

DEPARTMENT ADMINISTRATIVE ORDER NO. \_\_\_\_\_  
Series of 2008

**SUBJECT: ADDENDA TO DEPARTMENT ADMINISTRATIVE ORDER NO. 2, SERIES OF 1993 OR THE RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7394, OTHERWISE KNOWN AS THE CONSUMER ACT OF THE PHILIPPINES PARTICULARLY CHAPTER VI THEREOF.**

WHEREAS, Republic Act No. 7394 or 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. Towards this end, the State shall implement measures to achieve the objective of protecting consumers against deceptive, unfair and unconscionable sales act and practices, among others;

WHEREAS, the same Act further declares that the State shall protect the consumer from misleading advertisements and fraudulent sales promotion practices;

WHEREAS, there is a need to strengthen Department Administrative Order No. 2, Series of 1993 implementing the Consumer Act to effectively address various evolving issues related to sales promotion campaigns particularly to effect its conduct with honesty, transparency and fairness;

NOW, THEREFORE, pursuant to the provisions of the Consumer Act of the Philippines, the following Order is hereby prescribed for the information, guidance and compliance of all concerned:

**SECTION 1.** Section 1 of Rule I, Chapter VI, Title III is hereby amended to read as follows:

Section 1. *Coverage.* - The following rules shall apply to the advertising and sales promotion of all consumer products, services and **credit facilities, which include sponsorships of game shows and similar activities.** Provided, that with respect to food, drugs, devices, cosmetics and hazardous substances and agricultural products, the same shall be under the jurisdiction of the concerned departments.

**SECTION 2.** Section 1 of Rule VIII, Chapter VI, Title III is hereby amended to read as follows:

“Section 1. *Coverage* - The following rules and regulations shall apply to all **promotional campaigns/announcements for consumer products, services, credit facilities which include sponsorships of**

games shows and similar activities, as well as beauty contests, nationwide in character.

The rules herein shall likewise apply to analogous activities such as, but not limited to, in-store promotions offering reduced prices, discounts and premium-in-pack.”

**SECTION 3.** Section 2 of Rule VIII, Chapter VI, Title III is hereby amended to read as follows:

“Sec. 2. *Exemptions* - The rules on promotional campaigns shall not apply to the promotional campaign or activities of the following:

2.1. The government or any of its agencies or instrumentalities when the same is conducted in the exercise of their governmental functions.

2.2. Private entities in joint project/s with any government agency under the preceding paragraph.

2.3 Social, civic, political, religious, educational, professional and other similar organizations which extend promotional activity among their members. *Provided*, that the promotional activity is not considered sales promotion campaign as defined under these Rules.”

**SECTION 4.** Section 1 of Rule IX, Chapter VI, Title III is hereby amended to read as follows:

“Section 1. *Application for Permit to Conduct Any of the Activities Covered Under Rule VIII, Section 1* – Any person intending to conduct any form or scheme for any of the covered activities shall first file an application for a permit with complete supporting documents before the proper office of the Department at least thirty (30) days before the commencement of such activity. An incomplete application shall be deemed not filed for this purpose.

The concerned DTI office shall immediately act on the application, provided that an application not acted upon within fifteen (15) days from its receipt shall be considered approved. Notwithstanding the date the application is approved, the commencement of the promotional activity should be on the date stated in the application.

No person shall conduct promotional campaign or activity prior to the issuance of the permit.”

**SECTION 5.** Section 7 of Rule IX, Chapter VI, Title III is hereby amended to read as follows:

“Sec. 7. - *Form and Contents of the Application* – The application for permit shall be in the form **prescribed** by the Department which shall contain the following information and documents:

- 7.1. The complete name , address and telephone number, if any, of the sponsor(s) of the promotional campaign/activity;
- 7.2. The complete name, address, telephone number, **fax number, email address, if any, in case the person who lodges the application is the sponsor’s duly authorized representative or agent;**
- 7.3 The complete name, address, telephone number, **fax number, email address, if any, of the person who may be contacted by the participant of the promotion for inquiries, complaints and similar purposes;**
- 7.4. **A description of the consumer product/s and/or the extent of the service or credit to be promoted, and/or the details of the contest, competition, game show and the like, being sponsored.**
- 7.5. Proof of registration of the **business and/or the product subject of promotional campaign or activity**, if the same is required by any government agency;
- 7.6. The type of announcement/information that will be used for the **promotion campaign or activity** including the text or substance thereof;
- 7.7. The geographical area to be covered;
- 7.8. **The period of the promotion campaign/activity;**
- 7.9. The target participants and the required qualifications, if any;
- 7.10.The mechanics and the criteria, if any, for participating and winning in the **promotion campaign/activity;**
- 7.11.The procedure **in the** predetermination of winning entry forms, and if applicable, the computer program to be used;
- 7.12.The type of entry forms and or paraphernalia **or electronic device** to be used in the promotion **campaign/activity;**
- 7.13.The plan for the seeding of qualifying entry forms, paraphernalia or predetermined winning entry forms;
- 7.14.The date, time and place for auditions, try-outs, pre-qualification and/or qualification of participants to the promotion, if the same is required;
- 7.15.The security marks, if any, or the nature thereof in the entry forms and/or paraphernalia to be used in the promotion, their purpose, the method of their verification and a sample specimen of such entry form or paraphernalia containing such security mark;
- 7.16. The deadline of submission of entries;
- 7.17. The specific city, municipality, **or province** and number of drop boxes and the **name of the business entities and their addresses or telephone numbers** where **entries** may be sent;
- 7.18. The prizes for each category of winners **indicating the amount thereof, or if in kind, the description, brand, size, model, or make and their market value at the time of the application;**
- 7.19.Whether a prize in kind is transferable **and/or** convertible to cash;

7.20. Whether the required taxes for the winnings shall be shouldered by the sponsors/applicants or by the winners, and

in case of the latter, whether the same shall be withheld by the sponsors/applicants;

7.21. Time and dates within which the prize is demandable after the termination of the **promotion campaign/activity**, which shall not be less than sixty (60) days from the notification or publication, whichever comes last;

7.22. The requirements and/or the type of identification which will be required to claim prizes;

7.23. The locations of redemption or exchange centers, or where prizes may be claimed, and

7.24. Such other information, documents as may be required by the Department in order to protect **public interest**.

**SECTION 6.** Sections 8 to 10 of Rule IX of Chapter VI, Title III are hereby renumbered to Sections 9 to 11, respectively, and a new Section 8 is inserted accordingly, to read as follows:

*“Section 8. Who May File the Application for Permit –*

**The persons whose consumer products, services, credit facilities, beauty contests, competition, game shows and the like are being promoted may file the application for permit.**

**The above persons shall sign the application individually or jointly with the others or submit therewith a true copy of any written agreement between or among themselves, reflecting the degree or extent of their participation and responsibility in the conduct of the promotion activity covered by these rules. Where no limitation as to the extent of the liability or responsibility is indicated in such agreement, all of them shall be jointly and severally liable and responsible therefor.**

**Where an application for permit is filed and facilitated for and in behalf of the persons mentioned in 8.1 hereof, the agent shall be authorized by a Special Power of Attorney or Secretary’s Certificate, as the case may be.”**

**SECTION 7.** The Section 3 of Rule X, Chapter VI, Title III is hereby amended to read as follows:

*“Sec. 3. Other Prohibited Acts*

**x x x**

**3.2. No person shall directly or indirectly tamper with the entries, paraphernalia, and/or electronic device in a promotional campaign/activity covered by these Rules, nor unduly**

influence the results thereof, or perform any act to the prejudice of legitimate participants and/or winners.”

**SECTION 8.** Rule XI, Chapter VI, Title III is hereby amended to read as follows:

**“Rule XI. *Voluntary Cancellation of Approved Promotional Campaign/ Activity***

**Section 1. *Voluntary Cancellation Before Publication*** – A person may voluntarily cancel or discontinue the approved promotional campaign/activity provided no information dissemination and advertising thereon has been made and that a written notice be submitted to the Department prior to such voluntary cancellation.

**Sec. 2. *Voluntary Cancellation After Publication*** – If any announcement, information dissemination or advertising of the promotional campaign/activity has already been made, but the promotion period has not yet commenced, the discontinuance or cancellation of the promotion may be made only upon prior written notice to the Department within a period of not less than five (5) days before the commencement of the original intended date of promotion.

The sponsor shall honor the promotional commitments should it fail to comply with the required period.

**Sec. 3. *Voluntary Cancellation of Ongoing Promotion*** – Voluntary cancellation or discontinuance or suspension of any ongoing promotional campaigns/activities shall not be allowed except upon prior written approval by the Department which shall be based on any of the following grounds:

**3.1** A final judgment of voluntary insolvency/bankruptcy against the applicant referred to in Sec. 8.1;

**3.2.** Occurrence of any fortuitous event or force majeure that will make it impossible to continue the promotional campaign/activity. Provided, however, that those who had already won in the promotion before the approval of the cancellation or discontinuance or suspension shall be paid or given their prizes.”

**SECTION 9.** Rule XII, Chapter VI, Title III is hereby amended to read as follows:

**“Section 1. *Application of the General Rules on Mechanics*** – Unless otherwise provided for in these Rules, all covered

**promotional campaigns/activities shall abide by or comply with the following rules on the mechanics of the promotion.**

X X X

**Section 5. Where the entry forms are to be obtained at specific places, the same shall be made available to qualified**

**participants during office or store hours, unless other ways of obtaining them are specified in the mechanics.”**

**5.1 *Mode of Selection of Prospective Participants/Entries*– Prospective participants/entries shall be selected in a fair, honest and transparent manner. There must be proof of notice of selection and such other relevant information to the selected participants in a manner expressly provided for in the mechanics.**

X X X

**Sec 7. *Draw Date; Determination Of Winners* – Draw date or dates for the selection or determination of participants or winners to a promotion campaign or activity shall not be more than fourteen (14) days after the deadline of the submission of entries.**

**Determination of winners maybe through the use of any technique not contrary to law, morals and public policy provided the same shall be conducted in a fair, honest and transparent manner.**

X X X

**Sec. 10. *Use of Sophisticated or Uncommon Techniques in Determination of Winners and Winning Entry Forms/Entries.***

X X X

**For raffles/sales promotion utilizing electronic means, the DTI Regional and Provincial Offices shall check the program software source code and the database for prizes to ensure that prizes will be distributed on the whole duration of the promo period. Without this verification, there can be no approval of the sales promo.**

X X X

**Sec. 17. *Announcement Required on the Changes.* – The changes in the sales promotion campaign as well as the fact of the approval shall be published, announced or advertised at least twice on **two (2) different dates** before such change is effected and in the same manner and medium that the sales promotion campaign was announced, published or advertised by the promoter or sponsor.”**

**SECTION 10.** Rule XIII, Chapter VI, Title III is hereby amended to read as follows:

*“Rule XIII. Additional Rules on Mechanics for Certain Special Promotion Campaigns/Activities*

x x x”

**SECTION 11** Section 1 of Rule XV, Chapter VI, Title III is hereby amended to read as follows:

*“Section 1. Dissemination of Information Regarding Sales Promotion Campaigns/Activities.* – A sales promotion intended for broad consumer participation shall disclose the following information in its announcement, information dissemination or advertisement of the promotion:

x x x

1.6. The location where/**manner how** entry forms/**entries** may be dropped or submitted, the person and his address to which entry forms/**entries** may be sent.

1.7. The deadline for submission of entry forms/entries.

x x x”

**SECTION 12.** Section 1 of Rule XVI, Chapter VI, Title III is hereby amended to read as follows:

*“Section 1. Presence and Verification of Winners by the Department’s Representative.* – A representative from the Department shall be invited and/or notified:

**1.1. To inspect and verify the electronic device or similar contraption to be used in determining or selecting the participants and/or winner(s) or winning entries.**

**1.2. To witness the drawing of pre-determined winning entry forms/entries;**

**1.3. To witness the printing and seeding of winning pre-determined entry forms/entries;**

**1.4 To witness pre-qualifications, try-outs, auditions and to verify and certify the participants who passed or qualified the same;**

**1.5. To witness any pre-draws or drawing of minor prizes and to verify and certify the winners of the same; and**

**1.6. To witness final draws or final determination of winners.**

For the foregoing purposes, the sponsor of the promotion shall send an invitation and notification to the Department at least **seven (7) calendar days** before the said event **provided however that where printing, seeding**

and/or drawing of winners is to be held outside the country, notification to the said event shall be at least fourteen (14) calendar days prior to the conduct of the foregoing activities. A list of the complete names and addresses of the winners and their corresponding prizes shall be provided the Department.”

**SECTION 13. *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 14. *Repealing Clause.*** All Department Administrative Orders, Department Orders, other issuances, or parts thereof which are inconsistent with this Order are hereby repealed or amended accordingly.

**SECTION 15. *Publication and Effectivity.*** This Order shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and upon filing with the University of the Philippines Law Center three (3) certified copies hereof pursuant to Sec. 3 (1) of Chapter II, Book VII of Executive Order No. 292, as amended.

Issued this \_\_\_\_day of \_\_\_\_\_2008 in Makati City, Philippines.

*Approved:*

**PETER B. FAVILA**  
DTI Secretary

*Recommending Approval:*

**ZENAIDA CUISON MAGLAYA**  
Undersecretary  
Consumer Welfare  
and Trade Regulation Group

**VICTORIO MARIO A. DIMAGIBA**  
Director  
Bureau of Trade Regulation  
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