time (particularly for, but necessarily not limited to, flagrant, deliberate or repeated violations), Truck Hero may immediately take the action specified in Step 3 without taking the action(s) in either or both of Step 1 and Step 2. The same act(s) or failure(s) to act may result in multiple violations. For each Retailer purchasing any or all Truck Hero products from anyone else (such as a distributor), the Policy will be enforced through a Do-Not-Sell List.

10. **Will a Retailer violating the Policy be warned first?**

No. Truck Hero cannot provide any advance warning.

11. **Is the Policy legal?**

Yes. At least four U.S. Supreme Court cases taken together—*U.S. v. Colgate* (1919), *Monsanto v. Spray-Rite* (1984), *Business Electronics v. Sharp* (1988) and *Leegin v. PSKS* (2007)—have recognized that a supplier may establish the terms and conditions under which it will sell its products, including the terms and conditions affecting resale price. Particularly in the resale pricing area, such terms and conditions must be determined by the supplier unilaterally, *i.e.*,



without agreeing with any of its customers. For this reason, Truck Hero cannot and will not discuss the conditions of acceptance of the Policy nor solicit or accept any assurances of compliance.

In Canada, a 2009 amendment to the Competition Act treats minimum resale price policies as lawful until they can be proven on balance to be unreasonably anticompetitive.

12. Do the concerns in the U.S. about discussing the Policy mean that Truck Hero cannot explain the Policy?

No. Truck Hero will answer questions about the Policy, but it will not do anything that may change the nature of the Policy into something other than a unilateral one. As a result, Truck Hero cannot give any warning to any Retailer violating the Policy, nor can it ask for or accept pledges of compliance from Retailers.

All questions or requests for additional information regarding the Policy or information regarding potential violations of the Policy must be in writing and are to be addressed to the person at Truck Hero responsible for the Policy ("Policy Administrator"):

Policy Administrator, Truck Hero, Inc., 5400 South State Road, Ann Arbor, MI 48108 USA
e-mail: rachel.hough@truck-hero.com

Only the Policy Administrator or the Policy Administrator's designated representative(s) is or are authorized by Truck Hero to answer questions regarding the Policy, to comment on the Policy or to accept information regarding potential violations.

13. Will Retailers that follow the Policy violate the antitrust laws?

No. But, particularly in the U.S., they should avoid communicating to Truck Hero their acceptance of the Policy or their compliance with it. Honoring the Policy by offering or selling any or all of the Covered Products at or above the relevant MRP or avoiding certain conduct or the use of certain terms is not communicating acceptance or compliance.

14. If a Retailer notifies Truck Hero that another Retailer has violated the Policy, may Truck Hero act on this information?

Yes. Such notification must be in writing addressed to the Policy Administrator and document the apparent violation. Truck Hero may investigate and, if warranted, take action against the Retailer violating the Policy, as long as the Retailer that contacted Truck Hero does not agree with the company on a specific resale price. (Following the Policy is not an agreement.) In addition, Truck Hero will not disclose to the Retailer that contacts it the outcome of its investigation, as, although Truck Hero enforces its policies uniformly, all of the dealings between the company and its Retailers are confidential. Truck Hero also may use the services of one or more outside firms to monitor compliance with the Policy.

15. Why are the rules so strict?

In order to comply with the standards established by the law, Truck Hero must carefully stay within their boundaries.

16. How long will the Policy be in effect?

The Policy will remain in effect with respect to a Retailer until Truck Hero notifies it otherwise, but Truck Hero may modify or suspend the Policy at any time, including, among other things, by changing its terms and conditions in any way. It also may grant variances as it deems appropriate for limited-time promotional offers and the like.

17. Can Truck Hero add other products or services to the Policy and establish minimum prices for those, remove certain products or services from coverage under the Policy or change the MRP for a Covered Product?

Yes. Truck Hero may do so at any time.

18. Are other companies doing this?

Yes. A number of manufacturers, including those in the automotive aftermarket, have adopted similar resale price policies to address the same or similar concerns as those faced by Truck Hero



