



**JOINT DTI-DOH-DA ADMINISTRATIVE ORDER NO. 01
SERIES OF 2008**

SUBJECT: Rules and regulations for consumer protection in a transaction covered by the Consumer Act of the Philippines (R.A. 7394) through electronic means under the E-Commerce Act (R.A. 8792)

WHEREAS, Republic Act No.7394, otherwise known as the Consumer Act of the Philippines, declares that it is the policy of the State to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry to implement measures to achieve, among others, the protection against deceptive, unfair and unconscionable sales acts and practices;

WHEREAS, Republic Act No. 8792, otherwise known as the Electronic Commerce Act, among others, recognizes the vital role of information and communications technology (ICT) in nation-building aimed at facilitating domestic and international dealings, transactions, arrangements, agreements, contracts and exchanges and storage of information through the utilization of electronic, optical and similar medium, mode, instrumentality and technology to recognize the authenticity and reliability of electronic data messages or electronic documents related to such activities and to promote the universal use of electronic transactions in the government and by the general public;

WHEREAS, the Electronic Commerce Act, penalizes acts in violations of the Consumer Act and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents with the same penalties provided for therein.

NOW, THEREFORE, pursuant to the provisions of the E-Commerce Act in relation to the Consumer Act, the following Order is hereby prescribed for the information, guidance and compliance of all concerned:

Section 1. Scope and Coverage. This order shall apply to all retailers, sellers, distributors, suppliers or manufacturers engaged in electronic commerce with consumers.

These implementing rules and regulations shall be enforced by:

- (1) the Department of Health (DOH) with respect to food, drugs, cosmetics, devices and hazardous substances;
- (2) the Department of Agriculture (DA) with respect to fresh, primary- and secondary processed agricultural and fishery¹ products; and
- (3) the Department of Trade and Industry (DTI) with respect to other consumer products not specified above.

However, the Banko Sentral ng Pilipinas (BSP) shall assume jurisdiction over financial products and services offered by financial institutions under BSP supervision.

Section 2. Definition of Terms. For purposes of this Order, the definition of terms provided for under Article 4 of the Consumer Act of the Philippines and the definition of terms provided for under Article 5 of the Electronic Commerce Act are hereby adopted, the following terms are enumerated as follows:

- 1) Under the Consumer Act:
 - 1.1) “Advertisement” means the prepared and through any form of mass medium, subsequently applied, disseminated or circulated advertising matter.
 - 1.2) “Advertising” means the business of conceptualizing, presenting or making available to the public, through any form of mass media, fact, data or information about attributes, features, quality or availability of consumer products, services or credit.
 - 1.3) “Advertising agency or Agent” means a service organization or enterprise creating, conducting, producing, implementing, or giving counsel on promotional campaigns or programs through any medium for and in behalf of any advertiser.
 - 1.4) “Advertiser” means the client of the advertising agency or the sponsor of the advertisement on whose account the advertising is prepared, conceptualized, presented or disseminated.

¹ This is in accordance with Section 62 of Republic Act No. 8435 or the “Agriculture and Fisheries Modernization Act of 1997” providing for the coverage of the products under the Department of Agriculture.

- 1.5) "Agricultural purpose" means a purpose related to the production, harvest, processing, manufacture, distribution, storage, transportation, marketing, exhibition, or disposition of agricultural, fishery or marine products.
- 1.6) "Amount financed" in a consumer credit sale constitutes the cash price plus non-finance charges less the amount of any downpayment whether made in cash or in property traded in, in a consumer loan the amount paid to, receivable by or paid or payable to the buyer or to another person in his behalf.
- 1.7) "Banned hazardous substance" means (1) any toy or other articles intended for use by children, which are hazardous *per se*, or which bear or contain substances harmful to human beings; or (2) any hazardous intended or packaged in a form suitable for use in the household, which the implementing agency by regulation, classifies as "banned hazardous substance" notwithstanding the existence of cautionary labels, to safeguard public health and safety: *Provided*, That the implementing agency may, by regulation, exempt from this Act, articles which by reason of their functional purpose require the inclusion of the hazardous substance involved and which bear appropriate labels giving adequate directions and warnings for their safe use.

Procedures for the issuance, amendment or repeal of regulations pursuant to clause (2) or paragraph (g) of this Article shall be governed by the rules and regulations promulgated by the Department of Health: *Provided*, That if the Department of Health finds that the distribution for household use of the hazardous substance involved presents an imminent hazard to public health, it may publish in a newspaper of general circulation a notice of such finding and such substance shall be deemed to be a "banned hazardous substance" pending the issuance of regulation formally banning such substance.

- 1.8) "Batch" means a quantity of any drug or device produced during a given cycle of manufacture.
- 1.9) "Business name, firm name or style" means any name or designation other than the true name of a person, partnership, corporation or association which is used or signed in connection with his/its business or in
 - (1) any written or printed receipt, including receipt fro tax on business;
 - (2) any written or printed contract not verified by a notary public;
 - (3) any written or printed evidence of any agreement or business transaction; and

- (4) any sign or billboard kept conspicuously exhibited in plain view in or at the place of the business, announcing a firm name or business name or style.
- 1.10.) “Cash price or delivered price”, in case of trade transaction, means the amount of money which would constitute full payment upon delivery of the property (except money) or service purchased at the creditor’s place of business. In the case of financial transactions, cash price represents the amount received by the debtor upon consummation of the credit transaction, net of finance charges collected at the time the credit is extended, if any.
- 1.11) “Chain distribution plans” or “pyramid sales schemes” means sales devices whereby a person, upon condition that he makes an investment, is granted by the manufacturer or his representative a right to recruit for profit one or more additional persons who will also be granted such right to recruit upon condition of making similar investments: *Provided*, That, the profits of the person employing such a plan are derived primarily from the recruitment of other persons into the plan rather than from the sale of consumer products, services and credit: *Provided, further*, That the limitation on the number of participants does not change the nature of the plan.
- 1.12) “Closing out sale” means a consumer sale wherein the seller uses the announcement to create the impression that he is willing to give large discounts or merchandise in order to reduce, dispose or close out his inventory and business.
- 1.13) “Commerce” means the sale, lease, exchange traffic or distribution of goods, commodities, productions, services or property, tangible or intangible.
- 1.14) “Consumer” means a natural person who is a purchaser, lessee, recipient or prospective purchaser, lessor or recipient of consume products, services or credit.
- 1.15) “Consumer credit” means any credit extended by a creditor to a consumer for the sale or lease of any consumer product or service under which part or all of the price or payment therefor is payable at some future time, whether in full or in installment.
- 1.16) “Consumer loan” means a loan made by the lender to a person which payable in installments for which a finance charge is or may be imposed. This term includes credit transactions pursuant to an open-end-credit plan other than a seller credit card.

- 1.17) “Consumer products and services” means goods, services and credits, debts or obligations which are primarily for personal, family, household or agricultural purposes, which shall include but not limited to foods, drugs, cosmetics, and devices.
- 1.18) “Consumer product safety rule” means a consume product safety standard described in Article 78 or a rule, under this Chapter declaring a consumer product banned hazardous product.
- 1.19) “Consumer transaction” means (1) (i) a sale, lease, assignment, award by chance, or other disposition of consumer products, including chattels that are intended to be affixed to land, or of services, or of any right, title, or interest therein, except securities as defined in the Securities Act and contracts of insurance under the Insurance Code or (ii) grant of provision of credit to a consumer for purposes that are primarily personal, family, household or agricultural, or (2) a solicitation or promotion by a supplier with respect to a transaction referred to in clause (1).
- 1.20) “Corrosive” means any substance which on contact with living tissue will cause destruction of tissue by chemical action.
- 1.21) “Cosmetics” means (1) articles intended to be rubbed, poured, sprinkle, or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) article intended for uses as a component of any such article except that such term shall not include soap.
- 1.22) “Counterfeit product” means any consumer product which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or nay likeness thereof, of a consumer product manufacturer, processor, packer, distributor, other than the person or persons who in fact manufactured, processed, packed or distributed such product and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by such consumer produce manufacturer, processor, packer or distributor.
- 1.23) “Credit card” means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor or services on credit.
- 1.24) “Credit sale” means a sale of products, services or an interest in land to a person on credit where a debt is payable in installments or a finance charge is imposed and includes any agreement in the form of a bailment of products or lease of products or real property if the bailee or lessee pays or agrees to pay compensation for use a sum substantially equivalent to or in

excess of the aggregate value of the products or real property involved and it is agreed that the bailee or lessee will become or for other or nominal consideration has the option to become, the owner of the products or real property upon full compliance with the terms of the agreement.

- 1.25) "Credit transaction" means a transaction between a natural person and a creditor in which real or personal property, services or money acquired on credit and the person's obligation to payable in installment.
- 1.26) "Creditor" means any person engaged in the business of extending credit and shall include any person who as a regular business practice makes loans or sells or rents property or services on a time, credit or installment basis, either as principal or as agent who requires as an incident to the extension of credit, the payment of finance charge.
- 1.27) "Default or delinquency charge" means, with respect to a consumer credit transaction, the penalty charge payable by the consumer-debtor for failure to pay an amount or installment in full on the date the same becomes due and demandable, or on or before the period specified for the purpose in the consumer credit sale documents.
- 1.28) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part or accessory which is (1) recognized in the official United States Pharmacopoeia – National Formulary (USP-NF) or any supplement to them, (2) intended for use in the diagnosis of disease or other condition or in the cure, mitigation, treatment or prevention of disease, in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.
- 1.29) "Distributor" means any person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.
- 1.30) "Drugs" means (1) articles recognized in the current official United States Pharmacopoeia – National Formulary, official Homeopathic Pharmacopoeia of the United States, official National Drug Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended, to affect the structure or any function

of the body of man or animals; and (4) articles intended for use as a component of any articles specified in clauses (1), (2) or (3) but do not include devices or their components, parts or accessories.

The term “drug” when used in this Act shall include herbal and/or traditional drug. They are defined as articles from indigenous plant or animal origin used in folk medicine which are: (1) recognized in the Philippine National Formulary; (2) intended for use in the treatment or cure, mitigation of disease symptoms, injury, or bodily defect for use in man; (3) other than food, intended to affect the structure of any function of the body of man; (4) put into finishes, ready to use form by means of formulation, dosage or dosage directions; and (5) intended for use as a component of an of the articles specified in clauses (1), (2), (3) and (4) of this paragraph.

- 1.31) “Expiry or expiration date” means the date stated on the label of food, drug, cosmetic, device or hazardous substance after which they are not expected to retain their claimed safety, efficacy and quality or potency and after which it is no longer permissible to sell them.
- 1.32) “Extremely flammable” means any substance which has a flash point at or below negative six and six tenths degrees centigrade as determined by the Tagliabue Open Cup Tester; and the term “combustible” shall apply to any substance which has a flash point of above twenty-six and six-tenths degrees to and including sixty-five and five-tenths degrees centigrade as determined by the Tagliabue Open Cub Tester; *Provided*, That the flammability or combustibility and of the contents of self-pressurized containers shall be determined through methods found by the implementing agency to be generally applicable to such materials or containers, respectively, and established by regulations issued by it.
- 1.33) “Food” means any substance, whether processed, semi processed or raw, intended for human consumption and includes chewing gum, drinks and beverages and any substance which has been used as an ingredient or an component in the manufacture, preparation or treatment of food.
- 1.34) “Food additive” means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified as having

been adequately shown through scientific procedures to be safe under the conditions of the intended use.

- 1.35) “Generic name” is the identification of drugs and medicines by their scientifically and internationally recognized active ingredients or by their official generic name as determined by the Bureau of Food and Drugs of the Department of Health.
- 1.36) “Guarantee” means an expressed or implied assurance of the quality of the consumer products and services offered for sale or length of satisfactory use to be expected from a product or other similar specified assurances.
- 1.37) “Hazardous substance” means: (1) (i) Any substance or mixture of substances which is toxic, corrosive, irritant, a strong sensitizer, flammable or combustible, or generates pressure through decomposition, heat or other means, if such substance or mixture or substances may cause substantial injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable ingestion by children;
- (ii) Any substance which the department finds to be under the categories enumerated in clause (1) (i) of this paragraph;
- (iii) Any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the Department, upon approval of the Department , determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this Section in order to protect the public health;
- (iv) Any toy or other articles intended for use by children which the director may, by regulation, determine the presence of an electrical, mechanical, or thermal hazard.
- (2) This term shall not apply to food, drugs, cosmetics, and devices nor to substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house, but such term shall apply to any article which is not in itself a pesticide but which is a hazardous substances, as construed in clause 9a) of paragraph (1), by reason of bearing or containing such harmful substances described therein.
- 1.38) “Highly toxic” means any substance which has any of the following effects: (1) produces death within fourteen days to one-half or more than one-half of a group of ten or more laboratory white rats each weighing between Two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered; or (2) produces death within fourteen days to one-half or more group of ten or more laboratory white rats each weighing between two hundred and three

hundred grams, when inhaled continuously from a period of one hour or less than at an atmospheric concentration of two hundred parts per million by volume or less gas or vapor or two milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when substance is used in any reasonably foreseeable manner; or (3) produces death within fourteen days to one-half or more of a group of ten or more rabbits, when tested in a dosage of two hundred milligrams or less per kilogram of body weight, or when administered through continuous contact with the bare skin for twenty-four hours or less.

- 1.39) "Home solicitation sale" means consumer sales or leases which are personally solicited by any person or organization by telephone, person-to-person contact or by written or printed communication other than general advertising or consummated at the buyer's residence or a place of business, at the seller's transient quarters, or away from a seller's regular place of business.
- 1.40) "Immediate container" means the container or package which is immediately after or near the substance but does not include package liners.
- 1.41) "Imminently hazardous product" means a consumer product which presents an unreasonable risk of death, serious illness or severe personal injury.
- 1.42) "Irritant" means any substance not corrosive within the meaning of paragraph (t) of this Article which, on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.
- 1.43) "Label, labeling" means the display of written, printed or graphic matter on any consumer product, its immediate container, tag, literature or other suitable material affixed thereto for the purpose of giving information as to the identity, components, ingredients, attributes, directions for use, specifications and such other information as may be required by law or regulations.
- 1.44) "Manufacture" means any and all operations involved in the production, including preparation, propagation, processing, formulating, filling, packing, repacking, altering, ornamenting, finishing or otherwise changing the container, wrapper or labeling of a consumer product in the furtherance of the distribution of the same from the original place of manufacture to the person who makes the final delivery or sale to the ultimate user.
- 1.45) "Manufacturer" means any person who manufactures, assembles or processes consumer products, except that if the goods are manufactured,

assembled or processed for another person who attaches his own brand name to the consumer products, the latter shall be deemed the manufacturer. In case of imported products, the manufacturer's representative or, in his absence, the importer, shall be deemed the manufacturer.

- 1.46) "Mass media" refers to any means or methods used to convey advertising messages to the public such as television, radio, magazines, cinema, billboards, posters, streamers, hand bills, leaflets, mails and the like.
- 1.47) "Materially defective product" means a product which, because of the pattern of the defect, the number of defective products distributed in commerce and the severity of the risk or otherwise, creates a substantial risk of injury to the public.
- 1.48) "Mislabelled hazardous substance" means any hazardous substance intended, or packaged in a form suitable, for use in households, especially by children, the packaging or labeling of which is in violation of the special packaging regulation issued by the department of Health under Article 91 or if such substance fails to bear a label which (1) states conspicuously (i) the name and the exact address of the manufacturer, packer, distributor or seller; (ii) the common or usual name of the hazardous substance or of each component which contributes substantially to the harmfulness of the substance, unless the Department by regulation approved by the Department permits or requires the use of the recognized generic name; (iii) the signal word "danger" on substances which are extremely flammable, corrosive, highly toxic; (iv) the signal word "warning" or "caution" on all other hazardous substances; (v) a frank statement of the principal hazard or hazards involved as "flammable" "vapor harmful", "causes burns", "absorbed through skin", or similar wording describing the action to be followed or avoided, except when modified by regulation by the Department pursuant to Section 46; (vi) instructions, when necessary or appropriate, for first-aid treatment; (vii) the word "poison" for any hazardous substance which is defines as highly toxic; (viii) instructions for handling storage of packages which require special care in handling or storage; and (ix) the statement "keep out of reach of children", or its practical equivalent, if the article is intended for use by children and is not a banned hazardous substance, with the adequate directions for the protection of children from the hazard involved. The aforementioned signal words, affirmative statements, description of precautionary measures, necessary instructions

or other words or statements may be in the English language or its equivalent in Filipino; and

(2) on which any statement required under clause (1) of this paragraph are located prominently and in contrast by typography, layout, with other printed matters on the label.

- 1.49) “New Drugs” means (1) any drug the composition of which is such that said drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety, efficacy, and quality of drugs as safe, efficacious and of good quality for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that said drug, as a result of its previous investigations to determine its safety; efficacy and good quality for use under certain conditions, has become so recognized but which has not, otherwise than in such investigations, been used to a material extent or for a material time under new conditions.

“New Drugs” shall include drugs (a) containing a newly discovered active ingredient; (b) containing a new fixed combination of drugs, either by molecular or physical combination of drugs, either by molecular or physical combination; (c) intended for new indications; (d) an additional new mode of administration; or (e) in an additional dosage or strength of the dosage form, which meets the conditions as defined under the new drug.

The definition of “new drugs” covers, to the extent applicable, “new devices”.

- 1.50) “New Product” means a consumer product which incorporates a design, material or form of energy exchange which has not previously been used substantially in consumer products and as to which there exists a lack of adequate information to determine the quality and safety of such product if used by the consumers.

- 1.51) “Open-end-credit plan” means a consumer credit extended on an account pursuant to a plan under which:

- (1) the creditor may permit the person to make purchases or obtain loans, from time to time, directly, from the creditor or indirectly by use of credit card, check or other device;
- (2) the person has the privilege of paying the balance; or
- (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

- 1.52) "Package or packaging" means any container or wrapping in which any consumer product is enclosed for use in the delivery or display of that consumer product to retail purchasers, but does not include:
- (1) shipping containers or wrapping used solely for the transportation of any consumer product in bulk or in big quantities by manufacturers, packers, or processors to wholesale retail distributors thereof;
 - (2) shipping containers or outer wrappings used by retailers to ship or deliver any product to retail customers if such containers and wrappings bear no printed matter pertaining any particular product;
 - (3) The wrappers or containers of consumer products sold in small quantities by small retail stores to the consumer which by tradition are wrapped with ordinary paper.
- 1.53) "Person" means any individual, partnership, corporation or association, trust, government or governmental subdivision or any other legal entity.
- 1.54) "Poisonous substance" means any substance capable of destroying life or seriously endangering health when applied externally to the body or introduced internally in moderate doses.
- 1.55) "Price comparison" means the direct comparison in any advertisement of a seller's current price for consumer products, or services with any other price or statement of value for such property or services expressed in pesos, centavos, fractions or percentages.
- 1.56) "Price tag" means any device, written, printed, affixed or attached to a consumer product or displayed in a consumer repair or service establishment for the purpose of indicating the retail price per unit or service.
- 1.57) "Principal display panel" means that part of the label that is most likely to be displayed, presented, shown or examined under normal customary conditions of display for retail or sale.
- 1.58) "Private labeler" means an owner of a brand or trademark on the label of consumer product other than a manufacturer of the product.
- A consumer product bears a private label if (1) the product or its container is labeled with a brand or trademark of a person other than its manufacturer; or (2) the brand or trademark of the manufacturer of such product does not appear on such label.
- 1.59) "Radioactive substance" means any substance which emits ionizing radiation.
- 1.60) "Referral selling" means the sales device employed by the sellers wherein the buyer is induced to acquire goods or services by representing that after

the acquisition of the goods or services, he will receive a rebate commission or other benefit in return for the submission of names of potential customers or otherwise helping the seller enter into other sales, if the receipt of such benefit is contingent on an event occurring after the sale is made.

- 1.61) "Repair and service firm" means any business establishment, engaged directly or indirectly, in repair, service or maintenance of any consumer product.
- 1.62) "Retailer" means a person engaged in the business of selling consumer products directly to consumers.
- 1.63) "Sale or distribution" shall mean an act made by a manufacturer or seller, or their respective representative or agent to make available consumer products, services or credit to the end consumer sale transaction. It shall not include sampling or any other distribution not for sale.
- 1.64) "Sales promotion" means techniques intended for broad consumer participation which contain promises for gain such as prizes, in cash or in kind, as reward for the purchase of product, service or winning in contest, game, tournament and other similar competitions which involve determination of winner/s and which utilize mass media or other widespread media of information. It also means techniques purely intended to increase patronage and/or goodwill of a product.
- 1.65) "Seller" means a person engaged in the business of selling consumer products directly to consumers. It shall include a supplier or distributor if (1) the seller is a subsidiary or affiliate of the supplier or distributor; (2) the seller interchanges personnel or maintains common or overlapping officers or directors with supplier or distributor, or (3) the supplier or distributor provides or exercises supervision, direction or control over the selling practices of the seller.
- 1.66) "Service" shall mean, with respect to repair and service firms, service supplied in connection with a contract for construction, maintenance, repair, processing, treatment or cleaning of goods or of fixtures on land, or distribution of goods, or transportation of goods.
- 1.67) "Services" means services that are the subject of a consumer transaction, either together with, or separate from any kind of personal property, whether tangible or intangible.
- 1.68) "Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age or open to obtain a toxic or harmful amount of the substance contained therein within a

reasonable time and not difficult for normal adults to use properly but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

- 1.69) "Standard" means a set of conditions to be fulfilled to ensure the quality and safety of a product.
- 1.70) "Strong sensitizer" means any substance which will cause on normal living tissue, allergy or photodynamic quality of hypersensitivity which becomes evident on reapplication of the same substance, to be designed as such by the implementing agency. Before designating any substance as a strong sensitizer, the implementing agency, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant capacity to cause hypersensitivity.
- 1.71) "Substandard product" means a product which fails to comply with an applicable consumer product safety rule which creates a substantial risk of injury to the public.
- 1.72) "Supplier" means a person, other than a consumer, who, in the course of his business, solicits, offers, advertises, or promotes the disposition or supply of a consumer product or who other than the consumer, engages in, enforces, or otherwise participates in a consumer transaction, whether or not any privity of contract actually exists between that person and the consumer, and includes the successor to, or assignee of, any right or obligation one of the supplier.
- 1.73) "Technical personnel of repair and service enterprise" shall mean a mechanic or technician or any person who works or renders diagnosis or advice in connection with repair, service and maintenance of the consumer products in a repair and service firm.
- 1.74) "Toxic substance" means any substance other than a radioactive substance which can cause injury, illness or death to man through indigestion, inhalation or absorption through any body surface.
- 1.75) "Trade name" or "trademark" means a word or words, name, title, symbol, emblem, sign or device or any combination thereof used as an advertisement, sign, label, poster or otherwise for the purpose of enabling the public to distinguish the business of the person who owns and uses said trade name or trademark.

2.) Under the Electronic Commerce Act:

- 2.1) "Addressee" refers to a person who is intended by the originator to receive the electronic data message or electronic document, but does not include

- a person acting as an intermediary with respect to that electronic data message or electronic document.
- 2.2) “Computer” refers to any device or apparatus singly or interconnected which, by electronic, electro-mechanical, optical and/or magnetic impulse, or other means with the same function, can receive, record, transmit, store, process, correlate, analyze, project, retrieve and/or produce information, data, text, graphics, figures, voice, video, symbols or other, modes of expression or perform any one or more of these functions.
- 2.3) “Electronic data message” refers to information generated, sent, received or stored by electronic, optical or similar means.
- 2.4) “Information and Communications System” refers to a system for generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents and includes the computer system or other similar device by or in which data is recorded or stored and any procedures related to the recording or storage of electronic data message or electronic document.
- 2.5) “Electronic signature” refers to any distinctive mark, characteristics and/or sound in electronic form, representing the identity of a person and attached to or logically associated with the electronic data message or electronic document or any methodology or procedures employed or adopted by a person and executed or adopted by such person with the intention of authenticating or approving an electronic data message or electronic document.
- 2.6) “Electronic document” refers to information or the representation of information, data, figures, symbols or other modes of written expression, described or however represented, by which a right is established or an obligation extinguished, or by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved or produced electronically.
- 2.7) “Electronic key” refers to a secret code which secures and defends sensitive information that crosses over public channels into a form decipherable only with a matching electronic key.
- 2.8) “Intermediary” refers to a person who in behalf of another person and with respect to a particular electronic data message or electronic document sends, receives and/or stores or provides other services in respect of that electronic message or electronic document.
- 2.9) “Originator” refers to a person by whom, or on whose behalf, the electronic document purports to have been created, generated and/or sent. The

terms do not include a person acting as an intermediary with respect to that electronic document.

2.10) "Service provider" refers to a provider of –

i) Online services or network access, or the operator facilities therefore, including entities offering the transmission, routing, or providing of connections for online communications, digital or otherwise, between or among points specified by a user, of electronic documents of the user's choosing; or

ii) The necessary technical means by which electronic documents of an originator may be stored and made accessible to a designated or undesignated third party.

Such service providers shall have no authority to modify or alter the content of the electronic document received or to make any entry therein on behalf of the originator, addressee or any third party unless specifically authorized to do so, and who shall retain the electronic document in accordance with the specific request or as necessary for the purpose of performing the service it was engaged to perform.

Section 3. *Requirements for Adopting Fair and Reasonable Business Practices.*

Retailers, sellers, distributors, suppliers or manufacturers engaged in electronic commerce with consumers shall adopt fair and reasonable business practices.

In this connection, retailers, sellers, distributors, suppliers or manufacturer shall:

- 1.) ensure compliance with the requirements for consumer product quality and safety standards under Title II, Chapter I of the Consumer Act of the Philippines;
- 2.) ensure compliance with requirements for safe and good quality of food, drugs, cosmetics and devices under Title II, Chapter II of the Consumer Act of the Philippines;
- 3.) ensure compliance with requirements for substances other than food, drugs, cosmetics and devices that are hazardous to consumer health and safety under Title II, Chapter III of the Consumer Act of the Philippines;
- 4.) not engaged in any deceptive, unfair and unconscionable sales acts and practices under Title III, Chapter I of the Consumer Act of the Philippines;
- 5.) honor and accept the responsibilities for consumer product and services under warranties or guarantees under Title III, Chapter III of the Consumer Act of the Philippines;

- 6.) ensure compliance with the requirements for labeling and packaging, including price tag, indicating a fair, accurate and adequate word, statement or information about a consumer product labeling and fair packaging under Title III, Chapter IV of the Consumer Act of the Philippines;
- 7.) be liable for defective products and service under Title III, Chapter V of the Consumer Act of the Philippines;
- 8.) ensure compliance with other requirements of the provisions of the Consumer Act of the Philippines and its Implementing Rules and Regulations (IRR) as fair and reasonable business practices.

Section 4. *Requirements for Adopting Fair Marketing and Advertising Practices.* Retailers, sellers, distributors, suppliers or manufacturers engaged in electronic commerce with consumers shall refrain from engaging in any false, deceptive and misleading advertisement prohibited under the provisions of Title III, Chapter VI of the Consumer Act of the Philippines and its IRR, and shall comply with the advertising and promotion requirements therein, and other advertising and promotion guidelines issued by the respective departments in compliance with other relevant laws.

Section 5. *Requirements for On-line Disclosure of Information.* 1.) *Information About the Retailers, Sellers, Distributors, Suppliers or Manufacturers.* Retailers, sellers, distributors, supplies or manufacturers engaged in electronic commerce shall provide accurate, clear and easily accessible information to identify themselves, which includes but not limited to the following:

- 1.1) Department of Trade and Industry (DTI) and/or Securities Exchange Commission (SEC) registration;
- 1.2) name of the owner/proprietor of a retail establishment in case of a single proprietorship and names of directors and other officers in case of a corporation;
- 1.3) principal geographical address of the retailer, seller, distributor, supplier or manufacturer, and when applicable, of offices or agents in the Philippines;
- 1.4) website, e-mail address or other electronic means of contact, telephone and fax numbers, of the retailer, and when applicable, of its offices or agents in the Philippines;
- 1.5) any relevant local or foreign government registration/license numbers such as but not limited to the local government unit's permit to operate, Taxpayer's Identification Number (TIN), when applicable;
- 1.6) contact details about any business association or organization membership, when applicable.
- 1.7) representative agent(s) in the Philippines for purposes of summons.

2.) *Information About the Products or Services.* Retailers, sellers, distributors, suppliers or manufacturers engaged in electronic commerce with consumers shall provide:

- 2.1) fair, accurate, clear and easily accessible information describing the products or services offered for sale such as the nature, quality and quantity thereof;
- 2.2) fair, accurate, clear and easily accessible information sufficient to enable consumers to make an informed decision whether or not to enter into the transaction; and
- 2.3) such information that allows consumers to maintain an adequate record of the information about the products and services offered for sale.

3.) *Information About Consumer Transaction.* 3.1) Retailers, sellers, distributors, suppliers or manufacturers engaged in electronic commerce with consumers shall provide sufficient, clear, accurate, easily accessible information about the terms, conditions and costs of the consumer transaction to enable consumers to make an informed decision.

3.2) The manner of providing this information shall give consumers an adequate opportunity to review the terms, conditions and costs before entering into the consumer transaction and allow the consumers to retain a copy of the information.

3.3) Retailers, sellers, distributors, suppliers or manufacturers shall make available to consumers a clear and complete text of the relevant terms and conditions of the consumer transaction. The consumers should be able to access and retain a record of the information by printing or electronic record.

3.4) The information shall include the price tag of the product or service and the applicable currency. However, applicable costs not included in the price tag such as delivery, postage, handling, insurance, shipping charges, taxes, and specific reference to any other charges, customs fees and other fees that may be imposed on or collected from consumers shall be so stated in the information. The information shall include notice of any optional ongoing costs, fees and charges and methods of notification for changes to those costs, fees and charges.

3.5) Where applicable, the following information shall be provided to consumers:

- 3.5.1) any restrictions, limitations or conditions of purchase, such as geographic limitations or parental/guardian approval requirements for minors;

- 3.5.2) payment mechanisms that are reliable, easy to use and offer security that is appropriate for the transaction and details of payment terms that include:
 - 3.5.2.1) available methods of payment;
 - 3.5.2.2) the security of those payment methods in clear, simple language, so as to help consumers judge the risk in relying on these methods;
 - 3.5.2.3) how best to use the methods;
 - 3.5.2.3) how to cancel regular payments under those methods; and
 - 3.5.2.4) any costs applicable to those payment methods.
- 3.5.3) terms of delivery;
- 3.5.4) mandatory safety and health care warnings that a consumer would get at any physical/offline line point of sale;
- 3.5.5) details and conditions about termination, return, exchange, cancellation and refunds;
- 3.5.6) details about any cooling off period or right of withdrawal;
- 3. 5.7) any conditions about contract renewal or extension;
- 3.5.8) details about any available warranties and guarantees;
- 3.5.9) details about any after-sales service; and
- 3.5.10) any required quality or certification standards marks, registration or license for consumer products issued by a relevant local or foreign government.
- 3.5.11) where a retailer, seller, distributor, supplier or manufacturer specifies an applicable law or jurisdiction to govern any contractual disputes or a jurisdiction or forum where disputes must be determined, it shall clearly and conspicuously state that information at the earliest possible stage of the consumer's interaction with the retailer, seller, distributor, supplier or manufacturer.

Section 6. Conclusion of Consumer Transaction. 1.) Where appropriate, before concluding the purchase, retailers, sellers, distributors, suppliers or manufacturers shall provide, by procedures, consumers the opportunity to:

- 1.1) review and accept or reject the terms and conditions of the contract;
- 1.2) identify precisely the product or service consumers wish to purchase or avail;
- 1.3) identify and correct any errors or modify the order; and

1.4) retain a record of any purchase/order, transaction confirmation, acceptance of any offer they make.

2.) Retailers should promptly acknowledge receipt of any order, confirmation or acceptance received.

Section 7. Original Documents. Where the law requires that a document be presented or retained in its original form, that requirement is met by an electronic document or electronic data message if –

1) There exists a reliable assurance as to the integrity of the electronic document or electronic data message from the time when it was first generated in its final form and such integrity is shown by evidence *aliunde* (that is, evidence other than the electronic data message itself) or otherwise; and,

2.) The electronic document or electronic data message is capable of being displayed to the person whom it is presented.

3.) For the purpose of paragraph (1) above:

3.1) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and,

3.2) The standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all relevant circumstances.

An electronic data message or electronic document meeting and complying with the requirements of Sections 6 or 7 of Republic Act No. 8792 or the “Electronic Commerce Act” shall be the best evidence of the agreement and transaction contained therein.

Section 8. Compliance of Retailers Engaged in Electronic Commerce with the Data Protection Guidelines. Any retailer engaged in the business of electronic commerce with consumers shall comply with the requirements set forth in Section 4 on general principles for the protection of personal data, Section 5 on voluntary accreditation, Section 6 on lawful access to personal data in an information and communication system, Section 7 on obligation of confidentiality and Section 8 on security of data provided for under the provisions of the DTI Department Administrative Order No. 8, Series of 2006 or “Prescribing Guidelines for the Protection of Personal Data in Information and Communications System in the Private Sector”.

Section 9. Addressing Consumer Complaints.

- (1) *Setting Up of Internal Complaint-Handling Mechanism.* Retailers, sellers, distributors, suppliers, or manufacturers shall set up and make operational an internal complaint-handling mechanism for consumer complaints within a maximum period of three (3) months but the mechanism should not prejudice the rights of the consumers to seek legal redress.

- (2) *Procedure for filing a complaint with concerned implementing agencies.*
 - (2.1) Any person aggrieved by any transaction arising from the purchase of goods and services from a business establishment for violation(s) of the Consumer Act transacted by using electronic data messages or electronic documents as defined in Electronic Commerce Act may file such complaint before the concerned implementing agencies by furnishing a copy of the specific electronic data messages or electronic document related to the transaction.
 - (2.2) Upon receipt of the formal written complaint, either through mail, personal delivery or electronic data messages/electronic documents, the concerned implementing agencies may commence an investigation based on the said electronic data messages or electronic documents subject to the existing Implementing Rules and Regulations of the Consumer Act as well as the Electronic Commerce Act.
 - (2.2.1) If after mediation/conciliation of the complaint, there was no amicable settlement agreed upon, the Arbitration Officer shall prepare and serve summons to the respondent by personal service, mail or publication as the case may be. Upon receipt of the answer, the parties shall be notified of the date, time and place of hearing.
 - (2.2.2) The summons shall require respondent to answer the complaint (and not file a Motion to Dismiss) within ten (10) days from service thereof. The respondent shall answer the complaint in writing, together with its sworn statement and those of his witnesses and his documentary evidence and serve copies thereof upon complainant. The voluntary appearance of the Respondent in the action is equivalent to service of summons.
 - (2.2.3) If after summons, the respondent fails to answer within the time allowed therefrom, the implementing agency may declare the respondent in default and the case may be decided upon the evidence submitted by the complainant.

- (2.3) The concerned implementing agencies shall inform the complainant on the action taken thereby.
- (2.4) The complaint shall be decided within fifteen (15) days from the time the investigation was terminated.
- (2.5) Any order, not interlocutory, of the Consumer Arbitration Officer (CAO), becomes final and executory unless appealed to the Secretary of the concerned implementing agency within 15 days from receipt of such order. An appeal may be entertained only on any of the following grounds:
 - (2.5.1) grave abuse of discretion;
 - (2.5.2) the order is in excess of the jurisdiction or authority of the CAO;
and
 - (2.5.3) the order is not supported by the evidence or there is serious error in the findings of facts.
- (2.6) The Secretary of the concerned implementing agency shall decide the appeal within thirty (30) days from receipt thereof. The decision becomes final after fifteen (15) days from receipt thereof unless a petition for certiorari is filed with the proper court.

The above procedure shall be supplemented by DTI-DOH-DA Joint Administrative Order (JAO) No. 1, Series of 1993 or "Rules and Regulations Implementing the Provisions of Chapter III Title V of Republic Act No. 7394 Otherwise Known as the Consumer Act of the Philippines" and other existing rules. However, for complaints filed with the DTI under JAO 1, Series of 1997, the procedure shall be supplemented by the Department Administrative Order No. 7, Series of 2006 or "Instituting the Simplified and Uniform Rules of Procedures for Administrative Cases Filed with the Department of Trade and Industry (DTI) for Violation of the Consumer Act of the Philippines and Other Trade and Industry Laws" and Department Administrative Order No. 5, Series of 2007 or "Rules on Mediation in the Resolution of Inquiries, Complaints and/or Cases Filed with the Department and Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws Supplementing Department Administrative Order No. 07, Series of 2006", an Alternative Dispute Resolution.

Any consumer located in the Philippines aggrieved by any consumer transaction through electronic means with a retailer seller, distributor, supplier or manufacturer from another country may file his complaint in the Philippine trade/consular office/embassy therein or directly in the foreign government agency or regulator of the

country where the retailer, seller, distributor, supplier or manufacturer is located with the assistance of the Philippine government agency concerned. The Philippine trade/consular office/embassy may refer to and coordinate with the foreign government agency or regulator of the country where the retailer, seller, distributor, supplier or manufacturer is located. Upon request of the Philippine government agency concerned, the Philippine trade/consular office/embassy may provide information on the result or development of the referral and coordination of said complaint.

Section 10. Prescription. All action or claims accruing under the provisions of the Consumer Act of the Philippines, its Implementing Rules and Regulations and this Order issued pursuant thereto shall prescribe within two (2) years from the time the consumer transaction was consummated or the deceptive or unfair and unconscionable act or practice was committed and in case of hidden defects, from discovery thereof.

Section 11. Separability Clause. In the event that any provision of this Order is declared unconstitutional, the validity of the other provisions shall not be affected by such declaration.

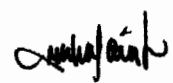
Section 12. Penal and Administrative Sanctions. Any violation of this Order shall be dealt with in accordance with the Consumer Act and its Implementing Rules and Regulations and other applicable laws.

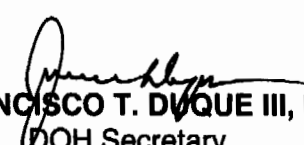
Section 13. Repealing Clause. All previous Orders which are inconsistent with this Order are hereby repealed or amended accordingly.

Section 14. Publication and Effectivity. This Order shall be published in two (2) newspapers of general circulation and shall take effect fifteen (15) days after its publication.

Issued this 20th day of October 2008 in Makati City, Philippines.

Approved:



PETER B. FAVILA
DTI Secretary


FRANCISCO T. DUQUE III, M.D.
DOH Secretary


ARTHUR C. YAP
DA Secretary

Rules and regulations for consumer protection in a transaction covered by the Consumer Act of the Philippines (R.A. 7394) through electronic means under the E-Commerce Act (R.A. 8792)

CERTIFIED TRUE PHOTOCOPY


RAQUEL M. CLEMENTE
Head, Records Section

DEPARTMENT OF AGRICULTURE
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