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PHASE II (AADCP II)

ROADMAPPING CAPACITY BUILDING NEEDS IN CONSUMER PROTECTION IN ASEAN

Consumers International

COUNTRY REPORT: PHILIPPINES (FINAL)

(Revised 15 June 2011)

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ABSTRACT

The Philippines is one of the 10 ASEAN Member States (AMS) that have a general consumer protection law. Called the *Consumer Act of the Philippines or Republic Act No. 7394*, it has comprehensive legal provisions for consumer protection.

The Act has improved consumer protection in the Philippines. It has been translated into a number of programs and projects, which increased awareness on consumer rights and advanced consumer welfare. The integration of consumer education in secondary school curriculum and the establishment of consumer redress mechanisms by the Department of Trade and Industry in all its offices are some of the laudable efforts of the Philippine government on consumer protection. Much still needs to be done though. One of the fundamental rights of consumers - that is the right to satisfaction of basic needs - has yet to be fulfilled for Juan dela Cruz¹ and over 90 million other Filipinos.

This report aims to walk through readers with the formal and operational contexts of consumer protection in the Philippines. It highlights relevant consumer protection laws, the programs and initiatives, as well as the issues that confront consumers in general.

Keywords: Consumer protection, capacity building, complaints, redress mechanisms, best practices, Philippines.

¹ Juan dela Cruz is symbolically used in the Philippines to represent the "Filipino". The name, Spanish for "John of the Cross", is roughly the equivalent of the American Uncle Sam and John Doe.

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ABBREVIATIONS

AADCP II	ASEAN Australia Development Cooperation Program Phase II
ADR	Alternative Dispute Resolution
ACCP	ASEAN Committee on Consumer Protection
ALS	Alternative Learning System
AMS	ASEAN Member States
ASEAN	Association of South East Asian Nations
BFAD	Bureau of Food and Drugs
BOC	Bureau of Customs
BPS	Bureau of Product Standards
BSP	Bangko Sentral ng Pilipinas
CAE	Consumer Action for Empowerment
CCPID	Competition, Consumer Protection and Intellectual Property Rights Division (ASEAN)
CI	Consumers International
CIKL	Consumers International Kuala Lumpur
CPLs	Consumer Protection Laws
CWDs	Consumer Welfare Desks
DAOs	Department Administrative Orders
DECS	Department of Education, Culture and Sports
DENR	Department of Environment and Natural Resources
DepED	Department of Education
DILG	Department of Interior and Local Governments
DOH	Department of Health
DOJ	Department of Justice
DOTC	Department of Transportation and Communications
DTI	Department of Trade and Industry
DTI - BTRCP	DTI – Bureau of Trade Regulation and Consumer Protection
DTI- BPS	DTI - Bureau of Product Standards
EOs	Executive Orders
ERC	Energy Regulatory Commission
FDA	Food and Drug Administration
FOMCA	Federation of Malaysian Consumers Association
GDP	Gross Domestic Product
HDI	Human Development Index
IBP	Integrated Bar of the Philippines
IEC	Information, education and communication
NACI	Nationwide Association of Consumers, Inc.
NCAC	National Consumer Affairs Council

NCCC	National Consumer Complaint Centre
NFA	National Food Authority
NGOs	Non-government organisations
NTC	National Telecommunications Commission
PAO	Public Attorney's Office
PC	Personal computer
PhilHealth	Philippine Health Insurance Corporation
PMA	Philippine Medical Association
PNS	Philippine National Standards
POWER	People Opposed to Warrantless Electricity Rates
PPSQF	Philippine Product Safety and Quality Foundation, Inc.
PRA	Philippines Retailers Association
PRC	Philippine Regulation Commission
RTD	Roundtable Discussion
SEC	Securities and Exchange Commission
WPN	Water for the People Network

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EXECUTIVE SUMMARY

The Philippines is one of the 10 ASEAN Member States (AMS) that have a general consumer protection law. Its scope is very comprehensive as it was based on reviews made on existing consumer legislations in other countries as well as already existing consumer protection-related laws in the country. Its enactment was an exhaustive process and a bittersweet triumph that spanned over a decade of lobbying amid changes in the Philippine governance.

With a rapidly expanding urbanised population, the Philippines has ever more demanding consumers. Increased affluence in the country has given birth to a more sophisticated consumer, who not only looks for value for money, but is also attracted by culture-friendly service, brand image and product design. With the increased consumer demand, market competition, and varying product and services standards and reliability, the Department of Trade and Industry (DTI) has to enhance its capacity to deal with emerging consumer issues and continues to safeguard the rights as consumers nationally and regionally. Much still needs to be done. The government's most basic mandate of ensuring the right to the satisfaction of basic needs remain an illusive reality among the over 90 million Filipino consumers.

Translation of law into programmes and actions

The Act has improved consumer protection in the Philippines to some extent. It has been translated into a number of programmes and projects which increased awareness on consumer rights. It also made some '*traditional*' business practices history. Now, business establishments are no longer allowed to display and implement the '*no exchange and no return*' policy; in the same manner that they were ceased from charging more fees for credit and debit card transactions under the '*one-tag*' policy which the law prescribes.

The law has also established redress mechanisms to handle consumer complaints. A good indicator of increased consumer confidence is the growing number of consumers seeking consumer redress. At least 30% of all calls received by the DTI are about consumer issues and complaints.

Immediate needs in consumer protection

Implementing agencies involved in consumer protection need assistance in fulfilling their mandates. Training and capacity building should be coordinated at the national and regional levels and should include exchange programmes among ASEAN Member States (AMS). This will enable AMS to build capacity of national authorities and also encourage them to pursue consumer protection in the region.

Consumer protection challenges

There are areas that urgently need strengthening to pursue an enabling environment for consumers in the country to include the need to:

- i. organise and empower consumer organisations
- ii. strengthen institutional and human capacities of key agencies to enforce relevant laws and implement consumer protection initiatives nationwide

- iii. develop new legislations to address gaps in the legislative policies and emerging consumer issues
- iv. provide support and funding for consumer welfare programmes
- v. improve redress mechanisms.

Advancing consumer protection agenda

In order to address the issues and challenges in consumer protection in the Philippines, a high level of assistance is required in the following areas:

- Formulating a consumer master plan
- Developing strategic action plans for core areas
- Mobilising consumer protection units in all implementing agencies
- Mainstreaming consumer awareness
- Strengthening consumer organisations
- Mobilising the Consumer Protection Fund
- Identifying funding requirements and conducting fundraising

1. INTRODUCTION

1.1 STUDY BACKGROUND

This country report is part of the regional study titled *Roadmapping Capacity Building in Consumer Protection in ASEAN*. It is a project of the ASEAN-Australia Development Cooperation Program Phase II (AADCP II) which aims to strengthen consumer protection in the region as well as in individual ASEAN Member States (AMS).

The regional study has produced two major outputs: i) a regional capacity building roadmap on consumer protection, and ii) supporting roadmaps for each of the AMS. The roadmaps were based on the following information that were gathered and presented in this report:

- a mapping of consumer protection policies, laws and regulations in AMS
- consumer education programmes, initiatives and best practices
- capacity building needs of major stakeholders in consumer protection and recommendations

This report covers the **Philippine country report**. It outlines the general consumer **protection** regime in the country as well as the specific areas that are of regional relevance namely:

1. Product safety and labelling
2. Phones and Internet services and E-Commerce
3. Consumer credit and banking
4. Environmental
5. Healthcare services
6. Professional services

The selection of these six areas is explained in **Chapter 2. Methodology**.

The overarching framework of the study is primarily based on the Eight Fundamental Rights of Consumers:

1. The right to basic needs
2. The right to safety
3. The right to information
4. The right to choose
5. The right to representation
6. The right to redress
7. The right to consumer education
8. The right to a healthy environment

The following key principles are also adhered to in the development of the national road map, contributing towards the regional framework:

- **Protection:** Consumers should be protected from unfair practices
- **Responsibility:** Transparent legislation in addition to effective consumer programmes to enable consumers to have sufficient information in order for them to exercise their responsibilities
- **Enforcement:** There should be prompt and efficient enforcement of legislation to deter breaches of the consumer protection laws by businesses

- **Change:** new and emerging consumer issues are identified so that legislation is updated and consumers have access to relevant information on these issues in order to make informed choices.
- **Competition:** free and open competition is generally beneficial for consumers and Government regulations and legislation help to ensure a fair environment in the marketplace for consumers and businesses
- **Representation:** Legitimacy for representation by non-governmental consumer organizations must be recognized such as the right to association.

Consumers International Kuala Lumpur (CIKL) Office carried out the regional study in cooperation with its members and partners in the AMS. In the Philippines it was done with Ibon Foundation, a research organisation and an affiliate member of CI.

CI is a not-for profit federation of consumer groups that serves as the only independent and authoritative global voice for consumers. Founded in 1960 and with over 200 member organisations in 115 countries, it is building a powerful international movement to help protect and empower consumers everywhere. The KL office is CI's regional office for Asia Pacific and the Middle East.

Organisation of report

This report is organized into 6 Sections. Section 1 provides general background about the Philippines and a general state of consumer protection in the country. Section 2 outlines the methods applied for data gathering that led to the outcomes and findings presented in this report. Findings of the project are presented in Sections 3, 4 and 5. The general mapping and situational analysis on national legislation and consumer protection programmes are presented in Section 3. Section 4 covers the assessment on the capacity building needs of the various stakeholders that took part in the project, and Section 5 presents some recommendations and the national roadmap for capacity building needs in consumer protection at the national level. Finally, Section 6 draws an overall conclusion of the report.

1.2 COUNTRY BACKGROUND

The Republic of the Philippines is a sovereign island nation located in Southeast Asia. The country comprises more than 7,100 islands of the Philippine Archipelago in the western North Pacific Ocean. The Philippines shares maritime borders with Indonesia, Malaysia, Palau, the Republic of China (Taiwan), and Vietnam. As of 2010, the Philippines is the world's 12th most populous country, with a population approaching 90 million people. Its national economy is the 37th largest in the world with a 2006 gross domestic product (GDP) of over US\$117.562 billion.

The Philippines, in the publication of the Human Development Report of 2009,² received a Human Development Index (HDI) of .751 and was ranked 105th out of 182 countries included in the study. The nation was classified under the *Medium Human Development*' category.³ In terms of Gross Domestic Product (GDP), the Philippines is

² HDI is a figure calculated by research teams of the United Nations Development Programme to help determine a particular nation's quality of life for its citizens in terms of three calculable facets of human well-being: purchasing power, a long and healthy life and the access to knowledge. This is based on data collected two years prior.

³ UNDP Philippines. *Low human development index reflects MDG failure, The Manila Times.net*, 22 March 2010. http://www.undp.org.ph/?link=news&news_id=417&fa= Retrieved on 12 November 2010

only ranked 124th among the 182 countries. The Life Expectancy Index, another factor in the function to calculate a country's HDI, has also remained relatively constant at .77, or 77 years from birth. The Philippines' average life expectancy has, in fact, increased from 74 years (from birth) since 2000. The adult literacy rate has constantly remained at around 93% since 2005, showing a slight increase over 92.6% in 2000.

1.2.1 Demographics

The first official census in the Philippines was carried out in 1877 and recorded a population of 5,567,685. By 2009, the Philippines had become the world's 12th most populous nation, with a population of over 92 million. It is estimated that half of the population resides on the island of Luzon.

1.2.2 Politics and government

The Philippines is a constitutional republic with a presidential system of government. The President functions as both head of state and head of government and is the commander-in-chief of the armed forces. The bicameral Congress is composed of the Senate and the House of Representatives. The senators are elected at large while the representatives are elected from both legislative districts and through sectoral representation. The judicial power is vested in the Supreme Court headed by the Chief Justice appointed by the President.

The Philippines is divided into three island groups: Luzon, Visayas, and Mindanao. As of March 2010, these were divided into 17 regions, 80 provinces, 138 cities, 1,496 municipalities, and 42,025 barangays.

1.2.3 Economy

The national economy of the Philippines is the 48th largest in the world, with an estimated 2009 gross domestic product (nominal) of \$161 billion. Primary exports include semiconductors and electronic products, transport equipment, garments, copper products, petroleum products, coconut oil, and fruits.

The economy is heavily reliant on remittances which surpass foreign direct investment as a source of foreign currency. There are about 11 million Filipinos outside the Philippines, one of the largest diaspora networks in the world or about 11% of the total population of the Philippines. There were an estimated 3.1 million Filipinos in the United States in 2007 mostly under the family reunification program; two million working in the Middle East, the rest are in all parts of the world

Regional development is uneven with Luzon—Metro Manila in particular—gaining most of the new economic growth at the expense of the other regions, although the government has taken steps to distribute economic growth by promoting investment in other areas of the country. Despite constraints, service industries such as tourism and business process outsourcing have been identified as areas with some of the best opportunities for growth for the country.

1.2.4 Culture and society

Philippine culture is a combination of Eastern and Western cultures. The Philippines exhibits aspects found in other Asian countries with a Malay heritage, yet its culture also displays a significant amount of Spanish and American influences.

One of the most visible Hispanic legacies is the prevalence of Spanish names and surnames among Filipinos. However, a Spanish name and surname does not necessarily denote Spanish ancestry but came as a result of a colonial decree for the systematic implementation of the Spanish naming system on the population.

The common use of the English language is an example of the American impact on Philippine society. It has contributed to the ready acceptance and influence of American pop cultural trends. This affinity is seen in Filipinos' love of fast food, film, and music. Fast food outlets are found on many street corners.⁴

1.3 CONSUMER PROTECTION

1.3.1 General overview

The Philippines is one of the 10 AMS that have a general consumer protection law. Called the *Consumer Act of the Philippines or Republic Act No. 7394*, it was enacted April 13, 1992 after almost two decades of lobbying. It is a comprehensive legal document that provides for consumer protection based on consumer laws in other countries as well as existing consumer protection-related laws in the country.

The Act has improved consumer protection for the Filipinos. It has been translated into a number of programmes and projects that include access to information, improved consumer policies and customer service. *Chapter 3. Mapping and Analysis of Consumer Protection Laws and Programmes* provides further more details about this.

The law has also established mechanisms to address consumer complaints. A good indicator of consumers' increasing confidence on redress mechanisms is the growing number of consumers seeking redress. This year, approximately 30% of calls received by DTI Direct, the DTI's hotline, were about consumer issues and complaints. The hotline receives about 3,000 to 5,000 calls daily during the first half of 2010.

In light of ASEAN's **One Country, One Vision**, there are areas where consumer protection can be strengthened to pursue an enabling environment for consumers in the country:

- i. the need to organise and empower consumer organisations
- ii. strengthen institutional and human capacities of key agencies to enforce relevant laws and implement consumer protection initiatives nationwide
- iii. develop new legislations to address gaps in the legislative policies addressing emerging consumer issues
- iv. improve redress mechanism.

1.3.2 Product Safety and Labelling

The Bureau of Product Standards (BPS), **now Bureau of Philippine Standards (BPS)**, is the national body of the Philippines which formulates standards for food and other categories including building, construction and transport products, electrical and electronic products, and chemical and consumer products. It is a governmental agency under the DTI which is mandated to develop, implement and coordinate standardisation

⁴ Wikipedia. *The Philippines*. <http://en.wikipedia.org/wiki/Philippines#Demographics>. Retrieved on 2010-10-10.

activities in the country.⁵ The Department of Health (DOH) and the Department of Agriculture (DA) work with DTI on this area.

The DOH through its Bureau of Food and Drugs (BFAD), now Food and Drug Administration (FDA), establishes standards for processed food, drugs and cosmetics. DA's Bureau of Agriculture and Fisheries Product Standards develops standards for agriculture and agriculture-related products including fruits and vegetables and grains. Food standards are published as Philippine National Standards (PNS) following a standard documentation format aligned with the ISO documentation format. The same law covers mandatory labelling and packaging which prescribes the required information in all product packaging.

In 2003, the DTI forged a Memorandum of Agreement with the Bureau of Customs and the Philippine Product Safety and Quality Foundation, Inc., (PPSQF) on the monitoring and control of substandard and unsafe products in the market.⁶ The PPSQF is a non-profit organization that was established to ensure that products and services in the market comply with the safety and quality requirements of the PNS. It is composed of industry federations, industry associations, consumer groups, and retailer associations.

Also in cooperation with nongovernment organisations (NGOs) and other government agencies, DTI launched the green choice logo under the Ecolabelling Programme. Manufacturers upon passing the criteria, are provided the license to use the “*Green Choice*” logo on their products or on the packaging of their products. With an ecolabel, consumers are guided in choosing products that are environmentally sound.

In the past years, the global consumer market saw a wave of recall of toys made in China that do not comply with safety standards. Product recall in developed countries, like the United States, is a common occurrence but not in the Philippines. Based on an article published on the website of the Court of Appeals, there is a need to develop an effective system for monitoring the quality and safety of products being sold in the market. Moreover, despite the passage of multifarious laws and administrative regulations on consumer protection, they are not being strictly enforced. Thus, many substandard and potentially dangerous products proliferate and consumer complaints about them simply fall between the cracks.⁷

⁵ Josephine A. Del Mundo, Pamela J. Forshage and Michelle R. Ocampo. Philippine Food Standards: Development and Recent Changes. Retrieved from <http://www.worldfoodscience.org/cms/?pid=1004361>

⁶ Government forges MOA with private sector to prevent proliferation of substandard products <http://www.aseansec.org/14909.htm>

⁷ J. Edgardo P. Cruz. 'Consumer Protection: Beyond Lip Service'. Court of Appeals of the Philippines. http://ca.judiciary.gov.ph/index.php?action=mnuactual_contents&ap=j7080 (Retrieved on 2011-10-28)

In principle, this should not be the case because in the Philippines, the doctrine of strict liability applies to manufacturers, producers and importers of consumer goods. Specifically, Republic Act No. 7394 expressly provides that

“Any Filipino or foreign manufacturer, producer and any importer shall be liable for redress, independently of fault, for damages caused to consumers by defects resulting from design, manufacture, construction, assembly and erection formulas and handling and making up, presentation or packing of their products, as well as for the insufficient or inadequate information on the use and hazards thereof.” (Art. 97).

While the law clearly tilts in favour of the consumer in product liability cases, in reality, the prevailing norm is still *caveat emptor* or 'let the buyer beware'. Under this doctrine, the consumer has no warranty of the quality or safety of the goods he buys. The difficulty in enforcing the rule on strict product liability may be traced to several factors. One is the complex nature of the country's consumer market. Consumer goods find their way to the end-user through various levels and series of distribution channels. While the origin of certain branded products may be easily traced because they are manufactured and sold by reputable entities, the same is not true for goods produced by small-scale or backyard industries that are, more often than not, informal producers or sellers that form part of the so-called '*underground economy*'. Further complicating the matter is the proliferation of smuggled and counterfeit consumer goods. Illegally imported items, as well as fake goods, enter the market through shady, undocumented transactions and are, in turn, usually sold by itinerant vendors or merchants to the unsuspecting public. Thus, if a defective, smuggled or counterfeit item causes damage or injury to a consumer, he would not even know whom to sue.

While agencies, such as the DTI, DOH, and DA, have done their part in promulgating the necessary rules, designating relevant bureaus and desks, and mobilizing resources to assist in the enforcement of consumer protection laws, much remain to be done. These agencies have other administrative and regulatory mandates. Ensuring product safety is just one of their many priorities and functions.⁸

1.3.3 Phones & Internet Services and E-Commerce

The deregulation of the telecommunications industry in 1993 has dramatically improved the telecoms infrastructure in the Philippines. This is also partly because of the advantages offered by wireless communication in an archipelago like the Philippines. As of 2009, there are there are about 7.044 million cellular phone subscribers as confirmed by the National Telecommunication Commission (NTC). Text messaging is a popular form of communication and has fostered a culture of quick greetings and forwarded jokes among Filipinos. In 2007, the nation sent an average of one billion SMS messages per day. Out of this growing number of avid text message senders, over five million of them use their cellular phones as virtual wallets, making it a leader among developing nations in providing financial transactions over cellular networks.⁹ The popularity of mobile phones, however, reduced subscriptions of fixed-line telephones.

⁸ *ibid*

⁹ Wikipedia. http://en.wikipedia.org/wiki/Philippines#cite_note-txt-155

Personal computer (PC) penetration remains low because of meagre per-capita income and the high cost of technology. Industry sources estimated the PC-penetration rate at just over 2% or 1.75 million PCs for a population of 87 million in 2005. However, cyber-café's have proliferated in recent years, catering to Internet users without PCs at home.

Internet broadband service is available throughout the archipelago. The number of Internet users in the Philippines is expected to almost double by 2007 to an estimated 20 million from 11.8 million at the end of 2004. The increase is phenomenal as in 2003 the National Telecommunications Commission (NTC) estimated the number of Internet subscribers in the Philippines at 1 million, and the actual number of Internet users at 4 million – assuming that each account was shared by three or four persons.

Factors driving up Internet use include a highly educated middle-class population and a well-developed consumer culture. The ever-increasing number of Filipino expatriates has also driven Internet growth since residents of the Philippines see the Internet as an affordable way to keep in touch with them.

The rapid growth of mobile phone users in recent years provides an opportunity for Internet-based services, including e-commerce, to grow exponentially. Scores of businesses now operate their own websites or use the Internet for customer and supply-chain transactions.

But a number of factors still limit the growth of e-commerce in the country: the low level of PC penetration, relatively few credit-card holders and unreliable distribution systems in the archipelago. The constitution also restricts foreign ownership of local telephone companies to 40%, and foreigners may not hold executive positions within local telecom firms. Nevertheless, foreign investors hold significant stakes in nearly all Philippine operators.¹⁰

Ibon Foundation shared that Filipino consumers generally complain about the following:

- Inefficient and substandard phone & Internet services
- Weak customer service
- Deceptive advertising
- Inadequate and nonresponsive consumer hotlines that receive complaints and addresses their grievances.

1.3.4 Consumer Credit and Banking

The country has a comprehensive banking system encompassing various types of banks, from large universal banks to small rural banks and even non-banks. At present, there are 17 universal banks, 23 commercial banks, 84 thrift banks, 711 rural banks, 44 credit unions and 12 non-banks with quasi-banking functions. All licensed with the *Bangko Sentral ng Pilipinas* (BSP) under Republic Act No. 8791, also known as the *General Banking Act of 2000*, they share roughly the same powers.¹¹

¹⁰ The Economist Intelligence Unit. 'Overview of e-commerce in the Philippines'. http://globaltechforum.eiu.com/index.asp?layout=rich_story&doc_id=8405&categoryid=&channelid

¹¹ Wikipedia.org. http://en.wikipedia.org/wiki/List_of_banks_in_the_Philippines

In areas with low population density and little physical infrastructure, it is the informal providers that serve purpose. Money lending more known as '5-6' provides microcredit for 1-6 months at rates ranging between 10-30% per month usually capitalising on word of honour of debtors.

Banking in the Philippines is highly concentrated, with the largest six commercial banks controlling around 60% of all financial assets and 90% of all banking assets. Commercial banks are often part of a family-owned business conglomerates and tend to operate as in-house banks for their nonbank business operations.¹²

The Philippine authorities have tightened the rules on credit card lending while pushing for the establishment of a credit bureau due to concerned about a general lack of familiarity with consumer credit and the absence of a credit culture. Although consumer lending in the Philippines is at an early stage, it is important that banks manage its rapid growth with sound credit judgment to avoid the high non-performance loans ratio which they are experiencing in their corporate loan book.

An important determinant of consumer spending is access to credit by consumers through various lending institutions. These institutions include banks, credit and employee associations, social security agencies, cooperatives and other non-banks and informal institutions. However, data on consumer or household indebtedness are available only in reports on credit cards and real estate and auto loans extended by banks that are monitored regularly by the BSP. All other data are either not easily accessible or not available in organised formats.¹³

According to Ibon Foundation, the following issues hinder consumer access to credit and banking:

- Tight credit policies of banks, particularly with respect to the requirements for accepting and assessing credit application
- Weak information system on available credit facilities
- Poor information dissemination on credit facilities
- Weak institutional and operational structures and systems for the efficient delivery of microfinance services by cooperatives, cooperative rural banks, NGOs, pawnshops and lending investors to the poor in a sustainable manner

1.3.5 Environment

The Philippines was one of the first countries to adopt the Agenda 21 process, in support of the Rio Earth Summit in 1992, by formulating its own National Agenda 21 through a participatory process. Several programmes and projects were launched in support to this agenda. However, despite the government's good intentions, rapid population growth, urbanisation and industrialisation have far outstripped urban environment services and weak natural resource management systems have led to rapid degradation of those environments, too.

¹² Consultative Group to Assist the Poor. 'Philippines Financial Sector Assessment'. <http://www.microfinancegateway.org/p/site/m//template.rc/1.9.42308> [Retrieved on 2011-01-25]

¹³ Consumer Credit in the Philippines. <http://otomanual.com/consumer-credit-in-the-philippines.html>

Forest cover in the Philippines has certainly been significantly reduced over the last forty years, due to increasing urbanization, illegal logging, and forest fires. The loss of forests and other critical habitats is also threatening the Philippines' rich biodiversity. Although the number of protected areas has grown on paper, so have the rates of destruction and habitat conversion within them. Management is hampered by inconsistent laws, inadequate regulations, over-lapping institutional mandates, weak enforcement and funding shortages.

Air pollution levels in Metro Manila and other cities exceed national air quality standards and impose a serious economic burden on society. While household garbage collection is improving, 90% of sewage is not treated and disposed of in an environmentally sound manner. Water demand is increasing rapidly, but fragmented water management, weak enforcement of regulations, and poor planning are preventing adequate responses. The discharge of domestic and industrial wastewater and agricultural runoff has caused extensive pollution of the receiving water-bodies.

Over the past decade, the Government of Philippines has tried to reverse environmental degradation by introducing innovative institutional and legal reforms. In spite of all these efforts, capacity in environmental and natural resources governance still requires significant improvement, particularly in local government units.¹⁴

1.3.6 Healthcare services

In the Philippines, private health providers take on most of the national burden of health care. In 2006, total expenditures on health represented 3.8% of GDP, 67.1% of which came from private expenditures while 32.9% was from government. External resources accounted for 2.9% of the total. Health expenditures represented about 6.1% of total government spending.

The government share of total spending on health has declined steadily, and with more people, there has been less to spend per person. The proposed national health budget for 2010 is about USD597 million or USD7 per person.¹⁵

Ibon Foundation shared that consumers mostly complain about the following when they access healthcare from government hospitals:

- Lack of medical facilities and personnel
- High tariff for medical services
- Pharmacies often do not have enough supplies of basic medicines like paracetamol, aspirin and hospital supplies like syringes and dextroses.

¹⁴ The World Bank. *'The Philippine Environment'*. <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/EXTEAPREGTOPE/NVIRONMENT/0,,contentMDK:20266328~menuPK:3558267~pagePK:34004173~piPK:34003707~theSitePK:502886,00.html> [Retrieved on 2011-01-25]

¹⁵ Philippine News Agency. (2009-12-14). ["Senate approves proposed 2010 national budget"](#) [dead link]. Retrieved 2009-12-18 from the [Official Government Portal of the Republic of the Philippines](#)

- Lack of an institutionalised grievance mechanism for consumer redress to protect consumers and uphold the right to health and to safe, human, decent and quality of life
- Unethical practices in some government healthcare establishments

On one end, consumers raised the following concerns when they go to private hospitals:

- High cost of service fees
- High cost of medicines
- Lack of an institutionalised grievance mechanism for consumer redress to protect consumers and uphold the right to health and to safe, human, decent and quality of life
- Unethical practices in some private healthcare establishments

1.3.7 Professional Services

In the Philippines, the professional services commonly sought by consumers are the medical professionals i.e. physicians, dentists, midwives and nurses, followed by lawyers, accountants and engineers.

This report, however, focuses only on services provided by medical and legal professionals, both of which are most commonly sought in ASEAN.

1.3.6.1 Medical Profession

The Professional Regulation Commission (PRC) is the government agency responsible for regulating and supervising the practice of professional individuals according to knowledge base and practice. A registered doctor from abroad cannot legally practice medicine in the Philippines, except in such charitable events that are allowed only from time to time with special permission.

There are an estimated 90,370 physicians or 1 per every 833 people, 480,910 nurses, 43,220 dentists, and 1 hospital bed per every 769 people.¹⁶ Retention of skilled practitioners is a problem, 70% of nursing graduates go overseas to work. The country is the biggest supplier of nurses abroad.¹⁷

There are many reports of healthcare malpractices in the internet. In the absence of a medical malpractice law, the number of medical malpractices is expected to increase. However, this research has not found a database that captures the scope of this issue.

¹⁶ World Health Organization. (2009). [World Health Statistics 2009](http://www.who.int/entity/whosis/whostat/EN_WHS09_Full.pdf). Geneva: Author. ISBN 9789241563819. http://www.who.int/entity/whosis/whostat/EN_WHS09_Full.pdf. Retrieved 2009-12-23.

¹⁷ Wikipedia.org. http://en.wikipedia.org/wiki/Philippines#cite_note-141

1.3.6.2 Legal Profession

The Integrated Bar of the Philippines is the national organisation of lawyers in the country. It is the mandatory bar association for Filipino lawyers. Currently, it has approximately 40,000 members.

The Philippines limit the practice of law to Filipino citizens and even limit the practice of the profession to residents of the Philippines, and to those who completed the required legal education in the country. Thus, the practice of law here is still dominated by small firms and lone practitioners. While the Philippine Constitution and existing Rules of Court may seem to be barriers to crossborder legal services in the country, the fact is, the Philippine jurisprudence does recognise the possibility of liberalisation in the legal profession.¹⁸

In 2003, there were about four million families in the Philippines who are poor and where the daily per capita income is only PhP53, a little over USD1. The costs of litigation to the poor are many. Litigation involves the hiring of competent lawyer who must be paid for every hearing attended. The poor, on the other hand, will be deprived of income for each day of hearing, and poor persons accused of crimes lose income during their detention.¹⁹ Thus, the irony of life is that in general, the poor do not file cases to get justice; they are usually sued and are left to hope for justice to prevail.

Under the Supreme Court of the Philippines, there is the Public Attorney's Office (PAO) which provides indigent litigants, the marginalised and underprivileged members of the society free access to courts. This is in consonance with the Constitutional mandate that 'free access to courts shall not be denied to any person by reason of poverty.' However, this office is usually overburdened with cases.

At present, there are 1,048 lawyers working for PAO's 16 regional offices and 257 district and sub-district offices. Of these, 25 lawyers work on cases appealed before the Court of Appeals and the Supreme Court. The country has 2,225 courts nationwide and there is one PAO lawyer assigned to two to four courts.²⁰

¹⁸ Prof. H. Harry Roque Jr. 'Globalisation of legal services: Challenges and Possibilities in the Philippine Setting'. http://docs.google.com/viewer?a=v&q=cache:!OrgAu60cywJ:www.aseanlawassociation.org/docs/w2_phil.pdf+consumer+access+to+legal+services+in+the+philippines&hl=en&gl=my&pid=bl&srcid=ADGEESiCpDa8f1re3930AhYDiaQJsf3rTG-v_8WFblu_V406swl3H5SfXVXEz9FMCZfBimqM-bQ_NECrUfAGY3Kdd57BH75bvIOXbnjk5EbTY-x9OzAYJisf03k2AKFsgj610N6Pb0&sig=AHIEtBR2AeBBVuGpd1a1BWWUOWMz5NFWkA [Retrieved on 2011-01-25]

¹⁹ UNDP. Philippines - Access to Justice - Working Paper English. http://74.6.117.48/search/srpsache?ei=UTF-8&p=poor+access+to+legal+services+in+the+philippines&fr=yfp-t-892&fp_ip=my&u=http://cc.bingj.com/cache.aspx?q=poor+access+to+legal+services+in+the+philippines&d=4506438776000013&mkt=en-US&setlang=en-US&w=60110677,e0ba3b66&icp=1&.intl=us&sig=3LtStTdYf_W3rHt7hcB7lg-- [Retrieved 2011-01-25]

²⁰ The Public Attorney's Office. 'PAO in Focus'. <http://www.freewebs.com/probingpao/index.html> [Retrieved 2011-01-25]

2. METHODOLOGY

2.1 SCOPE

In developing the capacity building roadmap on consumer protection for ASEAN, this research covered two main areas of consumer protection in the Philippines. It looked at

- consumer protection laws in the country vis-à-vis enforcement, and implementation, and
- relevant agencies' capacity building needs in carrying out the relevant laws.

For the capacity building needs, the study covered the enforcement agencies that are principally in-charge of carrying out the consumer protection laws. Particularly, the agencies' capacity to enact, enforce and implement relevant laws was studied. The capacity building needs of nongovernmental organisations and business groups in the country were also considered.

The study also focused on six areas of consumer protection, which were identified by AADCP II that have relevance with the ASEAN's goal of becoming a single market.

Table 1: Six Key Consumer Areas shows the areas and the specific aspects covered.

Table 1: Six Key Consumer Areas and issues of focus

Consumer areas	Specific aspects to be covered
1.Product safety and labelling :	Consumer products including food (excluding drugs and medicines)
2.Phone and Internet services	E-commerce, phone and Internet including broadband services, online purchase
3.Consumer Credit and Banking	Banking and nonbanking financial institutions providing credit and banking, hire purchase or other financial assistance to consumers
4.Environment :	Policies, laws and programmes for safe and healthy environment, products or services related to environment
5.Health care services	Public and private health care services, pharmaceuticals.
6.Professional services :	Laws related to chargeable fees and accountability with regards to legal and medical professions, consumer redress/ access

The study also examined these areas:

- Legislations that provide for consumer redress vis-à-vis the mechanisms already in place.
- Initiatives and best practices on consumer protection that are being implemented both by relevant government agencies, nongovernmental, and business organisations.

2.2 APPROACHES

The approach in carrying out the Philippine research was hinged on the review of the formal operating context vis-à-vis the actual operational environment of consumer

protection in the country. The analysis and findings from this exercise served as basis in developing the recommendations for capacity building needs in consumer protection.

The **formal operating context covered** the assessment of

- The national consumer laws and regulations, including those that are being drafted or are awaiting enactment,
- National consumer protection programmes and initiatives
- Key stakeholders' views and analysis

While in the **actual operational environment** of consumer protection legislations and programmes, the following activities were carried out:

- Evaluated how well laws and programmes are actually implemented and enforced, and
- Review human and institutional capacities to draft and enforce consumer legislations and implement related programmes.

2.3 DATA COLLECTION PROCESS

Secondary data collection instrument was designed by CIKL with the main objective of generally mapping consumer protection status at the national level in relation to an overarching regional framework. The data was collected by the Project's focal organisation, CI affiliate member Ibon Foundation, throughout the month of October.

The following research activities were implemented in carrying out the mapping of available records, database, reports and documents including annual reports:

- Desk research of consumer laws, programmes, initiatives and reviews.
- A general survey of national laws, programmes and implementation with national government stakeholders as well as about their issues and needs and expectations.
- Key informant interviews in relation to consumer protection implementation and about issues and gaps in national consumer laws and enforcement.
- Roundtable discussions with key stakeholders

At the national level, stakeholders were identified based on their direct and indirect involvement in consumer protection and the six main sectors that have been specified such as:

- The government entities (the relevant ministries, particularly with relevance to the sector specified, including consumer tribunals and courts;
- Local authorities
- Regional Institutions or inter-government organisations such as ASEAN Secretariat Competition, Consumer Protection, and IPR Division (CCPID), ASEAN Committee on Consumer Protection
- Policy makers (Members of parliament)
- Training Institutes for government officials;
- Industries/business associations;
- NGOs/civil society organisations including consumer associations,
- Academic or think-tank institutions
- Professional bodies of legal and medical services

2.4 DATA ANALYSIS

2.4.1 Secondary Data Analysis

Only the main consumer protection law and most relevant policies and legislations on specific sectors were considered for this report vis-à-vis enforcement. The ‘Eight Fundamental Rights of Consumers’ was primarily used as basis in reviewing the country’s main act. Government, nongovernment and business sector’s programmes and initiatives were also looked at. However, only those that have shown significant impact in advancing and safeguarding consumer rights are included in this report.

The secondary data review also provided an opportunity to look at the consumers’ perspective. Based on desk research and consumer organisations’ feedback, issues that beset consumers were also highlighted and relevant solutions were provided in the recommendations.

A major activity under the analysis approach was the **regional mapping** exercise. A compilation of national consumer protection legislations, programmes in the country as well relevant regional agreements, plans and targets in relation to consumer protection was done. All these were reviewed vis-à-vis actual situations within the national context.

In addition to looking at the formal context and actual operational environmental of consumer legislations and programmes in ASEAN, we also assessed the consumer situation. We examined what their needs and issues are and how well these are addressed by national and regional legislation and programmes through desk research.

Six types of analysis were performed on the general survey data using the Statistical Package of Social Sciences or SPSS Version 17.0. These were utilised to examine the status of consumer protection regime in Vietnam and identify the priority areas for capacity building, particularly of the key stakeholders. (Table 2.2 Types of Statistical Analysis Used).

Table 2: Types of Statistical Analysis Used

Type of Analysis	SPSS analysis
Normality test of the data	Kurtosis and skewness, P-P Plot
Reliability test of the data	Cronbach alpha
Organisational profile and consumer protection measures	Frequencies
Level of difficulty in implementing consumer protection programmes and activities	Frequencies, Index
Capacity building needs and form of assistance required	Frequencies, Index
Relationship between level of difficulties and capacity building needs	Pearson correlation, T-Test

2.4.2 General Survey

The general survey instrument was designed by CIKL. It was the focal organisation, Ibon Foundation, which implemented the survey in October 2010. Survey responses were collected from 19 respondents composed of eight government agencies, eight nongovernment organisations, one business association, one private sector and one under the ‘others’ category. *Refer to Table 2. List of Survey Respondents.*

2.4.3 Capacity Building Needs Analysis

An index was developed to measure capacity building needs of the key stakeholders using an interval scale of 1 to 7. Level 1 is the least priority and level 7 is the highest priority. Index levels were based on the total scores (i.e. the total computed score for all items related to capacity building needs) and the mean for each area of capacity building need. The mean for the total score is called the Index for each item listed in the questionnaire.

The Index was also used to measure the level of difficulty in implementing consumer protection programmes and activities, and the preferred forms of assistance required by the stakeholders for work on consumer protection.

Finally, CIKL proposed a country roadmap for the government of the Philippines to consider making the transition from their current state to the desired state of consumer protection. The proposed Regional Capacity Building Roadmap for the ASEAN served as the overarching basis in developing the country roadmap.

The findings of the general survey were the main basis for identifying the capacity building needs of the key stakeholders in the Philippines. Qualitative information obtained from key informant interviews and round table interviews were used to supplement quantitative information obtained from the general survey. There were used to fill in the gaps in formation and check the accuracy and relevance of capacity building needs as identified by the stakeholders.

Based on the findings from the general survey, secondary data collection, key informant interviews and roundtable discussion (RTD), the strategies, recommendations and the country road map were developed. These were further categorised into short, medium and long term priorities.

2.5 PROFILE OF STAKEHOLDERS

Overall, only the key stakeholders were considered to take part in this research. From the government, only the main agencies were involved. To represent the consumers, only major consumer organisations and relevant nongovernment entities were considered. The same principle applies to represent the business sectors, and other stakeholders such as the academe.

Table 3. List of Survey Respondents

No.	Profile	Organisation
1.	Government	Department of Trade and Industry – Consumer Protection and Advocacy Bureau (CPAB) (<i>formerly Bureau of Trade Regulation and Consumer Protection</i>)
2.	Government	National Telecommunications Commission (NTC)
3.	Government	Metropolitan Waterworks and Sewerage System - Regulatory office (MWSS)
4.	Government	Energy Regulatory Commission (ERC)
5.	Government	Department of Education (DepED)
6.	Government	National Food Authority (NFA)
7.	Government	Department of Health (DoH)
8.	Government	DTI - Bureau of Philippine Standards (BPS) (<i>formerly Bureau of Product Standards</i>)
9.	NGOs	Nationwide Association of Consumers, Inc. (NACI)
10.	NGOs	Consumer Action for Empowerment (CAE)
11.	NGOs	People Opposed to Warrantless Electricity Rates (POWER)
12.	NGOs	Integrated Bar of the Philippines (IBP)
13.	NGOs	Greenpeace Southeast Asia
14.	NGOs	TXT Power.org, Inc.
15.	NGOs	Bantay Bigas (Rice Watch)
16.	NGOs	Water for the People Network (WPN)
17.	Business association	Philippines Retailers Association (PRA)
18.	Private sector	Concepcion Industries, Inc
19.	Others	National Market Vendors Cooperatives Service Federation

There were four government offices, four NGO participants and two business organisations that took part in the key informant interview. The participants are listed on the table below:

Table 4. List of Key Informants

No.	Profile	Organisation	
1.	Government	DTI – Consumer Protection Group (CPG) BTRCP	Atty. Victorio Mario A. Dimagiba Undersecretary-Director
2.	Government	DTI – CPAB BTRCP	Ms. Shirley Vasquez Staff
3.	Government	NTC	Mr Edgardo Cabarios Director
4.	Government	Department of Environmental Management Bureau (DENR-EMB), Education and Information Division	Ms. Elenida Basug Chief
5.	NGO	Citizen’s Alliance for Consumer Protection	Mr. Raul Segovia Founder
6.	NGO	Direct Selling Association of the Philippines	Ms. Alma Amor Sison Secretary General
7.	NGO	Philippine Dispute Resolution Centre	Atty. Victor Lazatin Director
8.	NGO	Integrated Bar of the Philippines	Ms. Rosario T Setias National Director for Legal Aid
9.	NGO	Green Peace	Ms. Beau Baconguis Campaigner

The roundtable was held at the Ibon Foundation’s Conference Room in Quezon City, Philippines from 10 AM to 1 PM on 22 October 2010. There were 11 participants composed of four government representatives, four NGOs, one business organisation and 2 from a professional organisation. *See Table 5. List of Roundtable Discussion Participants.*

Table 5. List of Roundtable Discussion Participants

No.	Profile	Organisation	
1.	Government	DENR - National Solid Waste Management Commission	Emy Aguinaldo Officer-in-Charge
2.	Government	DTI – CPAB BTRCP	Mr. Gerald C. Calderon Officer-in-Charge, Consumer Trade and Policy Division Staff
3.	Government	DTI - CPAB BTRCP	Ms. Shirley Vasquez Staff
4.	Government	DENR - EMB	Ms. Ma. Cristina A Francisco Information Officer III
5.	NGO	NACI	Mr. Jose P. Pepito President
6.	NGO	CAE	Consumer Action for Empowerment
7.	NGO	Ibon Foundation	Ms. Rhea Padilla Head of Media
8.	NGO	Gabriela	Ms. Joan May Salvador
9.	Business organisation	Philippine Retailers Association (PRA)	Atty. Paul A. Santos Vice-President for External Affairs
10.	Professional organisation	Philippine Medical Association (PMA)	Dr. Mardave S Martinez Co-Chairman
11.	Professional organisation	PMA	Dr. Arthur T Catli Executive Director

See Appendix A. Contact details of participants for the round table discussion.

2.5.1 Overview of the consumer movement

Most of consumer organisations in the country are issued based. They were generally set up to address consumer issues, such as increase in cost of basic commodities or grave abuse on consumer services. In terms of resources, most consumer organisations here do not have enough manpower or fully functional offices to run an all-year round program. Some of them depend on government funding to implement their programmes.

The government of the Philippines through the DTI is encouraging consumer organisation's participation in its program planning and implementation. However, they see the absence of strong, self-sustaining consumer organisations to serve as their partners in safeguarding consumer rights. The vision, therefore, of this government agency is to set up a federation of consumers to serve as the umbrella organisation in organising consumer activities in the country.

In the Philippines, CI affiliate member Ibon Foundation, a research and think-tank organisation, serves as its conduit in implementing its campaigns and projects.

2.6 LIMITATIONS

Due to time constraints, some relevant stakeholders were not able to participate in the survey, key informant interviews and roundtable discussions (RTD).

Also, there were limitations in reference materials. The study depended largely on information available from the Internet, some of them do not have English versions, as well as on secondary data collection by focal organisations in AMS

3. MAPPING AND SITUATIONAL ANALYSIS OF CONSUMER PROTECTION LAWS AND PROGRAMMES

3.1 LAWS AND REGULATIONS RELATED TO CONSUMER PROTECTION

3.1.1 Principal Consumer Protection Act

As early as the 1970s, initiatives to have the *Consumer Act of the Philippines* had started, the same time that similar initiatives were taking place elsewhere in Asia i.e. Thailand and Sri Lanka. The effort was spearheaded by Atty. Zenaida Reyes, President of the Consumer Federated Groups of the Philippines. Reyes did a study on consumer laws, policies and programmes of different countries as well as existing Philippine legislation, and this was presented to government agencies, consumer organisations and business and industry groups.

In 1984, an amended version of her draft code was sponsored in the Philippine Congress by the late Senator, then Assemblyman, Renato Cayetano. However, the dissolution of Congress in 1986 delayed its adoption. It was only in the 90s, because of the sponsorship of then Senator Rolando Mercado and then Congressman Emigdio S. Tanjuatco Jr during the Congress fifth regular session through the consolidation of Senate Bill No. 1820 and House Bill No. 33575, when the Philippine government adopted RA 7394. Also known as the *Consumer Act of the Philippines*, it provides the legal basis for consumer protection in the country. It came into force on July 15, 1992.

RA 7394 embodies the state policy on the protection of consumers and establishes standards of conduct for business and industry in the country. The general objective of the Act is to protect the ‘interests of the consumer, promote his general welfare and establish standards of conduct for business and industry.’ More specific objectives of the Act are in the Declaration of Basic Policy (Art.2):

- (a) *protection against hazards to health and safety;*
- (b) *protection against deceptive, unfair and unconscionable sales acts and practices;*
- (c) *provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer;*
- (d) *provision of adequate rights and means of redress; and*
- (e) *involvement of consumer representatives in the formulation of social and economic policies.*

The Act covers a wide range of areas:

- Consumer product quality and safety
- Food, drugs, cosmetics and devices
- Hazardous substances
- Deceptive, unfair and unconscionable sales acts and promises
- Weights and measures
- Consumer product service and warranties
- Price tag
- Labelling and packaging
- Liability for product and services

- Consumer credit transactions
- Advertising and sales promotions
- Repair and service firms, and
- Consumer complaints handling

Currently, the *Consumer Act* is up for amendment. There are 30 bills pending in Congress that aim to amend the current act that the DTI wants to be consolidated into a single comprehensive bill. According to DTI Undersecretary Zenaida Maglaya there are so many changes already in the way retailers sell and market their products and service, particularly covering sales promotions. The current law is unable to provide redress to recent violations and among the changes cited are online retailing and trade.²¹

There are several Department Administrative Orders (DAOs) and Executive Orders (EOs) that were issued in relation to *RA 7394*. These covered the following areas:

- *DAO No. 2 Series of 2002* empowers the Secretary of the DTI to implement the provisions of *RA 7394*, and prescribes rules on product liability, and mediation and adjudication in cases covered by *RA 7394* based on a violation of product standards laws, rules and regulations
- *DAO No. 8 Series of 2002* prohibits chain distribution plans or pyramid sales schemes in the sale of consumer products. The same order amended relevant penalties *under RA 7394* which says that ‘any person who shall violate provisions of the act is subject to a fine not less than P500.00 to P10, 000.00.’ This was changed to ‘P100, 000.00 to P500, 000.00 penalty and an imprisonment of not less than two years but not more than four years’ to fill in the gap in the current law so that it will not be exploited by unscrupulous individuals or groups
- *DAO No. 7 Series of 2006*, the ‘*Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the DTI for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws.*’ It contains rules promoting the just, speedy, and inexpensive resolution of cases. Further, the best interest of the consumer shall be considered in the interpretation and implementation of the provisions of these Rules
- *DAO No. 6 Series of 2007* referred to as the revised schedule of administrative fines for violations of the *Consumer Act* and some trade laws. This covers administrative fines imposed in decided cases for violation(s) of any of the following (Sec. 1):
 - i. *RA No. 7394*
 - ii. *EO 913, particularly Strengthening the Rule-Making and Adjudicatory Power of the Minister (now Secretary) of Trade and Industry in Order to Further Protect Consumers*
 - iii. *RA No. 7581 (Price Act)*
 - iv. *RA No. 71 (Price Tag Law)*
 - v. *Act. No. 3883, as amended (Business Name Law)*
 - vi. *R.A. No. 3952 (Bulk Sales Law)*
 - vii. *Act No. 2728, as amended by Act No. 3715 and 3969 (Law on Brokerage)*
 - viii. *Act No. 3893 (Bonded Warehouse Act)*

²¹ The Manila Times. *Prospects and challenges in task of protecting consumers.*
http://www.manilatimes.net/national/2008/sep/14/yehey/top_stories/20080914top4.html
 (Accessed on 10 November 2010)

- *DAO No. 2 Series of 2010 Addenda to DAO No. 2 Series of 1993* prescribes the rules and regulations that shall apply to all promotional campaigns/announcements for consumer products, services, credit facilities which include sponsorships of game shows and similar activities, as well as beauty contests, nationwide in character.
- *Department Administrative Order No. 07, Series of 2006* provides simplified and uniform rules and procedures for administrative cases filed with the DTI. This order specifies definite number of days for the resolution of consumer complaints by either mediation or arbitration. For mediation, complaints must be resolved within ten (10) working days while twenty (20) working days by arbitration.

3.1.1.1 Implementing agencies

The following agencies are responsible in implementing the *Consumer Act* vis-à-vis the areas they covered:

- (i) Department of Trade and Industry (DTI)
 - Consumer product quality and safety
 - Deceptive, unfair and unconscionable sales acts and practices
 - Weights and measures (metrication)
 - Consumer products and service warranties
 - Price tag
 - Labelling and packaging
 - Liability for products and services
 - Service and repair shops
 - Advertising and sales promotion
- (ii) Department of Agriculture (DA)
 - Agricultural products
 - Quality and safety
 - Labelling and packaging
- (iii) Department of Education (~~Culture and Sports (DECS)~~ ²² DepEd)
 - Consumer education in elementary and secondary schools
- (iv) Department of Health (DOH)
 - Food, drugs, cosmetics and devices and hazardous substances
 - Quality and safety
 - Labelling and packaging
 - Advertising and sales promotion
 - Price tag
- (v) Bangko Sentral ng Pilipinas (BSP)
 - Consumer credit transactions extended by banks and other financial intermediaries by virtue of a recent BSP Circular 702, Series of 2010

²² DECS is now referred to as DepEd or Department of Education

- (vi) Securities and Exchange Commission (SEC)
 - Credit facilities extended to consumers by financing companies by virtue of a DOJ Opinion

3.1.1.2 The coordinating council and implementing agencies

The National Consumer Affairs Council (NCAC) is the body created by the *Consumer Act* to improve the management, coordination and effectiveness of consumer programmes and policies of the different government agencies and private organizations.

The Council is composed of representatives from the following government and non-government agencies:

- DTI
- DepEd
- DOH
- DA
- 4 consumer organisations of nationwide base
- 2 business/industry sectors

NCAC performs the following functions:

- Rationalises and coordinates the functions of consumer protection agencies
- Monitors and evaluates implementation of consumer programmes and projects and takes appropriate steps to comply with the established priorities, standards and guidelines
- Undertakes a continuing program on consumer education and information campaign
- Submits to Congress and the Office of the President a full report on the progress of the implementation of consumer programmes

The Council is headed and presided by a Chairman who is elected by the members. He sets up, with the concurrence of the Council, the policies, procedures and standards to govern the implementation and interpretation of the functions and duties of the Council.

3.1.1.3 Consumer protection from the consumers' point of view

From the mapping of consumer protection laws and policies, it was established that Philippines has appropriate legislative basis for consumer protection. How well had they made a difference in the lives of consumers almost 20 years since it was in effect?

Ten years ago, over 150 businesses, government and consumer leaders participated in the Philippines Consumer Education and Protection Initiative (CEPI) Program which was a forum for exchange of information about consumer issues and concern. The top six consumer complaints they identified were:

- The improvement of public utilities;
- The creation of healthy competition to lower the cost of goods and services;
- The enhancement of public health and safety through identification of product hazards;
The vigilant and strict enforcement of the deceptive, unfair and neglectful sales act;
- The improvement of an inadequate system of information dissemination and communication; and

- The development of a complaints and redress mechanism for addressing consumer concerns.²³

Based on the secondary data, the most common complaints of consumers in the country nowadays are listed below in two categories i.e. products and services:

For products:

- Rising cost of water, power and electricity despite privatization and promises of improved delivery of public utilities
- Increasing cost of basic commodities e.g. food, LPG, petroleum, public transport fares.
- Imposition of a Maximum Drug Retail Price to allow market forces and competition to decide drug prices instead of the government setting a ceiling
- Proliferation of products containing hazardous substances e.g. toys, drugs and cosmetics
- Dishonest promotions, substandard products and overpriced merchandises

For services:

- Prohibitive cost and fees in private hospitals
- Solid waste management concerns
- Lack of facilities, medicines, and personnel in public hospitals
- Excessive user rates and deficient water service under privatization

The Philippine government is set on improving consumer protection in the country and it is doing so by improving the Filipinos' purchasing capacity to access basic needs and services. This, after all, is one of the most essential areas in pursuit of a consumer-friendly environment.²⁴

3.1.2 Laws on Product Safety and Labelling

Based on this study's secondary data collection, product safety and labelling is an area with the most number of laws and related rules, regulations and orders. Some of these are rather old instruments and this included the following:

- *Food, Drug and Cosmetic Act of 1963* which ensures safety and purity of foods, drugs and cosmetics being made available to the public and creation of the Food and Drug Administration (FDA) to administer these items.
- *Philippine Standardization Law of 1964* which established the Bureau of **Philippine Product** Standards (BPS), the National Standards Body of the Philippines primarily involved in standards development, product certification, and standards implementation and promotion to raise the quality and global competitiveness of Philippine products. Its objective is to protect the interests of consumers and businesses.

Hence, all local manufacturers and importers of products covered by applicable Philippine National Standards (PNS) that affects health, life, and safety of the consumers are required to secure licenses from BPS. For locally manufactured

²³ World Federation Direct Selling Association. *Philippine CEPI Program Report (October 2000)*. http://www.wfdsa.org/cepi/index.cfm?fa=phil_cepi_report. Retrieved on 2010-10-10.

²⁴ Business Matters. *'Prospects and challenges in task of protection consumers'* (14 September 2008) <http://pinoyoverseas.net/businessmatters/?p=148>. Retrieved on 2010-10-10.

products, PS Mark seal should be attached to the products, while imported products should bear an ICC Mark seal before it can be sold in the market.

The Consumer Act of 1992 sets out the rules governing product safety and labelling. The Act covers consumer products and services defined as:

'...goods, services and credits, debts or obligations which are primarily for personal, family, household or agricultural purposes, which shall include but not limited to food, drugs, cosmetics, and devices.' (Art. 4)

Below are the specific provisions of the Act:

- Ensure consumer product quality and safety (Art. 5) is the duty of the State and shall promulgate and adopt consumer product quality and safety standards (Art. 7).
- Liability for products and service (Art. 97) covers redress for damages caused to consumers by and it says:
 - 'defects resulting from design, manufacture, construction, assembly and erection, formulas and handling and making up, presentation or packing of their products, as well as for the insufficient or inadequate information on the use and hazards thereof.'*
- Compulsory labelling and fair packaging (Art. 74) sets the minimum labelling requirements for consumer products domestically sold and whether manufactured locally or imported (Art. 76):
 - a. *its correct and registered trade name or brand name;*
 - b. *its duly registered trademark;*
 - c. *its duly registered business name;*
 - d. *address of the manufacturer, importer, re-packer of the consumer product in the Philippines;*
 - e. *its general make or active ingredients;*
 - f. *net quantity of contents, in terms of weight, measure or numerical count rounded off to at least the nearest tenths in the metric system;*
 - g. *country of manufacture, if imported; and*
 - h. *if a consumer product is manufactured, refilled or repacked under license from the principal, the label shall so state the fact.*

The *Consumer Act* also prescribes rules on these: 'one price tag' policy which requires that all consumer products sold shall bear an appropriate price tag and shall not be sold at a price higher than what is stated; prohibition of 'no return, no exchange' policy of business establishments; and false, deceptive or misleading advertisement (Article 110) which makes it unlawful for any person to disseminate any false, deceptive or misleading advertisement by Philippine mail or by print, radio, television, outdoor advertisement or other medium to sell consumer products or services.

In addition to the rules provided in the *Consumer Act*, there are other administrative orders issued governing product labelling. *DAO No. 01 Series of 2008* issued by DTI covers all consumer products, whether locally manufactured or imported. It requires all manufacturers, distributors, importers or repackers of consumer products to indicate in their labels of packaging, a parallel translation in the English or Filipino language of the nature, quality and quantity and other relevant information or instructions in a manner that can not be easily removed, detached or erased under ordinary handling. The following information is mandatory:

- a. country of manufacture

- b. required information of consumption duration safety
- c. warranty of the manufacturer
- d. weight content prior to packaging
- e. consumer complaint desk address, and
- f. all other information that fits the parameter of consumers' right to information.

The following are some of the product-specific laws, codes, and regulations:

- *Asin Law of 2005, the Act for Salt Iodization Nationwide (ASIN)*”.
- *Tobacco Regulation Act of 2003*
- *Food Fortification Act of 2000*
- RA 7183 (1992) regulates the sale, manufacture, distribution and use of firecrackers and other pyrotechnic devices.
- *Agriculture and Fisheries Modernization Act of 1997* established the product standards for agriculture and fisheries.
- *Meat Inspection Code of the Philippines (2004)* strengthens meat inspection defines its scope, fees, process and sanctions.
- *Administrative Order No. 2007-0044* covers requirements for the processing, packaging, and labelling of bottle water.
- *Administrative Order No. 10 Series of 1993* provides rules on cigarette labels and advertisements containing warning statement by the DOH.
- *PNS 2067: 2008* titled *Halal Foods – General Guidelines*
- *Administrative Order No. 10 Series of 1993* provides rules on cigarette labels and advertisements containing warning statement by the DOH.
- Circular 2006-016 titled ‘Updated List of Food Additives’ adopted the Codex ‘General Standards for Food Additives’.
- Executive Order No. 51, otherwise known as the *‘Milk Code’*.
- *DOH Circular No. 2008-006*. This new issuance has put in-place specific requirements for the labelling and marketing of infant formula and milk substitutes.
- *National Code of Marketing of Breast Milk Substitutes, Breast Milk Supplements, and related products.*’

The DTI – Bureau of **Philippine Product** Standards issued to harmonise all existing national and international guidelines for halal certification and halal food trading. The major inclusions in this standard, which elicited varying industry positions, are the following:

1. employment of appropriate number of muslims to be designated, among others, as Production Supervisor and Halal Quality Assurance Officer and provision of prayer room for muslims;
2. acceptance of organically grown foods into halal foods, with certain provisions; and
3. non-acceptance of cloned animals and genetically engineered food for use in halal foods.

Stakeholders are taking varying views on the use and application of GMO/LMO (Living Modified Organisms). With the issuance of the new Halal PNS, new discussions among the different interested parties are on-going on the issue of GMO labelling.

The government also issued orders to protect children as consumers. The DOH issued *Administrative Order No. 2007-0032* to protect children by requiring manufacturers, importers, and distributors of toys to secure a license prior to engaging in a business.

3.1.2.1 Implementing agencies

These agencies are in charge of product safety and labelling and handle specific areas:

- (i) DTI: ~~Consumer Protection Consumer Welfare & Trade Regulation~~ Group's CPAB ~~BTRCP~~ and BPS
 - Consumer product quality and safety
 - Deceptive, unfair and unconscionable sales acts and practices
 - Weights and measures (metrication)
 - Consumer products and service warranties
 - Price tag
 - Labelling and packaging
 - Liability for products and services
 - Service and repair shops
 - Advertising and sales promotion
- (ii) DA
 - Agricultural products
 - Quality and safety
 - Labelling and packaging
- (iii) DOH - BFAD
 - Food, drugs, cosmetics and devices and hazardous substances
 - Quality and safety
 - Labelling and packaging
 - Advertising and sales promotion
 - Price tag

3.1.3 Laws on Phones & Internet Services and E-Commerce

There are two separate laws that set the policies for telecommunications and E-Commerce in the Philippines: the '*and Public Telecommunications Policy Act of 1995*' and the '*E-Commerce Law of 2000*'.

Phones and Internet services

The '*Public Telecommunications Policy Act of 1995*' promotes and governs the development of country's telecommunications and provides for the rights of telecommunications users. It covers:

'...any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical, or technological means,' (Sec. 4)

The National Telecommunications Commission (NTC) of the Department of Transportation and Communications (DOTC) issued related circulars which prescribes

rules governing Internet service providers' method of charging, consumers' right to privacy and improving wireless access:

- *Memorandum Circular No. 8-9-95*
- *Memorandum Circular No. 05-06-2007*
- *Memorandum Circular No. 269, 2000*

With Internet access becoming available in most parts of the country, Filipino children enjoy the freedom to discover the world virtually, which to a great extent expose them to harmful materials online. To protect children, the approval of the *Senate Bill No. 2399* on online child safety hopefully will address this.

National Telecommunications Commission (NTC) is an agency of the Philippine government under the Commission on Information and Communications Technology responsible for the supervision, adjudication and control over all telecommunications services throughout the Philippines.

E-Commerce

ILOVEYOU, also known as *LoveLetter*, is a computer worm that successfully attacked tens of millions of Windows computers in 2000. The worm originated in the Philippines and spread across the world in one day causing an estimated \$5.5 billion in damage and 50 million infections. The Pentagon, CIA, and the British Parliament had to shut down their mail systems; as did most large corporations. Two young Filipino computer programming students became the target of a criminal investigation by the Philippines' National Bureau of Investigation. Since there were no laws in the Philippines against writing malware at the time, the two students were released with all charges dropped by state prosecutors. To address this legislative deficiency the Philippine Congress enacted *E-Commerce Law of 2000*, just three months after the worm outbreak.²⁵

The *E-Commerce Law* provides the legal recognition of electronic documents or data messages. It also mandates all government agencies to, among others, transact business and perform functions using electronic documents. The Act also penalises hacking and piracy offenses.

Below are some orders issued related to the Act to particularly protect consumers.

- *JOINT DTI-DOH-DA Administrative Order No. 1 Series of 2008* prescribes rules and regulations for consumer protection for online transactions that covers both local and foreign-based retailers
- BSP issued *Circulars No. 269 in 2000 and No. 542 in 2006* which cover electronic banking and safeguard of customer information, prevention of money laundering and terrorist financing, respectively.

3.1.3.1. Implementing agencies

The DTI directs and supervises the promotion and development of electronic commerce in the country with relevant government agencies, without prejudice to the provisions of *Republic Act. 7653* or the *Charter of Bangko Sentral ng Pilipinas* and *Republic Act No. 337* or the *General Banking Act*, as amended.

²⁵ Wikipedia. *ILOVEYOU*. <http://en.wikipedia.org/wiki/ILOVEYOU>. Retrieved on 12 November 2010.

Among others, the DTI is empowered to promulgate rules and regulations, as well as provide quality standards or issue certifications, as the case may be, and perform such other functions as may be necessary for the implementation of this Act in the area of electronic commerce. This includes, but shall not be limited to, the installation of an online public information and quality and price monitoring system for goods and services aimed in protecting the interests of the consuming public availing of the advantages of this Act.

3.4.3 Laws on Consumer Credit and Banking

In recent years, the banking industry in the Philippines has undergone significant changes marked with improvements in regulations. Multiple laws were enacted regulating the financial industry as well as protecting consumers.²⁶

In 2000, the *General Banking Law* was enacted establishing the Philippine policy on banking to make it globally competitive, dynamic and responsive to the demands of a developing economy (Sec. 2).

On paper, there is an adequate legal framework protecting consumers from financial woes and providing them with fair treatment. However, significant institutional overlap exists, which is not easy to unravel, at least with regards to microfinance.

This section outlines some of the laws and policies relating to consumer credit and banking supervised by BSP financial institutions. It is divided into three categories: 1) deposited-related laws and regulations, 2) credit-related laws and regulations, and 3) other laws and regulations.

Deposit-related laws

There are three most relevant under this category i.e. the *Law on Secrecy of Deposits of 1955*, as amended by Presidential Decree (PD) No. 1792 issued 16 January 1981 and New Central Bank Act of 1991; *Foreign Currency Deposit Act of the Philippines of 1974*, as amended by PD No. 1035 issued 30 September 1976 and further amended by PD No. 1246 issued 21 November 1977; and *Rule 9.3.d, Revised Rules and Regulations Implementing the Anti-Money Laundering Act of 2001*.

Credit-related laws

There are two policies that set fair lending practices. These are the:

- *Truth in Lending Act of 1963* which requires the creditor to furnish the borrower prior to the consummation of the transaction, a clear statement in writing. This enhances consumer awareness on the true cost of financial services, and
- *Consumer Act of 1992* which states that the government shall:

'simplify, clarify and modernize the laws regarding credit transactions and encourage the development of fair and economically sound consumer credit practices.'

In 2003, the BSP issued *Circular No. 409* which prescribes the rules, regulations and standards that shall govern microfinance operations of banks, which amend the Manual of Regulations for Banks, the Manual of Accounts for Universal Banks and Commercial Banks, the Manual of Accounts for Thrift Banks and the Manual of Accounts for Rural Banks.

²⁶ Center for Financial Inclusion

In the Philippines, one of the largest providers of consumer credit is credit cards. With the proliferation of credit cards, laws to govern credit card operations include:

- *Access Devices Regulation Act of 1998* requires credit card providers to provide information in writing or orally (annual percentage rate; computation method, fees, and toll-free numbers);
- *BSP Circular No. 398* dated 21 August 2003 requires the development of consumer credit through innovative products under conditions of fair and sound consumer credit practices; and
- *BSP Circular No. 454* dated 24 September 2004 regulates credit card operations of banks and subsidiary credit card companies.
- *BSP Circular no. 702* series of 2010 amending regulations to enhance consumer protection in the credit card operations of banks and their subsidiary or affiliate credit card companies.

Just recently, the government passed the *Credit Information System Act of 2010*, which created the Credit Information Corporation. Its primary purpose is to act as a central repository of credit information and provide access to standardized information on credit history and financial condition of borrowers.

Other laws and policies

Two noteworthy laws cover remittances and people with disability.

The Philippines, with an estimated eight million people working abroad - which is almost 10% of the population - is a leader in the field of foreign remittances.²⁷

Their remittances hit over U.S. \$16 billion in 2008. There are two BSP circulars issued to regulate remittance operations i.e. BSP Circular No. 471 dated 24 January 2005 requiring the registration of foreign exchange dealers/money changers and remittance agents, and BSP Circular No. 534 dated 26 June 2006 obligating the disclosure of remittance charges and other relevant information

A law that enhances the access of persons with disability with financial institutions is the *Law for the Disabled of 1982*. This requires the installation of facilities that shall enable the disabled persons to have access to the premises of financial institutions.

Other Laws, Rules and Regulations that govern financial practices in the Philippines are:

- BSP Manual of Regulations for Banks (*MORB*)
- RA 7906 (*Thrift Banks Act of 1995*)
- RA 7353 (*Rural Banks Act of 1992*)
- RA 6938 (*Cooperative Code of 1990*)
- RA 3591; RA 3591 as amended (2004) (*PDIC Charter*)
- PD 612 (*Insurance code of 1974*)
- IC memorandum Circular 9-2006
- Batas Pambansa Bilang 68 (*Corporation code of 1980*)

²⁷ Asian Development Bank. *Foreign Worker Remittances Effective Money Channel to Needy*. <http://quickstart.clari.net/voa/art/hl/2005-09-12-voa12.html> (Retrieved on 2010-10-10)

- RA 9474 (*An Act Governing the Establishment, Operation and Regulation of Lending Companies of 2007*)
- RA 8553 (*Financing Company Act of 1998*)
- Related BSP Circular and SEC Memorandum Circulars

Proposed amendments

Bills seeking to regulate interest rates imposed by credit card companies and protect consumers from hidden charges have been filed before the Senate and the House of Representatives.²⁸

These bills are seeking the following: Senate Bill 2492 to amend 11-year-old law '*Access Devices Regulation Act of 1998*' that only regulates the issuance of credit cards; and Senate Bill 166 puts a cap of 1% a month or 12% per annum on the interest rates that credit card companies could charge. At present, legislators argued that credit card companies charge 2.5% to 3.5% a month or from 30% to 42% a year.

The amendments being sought also covers the need for more transparency on the part of credit card companies to ensure that the consumer is more aware of the scope of his debt/obligations.

However, the BSP Governor Amando M. Tetangco Jr. expressed that the above proposed amendments could be addressed already by i) tightened disclosure practices and improving consumer financial literacy through the BSP's financial education program, and 2) the enactment of the *Credit Information System Act of 2010* which would help address the exorbitant rates being imposed the credit cards. Rather, what is needed to be changed is the spending and consumption patterns of the public which will mean lasting solution to the problem.

Also pending is *Senate Bill No. 3301* which prescribes rules against disclosure and sale of personal consumer's information.

3.1.4.1 Implementing agencies

The BSP is the main body in-charge of consumer credit and banking. It has supervisory powers and sets policy directions. It also regulates banking and quasi-banking functions and sets the policies for as well as policy-making operations and activities of banks shall be subject to the supervision of the BSP.

3.1.5 Laws on Environmental Quality and Services

The Philippine tradition of environmental legislation dates back to the pre-Spanish *Code of Kalantiaw*.²⁹ By the end of the 20th century, the Philippine legislation in environment and natural resources has grown and was recognised among the best of the developing world. The laws enacted aimed to conserve, use and to protect the air, the waters, and the land from pollution. To ensure compliance, selected environmental functions were devolved to local government units in.³⁰

²⁸ The Philippine Star. '*BSP lukewarm on credit card interest cap*'. [18 October 2010] <http://www.philstar.com/Article.aspx?articleId=621812> (Retrieved on 2010-10-10)

²⁹ Datu Kalantiaw is a mythical Filipino character who was said to have created the first legal code in the Philippines known as the Code of Kalantiaw in 1433.

³⁰ Loren Legarda. *The Philippine Senate Legislative Documents*. <http://www.senate.gov.ph/lisdata/71346368!.pdf> (Retrieved on 2010-10-10).

The *Philippine Environmental Policy (Presidential Decree No. 1151)* established the Environmental Impact Statement System in 1977 as a response to the increasing pressure on the environment brought about by accelerated industrialization and urban development. It requires all government and private entities to submit a statement of such impacts for approval.

P.D. 1152, or the Philippine Environment Code, launched a comprehensive program for environmental protection and management by the National Environmental Protection Council. To ensure "public health, safety and general welfare" of present and future generations, the Code established management policies for land, forests, minerals, flora and fauna, coastal fisheries and energy as well as wastes and disasters. It prescribed quality standards for air, noise, and water. Sectoral laws like the Forestry Code and the Pollution Control Law were also promulgated.

The National Integrated Protected Areas System Act was passed by Congress in 1992 for the preservation of valuable and fragile ecosystems including forests, seascapes, landscapes and monuments. To control pollution and its harmful effects on health and the environment, the *Clean Air Act* was approved in 1999, the *Ecological Solid Waste Management Act* in 2000, the *Clean Water Act* in 2004, and recently, the *Biofuels Act* in 2007. Last year, the *Climate Change Act of 2009* was enacted for the full protection and the advancement of the right of the people to a healthful ecology in accord with the rhythm and harmony of nature (Sec. 2).

The Local Government Code of the Philippines declared the policy that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State provided for a more responsive and accountable local government structure, instituted through a system of decentralization whereby local government units are given more powers, authority, responsibilities and resources. For the environment, this includes solid waste disposal, and environmental management services, among others.

The country's global obligations have in parallel have increased by leaps and bounds with the ratification of new international treaties on specific areas of concern. It is to be expected, however, that such sectoral laws enacted separately did not have clear and unequivocal basic principles or '*ground rules*' to guide decisions on cross-cutting concerns.

Reviews of Philippine environmental laws surface a major observation: the "*weakness*" lies in a plethora of sometimes inconsistent legal requirements and prohibitions that emerged from the sectoral laws that were passed during the past two decades. These rules of specialized and limited scope and focus continue to cause confusion to the point that a stop to the enactment of new laws has been suggested.

There is a pending *Senate Bill No. 2178* which aims to set a framework policy that will integrate and harmonize sectoral environmental laws and issuances for viable and effective management. When this is enacted it shall provide the framework in the conservation, development, management and utilisation of environment and natural resources.

3.1.5.1 Implementing agencies

The DENR is the government body that is in-charge of the environment and natural resources. Local government units are responsible in some environment-related devolved functions i.e. solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation; municipal buildings, cultural centres, public parks including freedom parks, playgrounds, and sports facilities and equipment, and other similar facilities

3.4.5 Laws on Health and Healthcare Services

The *National Health Insurance Act of 1995* establishes the Philippine Health Insurance Corporation (PhilHealth). It aims to improve the implementation and coverage of the old Medicare program by including the self-employed and the poor who cannot otherwise avail of health insurance. This law sets priority for the needs of the underprivileged, sick, elderly, disabled, women, and children.

Prior to the above Act, BFAD was created on December 2, 1982 through Executive Order No. 851. BFAD was aimed to be an internationally recognized centre of regulatory excellence safeguarding the health of Filipinos. Its mandate is to protect public health and ensure the safety, efficacy, purity and quality of all the products. It regulates through the effective and efficient implementation of national policies consistent with international best practices.³¹ Later, this bureau was renamed to Food and Drug Administration (FDA) through *Food and Drug Administration Act of 2009*. This strengthened BFAD by prescribing the setting up of testing laboratories and field offices nationwide as well as augmenting its human resources.

This function is one of the several public services that were devolved to local governments as embodied in the Local Government Code of the Philippines.

The *Pharmacy Law of 1969* regulated the practice of pharmacy and setting of standards of pharmaceutical education in the Philippines. Other related legislations and administrative orders were later enacted in the late 90's:

- The *Special Law on Counterfeit Drugs of 1996* prescribes rules to safeguard the health of the people, and protect them against counterfeit drugs.
- The *Generics Law of 1988* promotes the production and acceptance of drugs and medicines identified by their generic names
- The *Universally Accessible Cheaper and Quality Medicines Act of 2008* provides Filipinos with options and greater access to cheaper but quality medicines.
- *Administrative Order No. 2008-1* was later issued that guided the DOH, DTI, Intellectual Property Office and BFAD to implement the Act.

In year 2000 and onwards, other legislations and executive orders were also passed primarily to improve to healthcare and medicines:

- RA 9165 '*Comprehensive Dangerous Drugs Act of 2002*'
- RA 9257 '*Senior Citizen Act of 2003*' as amended by RA 9994 or the '*Expanded Citizen Act of 2010*'

³¹ Food and Drug Administration Philippines, 'Historical Background', http://www.bfad.gov.ph/default.cfm?page_id=639&parent=630. (Retrieved on 2010-09-30)

- *EO 302 on 29 March 2004* declaring and adopting the Philippine Pharmacopeia as the Official Book of Standards and Reference for Pharmaceutical Products and Crude Plant Drugs in the Philippines

3.1.6.1 Implementing agencies

PhilHealth mandated to provide social health insurance coverage to all Filipinos. It is a government corporation that ensures sustainable, affordable and progressive social health insurance which endeavours to influence the delivery of an accessible quality health care for all citizens.

3.1.7 Laws on Professional Services

The Philippine Regulation Commission (PRC) is mandated to regulate and supervise the practice of the professionals who constitute the highly skilled manpower of the country. In the past, PRC was tagged as the cradle of anomalies and fixing activities. Posing even greater challenges are the recent international developments brought about by globalization, liberalization of trade in services, and information technology which made PRC's mandate beyond licensing powers but sustaining a corps of world-class, technical proficient, and ethically competent Filipino professionals as well.

The enactment of the *PRC Modernization Act of 2000* strengthened PRC with the appropriate provisions to '*nurture Filipino Professionals towards technical proficiency and civic responsibility in the service of the Filipino nation*'.

Since the research focuses on the legal and medical professions, below are some relevant laws and codes of conducts:

- *The Philippine Medical Act* of 1959
- *The Philippine Dental Act* of 1965
- RA 6397, 1971, an act providing for the integration of the Philippine Bar.
- *Philippine Nursing Act* of 2002
- *The Philippine Midwifery Act* of 1992
- Code of Ethics of the Board of Medicine
- Code of Ethics of the Board of Dentistry
- Code of Ethics of the Board of Midwifery
- Code of Professional Responsibility

3.1.7.1 Implementing agency

The PRC is mandated to regulate and supervise the practice of the professionals or the highly skilled manpower of the country.

3.1.7.2 Inter-agency coordination

The **ConsumerNet** is a working network of 18 government agencies covering every consumer concern and was created to resolve consumer complaints. Going to the right agency speeds up the process and helps resolve issues effectively. The proper agency will have the authority and can immediately act on complaints.

Its member agencies include:

- DA
- BSP
- Department of Energy
- DENR
- DTI
- DoH
- DILG
- DOTC
- Department of Science and Technology
- Department of Justice
- Department of Finance
- Insurance Commission
- Housing and Land Use Regulatory Board
- Bureau of Internal Revenue
- Metropolitan Manila Development Authority
- Energy Regulatory Board
- SEC
- Metropolitan Waterworks and Sewerage System
- Local Water Utilities Administration

The network to date has expanded covering 54 government agencies including local government offices.

3.2 REDRESS MECHANISMS

The sixth consumer right is the right to redress which is the right to be compensated for misrepresentation, shoddy goods or unsatisfactory services. The policy on consumer redress has for its legal bases relevant provisions in a number of laws.

The Constitution of the Philippines (*'Saligang Batas ng Pilipinas'*), also known as the *1987 Constitution*, provides for consumer redress under Art. XVI, Section 9, *'The State shall protect consumers from trade malpractices and from substandard or hazardous products.'*³²

It is contained in the *Arbitration Act of the Philippines of 1953 (RA 876)* as amended by *Alternative Dispute Resolution (ADR) of 2004 or RA 9285*. It provides for the making of arbitration and submission agreements, to provide for the appointment of arbitrators and the procedure for arbitration in civil controversies, and for other purposes. In most

³² Chan Robles Virtual Library. *Philippine Constitutional Law: The 1987 Constitution of the Republic of the Philippines*. <http://www.chanrobles.com/article16.htm>

cases, DTI makes use of ADR to resolve consumer complaints. Last year, the DTI issued Department Administrative Order (DAO) No. 13-02, Series of 2013 amending certain provisions of ~~therewith, DTI issued~~ Department Administrative Order No. 5, Series of 2007 providing for the rules on mediation in resolving inquiries, complaints, and/or cases filed with the DTI for violations of RA 7394 or other trade and industry laws supplementing DAO No. 7, Series of 2006 and Department Administrative Order No. 07, Series of 2006 providing simplified and uniform rules and procedures for administrative cases filed with the DTI. DAO No. 13-02, Series of 2013 specifies definite number of days for the resolution of consumer complaints by either mediation or arbitration. For mediation, complaints must be resolved within ten (10) working days while twenty (20) working days by arbitration.

Other ~~More recent~~ legislative enactments which provide for either arbitration or mediation as dispute resolution are: the *Local Government Code of 1991 on Katarungang Pambarangay Law (RA 7160)* which requires certain controversies to be referred to a *barangay lupon or pangkat*, the country's smallest unit of governance, as condition precedent to filing an action in court (Sec. 413, in relation to Sec. 418).

The *Consumer Act of the Philippines* provides the relevant provision for consumer redress. This Act incorporates the aspects of mediation and arbitration. Mediation is the process whereby the parties voluntarily settle their differences in the presence of an officer who offers to help with a solution of the case based on a compromise or amicable settlement; while arbitration is the process whereby the parties submit their case to an officer who after ascertaining of the pertinent laws, facts and issues, renders a decision or award which is binding and conclusive on the parties.

The *Consumer Act of the Philippines* (Art. 159-163) provides legal basis for consumer complaints and investigation procedure. The Act vests consumer arbitrators who are government employees appointed by either the Secretaries of Health, Agriculture or Trade and Industry, with original and exclusive jurisdiction to mediate, conciliate and hear or adjudicate all consumer complaints.

Article 159 of the Act also enjoins the departments to '*establish procedures for systematically logging in, investigating and responding to consumer complaints... assuring as far as practicable simple and easy access on the part of the consumer to seek redress for his grievances*'.

The concerned Department Secretaries are required to appoint consumer arbitration officers,³³ each college-trained and with at least three years of experience in the field of consumer protection,³⁴ to mediate, conciliate, hear and adjudicate all consumer complaints.³⁵ The officers are required to 'first and foremost ensure that the contending parties come to a settlement of the case' and 'in the event that a settlement has not been affected the officer may proceed to formally investigate and decide the case'.³⁶

3.2.1 The Consumer Complaint

Complaint covered under the *Consumer Act of the Philippines* must be from a consumer, defined by the Act as a natural person who is a purchaser, lessee, recipient or prospective purchaser, lessor or recipient of consumer products, or services or credit (Art. 4).

³³ Article 110

³⁴ Article 161

³⁵ Article 162

³⁶ Article 163

The complaint can be about ‘*Consumer products and services - goods, services and credits, debts or obligations which are primarily for personal, family, household or agricultural purposes, which shall include but not limited to food, drugs, cosmetics, and devices*’ (Art. 4).

The law prescribes that consumer complaint can be filed at DTI provincial offices having jurisdiction over the subject of the complaint. In areas where there are no provincial offices, the complaint shall be filed in the regional offices. In cases where the complainant and respondent are situated in different provinces, the complainant has the option to choose the place where to file the complaint. The civil/criminal action shall be filed with the appropriate regular courts (Municipal Trial Court/Regional Trial Court).

3.2.2 Remedies available to consumers

For administrative proceedings:

- replacement or repair of product or services
- refund of payment made
- restitution or rescission of contract
- reimbursement to complainant of amount spent in pursuing the complaint

For civil/criminal action:

- civil action
- award of damages
- replacement or repair of product or services
- refund of payment made
- restitution or rescission of contract
- reimbursement to complainant of amount spent in pursuing the complaint
- criminal action - defendant, if found guilty by the court can be sentenced to imprisonment or payment of a fine or both, at the discretion of the court.

3.2.3 Procedure for Mediation and Arbitration of Consumer Complaints

Under the Act, consumers can seek redress by filing a letter of complaint addressed to the concerned department or government agency. The government departments concerned – the DTI, DOH, and the DA – upon petition or receipt of complaint letter from any consumer may each, within their own area of competence, commence an investigation. Upon findings of a ‘*prima facie*’ violation of any rule or regulation promulgated under their jurisdiction, the departments upon verified complaint may commence formal action against any person who appears responsible.

A wide range of penalties may be imposed, even if not requested in the complaint. These include cease and desist orders, assurance to recall, replace repair or refund of the monetary value, restitution or rescission of the contract or the imposition of fines of between **PhP200 PhP500** to 300,000 depending on the gravity of the offence.³⁷

Any order, not interlocutory, becomes final and executory unless appealed to the relevant Department Secretary within 30 days. The decision of the Department Secretary

³⁷ Article 164

becomes final after 15 days from receipt of it unless a petition for *certiorari* is filed with the Court of Appeal.³⁸

There are advantages of filing complaint before the implementing agencies (administrative proceedings). Mediation/arbitration is more economical and time saving, and the complainant does not need to undergo the rigors and expense of a court case.

3.2.4 Available consumer redress

As a whole, the DTI highlights the importance of consumer welfare. It regulates policies that protect the rights of the consumers via different methods. DTI and its regional offices make sure that the provisions in these policies or laws are effective. The consumer assistance service implemented by DTI, in coordination with the **Consumer Protection and Advocacy Bureau** (formerly Bureau of Trade Regulation and Consumer Protection), includes information dissemination, regular monitoring of establishments, and complaints handling. DTI has also developed ~~the a Customer Relationship Management (CRM) System complaint tracking system~~ that records and tracks all complaints and queries received by the agency from consumers. It also generates reports on the number, ageing and resolution of complaints, and facilitates paperless endorsement within the DTI. ~~among other things, enables staff to determine the exact length of time it takes to resolve a consumer complaint which is ideally within a week upon receipt of the complaint.~~

Among the implementing agencies of the *Consumer Act of the Philippines*, it is the DTI which has the largest coverage of providing consumer redress. It has set up mechanisms in all levels i.e. national, regional and local levels.

At the national level, DTI maintains a consumer hotline called **DTI Direct** which accepts, reviews, and resolves consumer queries and complaints. It covers disputes involving untrue, deceptive or misleading advertisements, mislabelling and misbranding, monopolies and combinations in restraint of trade, importation and disposition of falsely marked articles, price tags, and product standards. DTI's **CPAB BTRCP** also responds to complaints lodged by visiting consumers or via email, SMS, and call. A consumer complaint template is available in the DTI website and in its offices nationwide which requires consumers to provide details of complaint and proof of purchase or other pertinent documents. Below is number of calls received by DTI Direct Call Centre for the first half of ~~2010~~ 2014.³⁹

For consumers outside Metro Manila, the country's major metropolis, they can seek redress through the **Consumer Welfare Desks Consumer Arbitration Offices** set up in DTI's regional and ~~provincial local~~ offices.

³⁸ Articles 165 and 166

³⁹ DTI Direct. *Direct Call Centre Report - 01 January – 01 May* ~~2010~~ 2014. http://docs.google.com/viewer?a=v&q=cache:3gD3q8ibJB8J:www.dti.gov.ph/uploads/DownloadableForms/DTI%2520Direct%2520June%25202010%2520issue.pdf+Gold+Bagwis+dti&hl=en&gl=my&pid=bl&srcid=ADGEEsj22oGIGEKC-8ZjfniCWPGFEaj8txmmWWgtJZb1-0vnrUTgr9P-mdLYOZ5jmsUoKHW0rifM6wfbFmRsjN05bo0wNXd93aj16Xp9YvKsmh33Cs-ft6zWwMvByRfANQ_HqFoVW7Hz&sig=AHIEtbTSqpr0VbpPgi0mMHH9JMeD_Y-2g Retrieved on 12 December 2010.

Table 6. DTI Direct Call Centre Report. Period covered: 01 January – 01 May ~~2010~~ 2014

Total Calls Received By Type	Jan	Feb	Mar	Apr	May
Business Name	1796	1516	1692	1172	1297
Exports	3	2	3	3	2
Investments	4	4	5	3	10
Consumer Welfare	640	551	569	562	621
MSMEs	28	24	27	18	24
Others	629	652	736	565	668
Total	3100	2749	3032	2323	2622

In the general survey done for this study, there are two findings that are noteworthy:

- More than 80% of respondents answered yes when asked whether consumers in the country can are able to seek redress through the national consumer hotline number, and
- More than 60% shared that there is an effective structures and mechanisms for consumer redress in the country.

3.2.5 Redress mechanisms for specific subject areas

For specific subject areas, there are legal provisions that address consumer complaints. These include:

- Under the *Food and Administration Act of 2009*, the Food and Drug Administration under DoH will have the power to immediately recall, ban or withdraw medical products that fail standards or are found to pose a threat to the public (Chapter 6, Sec. 11).
- RA 7925 provides clear provision on the rights of telecommunications users ‘thorough and prompt investigation of, and action upon complaints. The utility shall endeavour to allow complaints to be received over the telephone and shall keep a record of all written complaints.
- Violations defined in the *E-Commerce Law of 2000* especially those defined under the *Consumer Act of the Philippines*.
- The *Truth in Lending Act of 1963* provides clear provisions on what constitute violations related to borrowers’ loans.
- Under the *Ecological Solid Waste Management Act of 2000*, any Filipino citizen may file a case in the proper courts depending on the nature of case against a person, the DENR or implementing agencies, and public officer for violations defined in the Act.
- RA 7875 instituting the national health insurance program for all Filipinos and establishing the Philippine Health Insurance Corporation, provides a system of grievance wherein members, dependents, and healthcare providers of the program who have been aggrieved.
- *Generic Law of 1988* provides administrative sanctions such as the suspension or cancellation of license to practice profession.
- The *Philippine Nursing Act of 2002* has penal provisions on acts of violations of the prohibitions in the practice of nursing.

- The PRC Modernization Act of 2000 investigates violations of professional standards and adjudicates administrative and other cases against erring registrants. It includes provisions for suspension, revocation or re-issuance of professional certificate registration.
- Under the Philippine Medical Act, grounds for reprimand, suspension or revocation of registration of certificate of a medical physician found in violations is provided.

3.2.6 Available consumer redress for specific subject areas

There are government departments or authorities assigned to address consumer redress.

The usual procedure requires the consumer to contact or visit the nearest and relevant government agencies:

- Problems relating to manufactured product quality and safety, warranties, service and repair shops must be referred to DTI.
- Complaints on processed food and drugs, contact the DoH's **Food and Drug Administration** ~~Bureau of Food and Drugs~~.
- Fraudulent weights and measures, as well as foods in restaurants and eateries, contact the Department of Interior and Local Government (DILG).
- For erring taxi franchises, the Land Transportation Office.
- Professional services, the PRC,
- Adulterated/banned/mislabelled food and drugs, hazardous substances, cosmetics, the DoH
- Sale of substandard and mislabelled agricultural products, DA
- Nondisclosure or incomplete disclosure of true cost of credit extended by banks, pawnshops, etc.,
- Nondisclosure or incomplete disclosure of true cost of credit extended to consumers by financing companies, other pre-need plans, etc., SEC
- Environmental issues, the Department of Environment and Natural Resources (DENR) and relevant local governments.
- Telecommunication products and services, 'One-Stop Public Assistance Centre' of the NTC

3.2.7 Industry-linked consumer redress

Industries that have national presence have started to set up Consumer Welfare Desks (CWDs), part of the Gold Bagwis Program of the DTI which is a self-policing mechanism in the business sector to resolve consumer complaints. The main objectives of the establishment of CWDs are to forge partnership between the government and the private sector in the promotion of consumer welfare, and set up procedures to systematically and appropriately address consumer complaints.

Consumer protection is given the much-needed attention as CWDs in business establishments shall be manned primarily by the manager/supervisor of the participating stores and should be situated at a strategic place easily located by consumers preferably near the Customer Relations Desk of the stores.

Most consumer complaints can be best addressed by a particular section or department where the issue or transaction took place. Officers-in-charge in most product and service providers in the country respond to complaints. In case of dissatisfaction, consumers can always tap DTI services to resolve the issue.

For disputes involving financial institutions, consumers may contact or personally talk to the manager or officer-in-charge of his/her bank. In cases when complaints are not resolved, consumers may write his/her complaint and send by mail, email or fax or proceed to the BSP.

There are available industry-linked consumer redress mechanisms, the more popular options in place and relevant to this research include the following: those lodged under industry and professional associations i.e. the ‘Commission of Bar Discipline’ of the Integrated Bar of the Philippines, and the Philippine Medical Association.

‘Bantay Kalikasan’, the environmental arm of the ABS-CBN Foundation Inc. acts on environmental-related complaints. It is a media-based project supported by a multi-sector network of government agencies, private institutions, and non-government organizations established in July 1998.

3.3 CONSUMER PROTECTION PROGRAMMES, INITIATIVES AND BEST PRACTICES

3.3.1. Programmes and initiatives

Filipino consumer is gradually becoming aware of his or her rights, based from the volume of customer complaints received by the DTI through its consumer hotline. The **DTI Direct Call Centre** report indicates that from **January 2014 to May 2014** ~~November 2006 to December 2007~~, consumer welfare made up **21.29%** ~~24%~~ of the total volume of calls received by the centre. It placed second following inquiries about business name registration application, which accounted for **54.05%** ~~51%~~ of all calls.⁴⁰

The business sectors are said to have supported the increased in consumer awareness. The Philippine Retailers Association claims that retailers themselves have been responsible for upholding the rights of consumers under the *Consumer Act*. A lot of retailers are coming up with their own policies.

A study carried out in 2007 by the Philippine Information Agency on the awareness, knowledge, attitude and practice of consumers on DTI’s information, education and communication (IEC) program dubbed as *‘Consumer is King’* reveals an improvement among consumers. Approximately half of respondents are aware of DTI IEC program, 30% higher from a similar survey done in 1999.

The government as well as nongovernment organisations have been doing consumer protection programmes and initiatives that are aimed at increasing consumer awareness and empowering them. Here are some of these.

- **Integrated Consumer Education Program.** ~~At the opening of classes in June~~ In 2010, DepEd with the DTI has started to integrate consumer education in secondary school curriculum. A total of 98 lesson exemplars and 10 modules on consumer

⁴⁰ ~~The Manila Times. Prospects and challenges in task of protecting consumers [14 September 2008]. http://www.manilatimes.net/national/2008/sep/14/yehey/top_stories/20080914top4.html. Retrieved on 12 November 2010.~~

education were developed on the *Consumer Act of the Philippines, the Price Act, and the Standards Law* as well as consumers' rights and responsibilities. These are currently being implemented ~~piloted~~ in 180 public and private schools nationwide. Lessons on consumerism will be integrated in such subjects as English, Filipino, Science, Mathematics, Social Studies, Values Education, Music, Arts, Physical Education and Health, and Technology and Livelihood Education.⁴¹

ARTICLE 154 of the *Consumer Act* prescribes consumer education in schools. It further prescribes principally the Department of Education, Culture, and Sports, now referred to as DepEd to develop and adopt a consumer education program which shall be integrated into existing curricula of all public and private schools from primary to secondary level. This section outlines two notable national consumer awareness and education programmes implemented by the government.

- **Consumer Welfare Month.** This country has been traditionally celebrating October as Consumer Welfare Month in abidance with *Presidential Proclamation No. 1098*. The NCAC is tasked, in coordination with consumer oriented government agencies and non-government organizations (NGOs), to undertake programmes and activities to ensure its successful observance and to pursue such measures to effectively promote the interest and general welfare of the Filipino consumers.
- **Local level program.** *KaKaMPi ko si Barangay CAPT*, a program innovated by DTI in Region 3 mainstreaming consumer education in local communities in partnership with *barangay* officials.
- **Consumer education seminar in business establishments**
A regular consumer education seminar is being conducted by DTI for business establishments regarding consumer laws, particularly on product quality and safety, liabilities, warranties, labelling, deceptive sales acts. The main objective of this initiative is to protect consumer rights by keeping the business sector informed about the department's issuances. DTI targets retailers, manufacturers, distributors, dealers of consumer products and services.
- **Media programmes**
The DTI has a weekly radio program entitled, *Konsyumer At Iba Pa (KATBP)* aired every Saturday at 10:30am to 12:00nn at DZMM 630KHz which serves as a consumer education program that provides the general public proper information, which can largely affect their daily lives. Issues and concerns on consumer rights and responsibilities, product quality and safety, and, frontline government services and projects, are among those which are tackled to ensure that the welfare of consumers is protected.
~~In 2009, a radio program was aired dubbed as 'Ang DTI dito sa Batas Barangay' aired every Wednesday at 6:30pm to 7:30pm at DZRH 666KHz discussing different consumer protection laws ,i.e., Warranties, No Return No Exchange Policy, Deceptive Sales Act , among others."~~

⁴¹ Philippine News Agency. 'Consumer education to be taught in high school starting this school year' - Positive News Media Philippines [June 1, 2010] http://positivenewsmedia.net/am2/publish/Education_20/Consumer_education_to_be_taught_in_high_school_starting_this_school_year.shtml (Retrieved on 2010-9-30)

Moreover, the DTI also has a radio segment at *Oplan Asenso* entitled, '*May Karapatan Ka*', which is aired every Saturday at 1:30pm to 2:30pm via *Radyo Singko 92.3 News FM*. The segment discusses emerging consumer issues and challenges and features industry-related stories such as trade fairs and free trainings for budding entrepreneurs and exporters.

~~Recently, DTI has also launched a segment at *Mornings @ ANC* program titled '*Consumer Hotline*', which is aired every Monday from 9:30 to 10:00 AM. It is simultaneously telecast in Skycable Channel 27 and The Filipino Channel in other countries. It is an interactive segment that clarifies consumer issues and concerns received from viewers all over the world through Facebook, Twitter and other social networks of ANC.~~

3.4.1.1 Specific consumer awareness and education programmes

On product safety and labelling

▪ Standards Blitz Programme

The BPS is mandated to promote the use and significance of Philippine National Standards, standardization, and conformity assessment activities in the country. The Standards Promotion and Media Relations Division is the promotional arm of the Bureau.

To strengthen its information campaign on standards and standardization activities, the Standards Promotion and Media Relations Division has established the Standards Blitz Program. It is composed of four components, namely the Standards Advocacy club, the Standards in the Curricula of the Elementary, Secondary and Alternative Learning System Education, the Standards' Essay Writing Contest, and the Konysumer At Iba Pa (KATBP) Radio Program. This is in close coordination with DepEd and the Philippine Product Safety and Quality Foundations, Inc..

The KATBP Radio Program principally deals on consumer issues and is aired every Saturday from ~~10:30am – 12:00nn~~ ~~10:00 – 11:30 AM~~ over DZMM 630kHz. In 2008, this program was awarded by the 30th Catholic Mass Media Awards as '*Best Educational Program*'.⁴²

▪ Integrated consumer education program

Part of DTI's program which was launched this year, are modules designed for mobile learners or out-of-school –youth in the secondary level. These present step-by-step guides on quality and safety specification of critical products in the market i.e. automotive batteries, compact fluorescent lamps, flat glass and LPG cylinders. Soon modules on cement, ceramic tile, electric flat iron, lighter, monobloc chair and safety match will also be developed.

On phone and internet services and E-Commerce

An E-Commerce resource website maintained by the DigitalFilipino.com Club.

On consumer credit and banking

Below are government-initiated programmes:

⁴² DZMM Radio website. *Awards and Recognition Received 2001 to 2009*.
<http://www.dzmm.com.ph/about-dzmm/tabid/90/Default.aspx>. Retrieved on 12 December 2010

- Financial literacy and investment consciousness. DepEd and the PSE carried out a Module Development Project to teach public high school students learn about the basics of stock exchange and capital markets. It was geared towards financial literacy and investment consciousness through real life situations on how the economy works and investing in the stock market. These topics are integrated in Economics, which is part of the fourth year curriculum of high school students, in the beginning of academic year 2009-2010
- Financial basics. In 2008, the DepEd has embarked on educating primary and secondary-level students on the financial basics to orient them on economic literacy. Modules were developed to empower children and change the prevailing consumer consciousness on spending and will orient them instead on financial literacy i.e. concepts such as the difference of needs and wants, wealth, interest and inflation.
- General financial literacy. The BSP has taken a proactive stance in embarking on a consumer education program that aims to improve the basic financial literacy of the public. In line with this program, the BSP approved in January 2004 the creation of the BSP Consumer Education Committee that addresses the basic financial literacy needs of consumers of financial products and services.

On environment quality and services

Bantay Kalikasan (Nature Watch), an NGO and environmental arm of the ABS-CBN Foundation, Inc. has been running successful media-based campaigns to protect the environment and the Filipinos from life-threatening impacts of environmental degradation since 1998.

In 1999 the World Wide Fund for Nature Philippines launched an environmental education program called '*Bright Kids*' among public elementary students with electronics provider Philips. This promoted climate change awareness among the youth, with a focus on energy efficiency and conservation. It leads the '*simple switch*' campaign to encourage consumers to switch from incandescent to compact fluorescent lamps.⁴³

On healthcare services

The DoH has been successfully running programmes to increase awareness on health issues through print, radio and television. These included '*Yosi Kadiri*' (anti-smoking campaign), '*inas-paputok*' (prohibits lighting of pyrotechnics, particularly during New Year), anti-dengue, newborn screening, breastmilk, and promotion of generic medicines and public healthcare.

On Professional services

The various medical associations have joined the DoH in promoting healthcare on TV i.e. on dental health care, healthy lifestyles, among others. However, there is no data available on consumer education done on legal services.

3.4.1.2 Other Consumer Protection Initiatives

On general consumer protection

- **The DTI *Bagwis* Award**

⁴³ Philippine Star. *Environmental awareness drive for students launched*. [October 22, 2009] <http://www.philstar.com/Article.aspx?articleid=516374> (Retrieved on 10 November 2010)

Bagwis is a Filipino word which means wing. The Bagwis Award gives due recognition to establishments that uphold the rights of consumers and practice responsible business where consumers get value for their money. The program, a self-policing mechanism in the resolution of complaints, encourages business firms to develop comprehensive complaints-handling programmes. Initially, this scheme was called the DTI-Certified Establishment Program. With a new name, the DTI aims to provide an easy recall for consumers, especially the youth, to know where to buy goods that assure consumer satisfaction.

DTI encourages supermarkets, department stores, specialty stores, appliance centres, hardware stores, and service and repair shops to promote and foster the highest level of business ethics and uphold a fair and honest workplace through voluntary self-regulation and service excellence.

As of ~~17 June 2014~~ ~~31 May 2010~~, the DTI had granted the gold, silver, and bronze Bagwis Awards to ~~3,097~~ ~~1,698~~ establishments nationwide. A gold corporate award shows that each branch of a corporation have complied with the scheme parameters that include the fair trade laws, customer relations, store-management operations, social responsibility, and the *ISO 9001 Quality Management System*.

The program encourages the setting-up of **Consumer Welfare Desks** (CWDs), a DTI recognised customer service counter that will provide information to consumers and serves as a mechanism for speedy resolution of consumer complaint.⁴⁴ This is in compliance with Article 2: *'provision of adequate rights and means of redress'* of the Consumer Act of 1992.

- DTI campaign urging schools to strengthen consumer organisations to support the creation of consumer organisations to become DTI partners in its consumer rights advocacy.

As part of the annual observance of the Consumer Welfare Month, DTI is also conducting these activities:

- **'Consumer Welfare Roadshows** and **'Diskwento Caravan Program'** which serve as venue for consumers to know their rights to be informed of various mandatory products that are being sold in the market; and a discount program, particularly of disadvantaged consumers, respectively.

Sector specific initiatives

- The establishment of hot-lines for consumer watch groups (e.g. Price Watch, Citizen's Crime Watch)
- The utilization of information technology to deliver consumer information, the formation of a trainers' network to provide for the exchange of information in areas of expertise, the inclusion of consumer education in all government and non-government agencies (e.g. parent-teacher organizations), and the improvement of laws and policy to promote consumer education.
- The posting of consumer rights and responsibilities in public areas such as department stores and government buildings is encouraged.

⁴⁴ Department of Trade and Industry – National Capital Region. *Consumer Assistance*. http://www.dtincr.ph/accredited_cwds.php (Retrieved on 10 November 2010).

3.4.2 Best Practices on Consumer Programmes

Identification of best practices in Consumer protection program implementation was made based on the following criteria.

- i. there is continuity and replicability, and follow-up, with regular reporting and updates (each time the program is conducted)
- ii. meets the objectives and targets of the program
- iii. program is evaluated by participants
- iv. documentation of the program's effects
- v. reaches out to target groups as expected or beyond.
- vi. program is implemented within the budget

Here are the best practices in consumer protection found in the country:

- Institutionalization of Consumernet, a network of government agencies with consumer welfare protection aimed at providing speedy resolution for consumer complaints.
- Gold Bagwis Program which set up CWDs in business places aimed at providing accessible and speedy resolution of complaints to consumers.
- Redesign of product labelling to include product guarantees, disclaimers and a description contents
- ~~Introduction of the tri-sectoral mascot 'Mommy Millie,' symbolizing the partnership of consumer, business and government to improve consumer welfare. 'Mommy Millie' or 'mamimili,' means the buyer in Tagalog, the native language of the Philippines. Mommy Millie is used in promoting consumer education and protection activities by all three sectors.⁴⁵~~
- DTI Direct established consumer hotlines nationwide
- Integrating the concept of consumerism in school curriculum to build a generation of aware and vigilant consumers started by DepEd since 2001.
- Financial literacy program of the BSP

⁴⁵ World Federation of Direct Selling Associations. *Philippines CEPI Program Report*.
http://www.wfdsa.org/cepi/index.cfm?fa=phil_cepi_report (accessed on 1 November 2010)

4. NEEDS ASSESSMENT AND CAPACITY BUILDING NEEDS

This section outlines the challenges in implementing consumer protection, particularly by those who are generally responsible for implementation. This also covers their human and institutional gaps, capacity building needs as well as the recommendations to address them. Also, this section outlines how well consumer protection laws have protected the consumers in general.

4.1 ANALYSIS OF SYSTEM, INSTITUTIONAL AND HUMAN RESOURCES GAPS

From the general survey conducted in the Philippines, it was found out that majority of respondents who are working in consumer protection are experiencing challenges and difficulties which are outlined below:

- Monitoring of relevant laws/policies/codes of conduct (94.7)
- Protection of consumer rights in general (84.3%)
- Enforcement of relevant laws (84.2%)
- Addressing complaints (84.2%)
- Consumer redress (73.7%)

The five most common reasons cited for such difficulties are:

1. Adequate number of staff
2. Staff with appropriate experience/skills/qualifications
3. Adequate finances
4. Coordination among relevant agencies/organization

In terms of respondents' knowledge about consumer protection regime, the survey showed that they are generally aware about the laws governing it. Almost 90% of them are aware about the *Consumer Act*, related Constitutional provisions (84.2%), and related laws (94%). However, they have limited knowledge on laws that covered the specific areas (product safety and labelling, professional services, environment, etc.) Also they have limited information related to the consumer protection fund to support the development of consumer organisations and consumer education and whether consumer organisations have the capacity to act on behalf of consumers.

4.2 CAPACITY BUILDING NEEDS IN STRATEGIC AREAS

4.2.1 Laws and Programmes

More than half of respondents indicated medium-to high level of need for assistance to support their work on consumer protection. The rest said there is a low level of need for such.

Among the assistance they required, these two tied as topped of their priorities:

- Awareness and education programmes
- Developing strategic plans for consumer protection

To date, the Philippines does not have a consumer master plan yet and is identified in this report under the capacity building roadmap as a priority need.

The others which they also specified to require assistance included:

- Implementation and evaluation of consumer protection programmes (e.g. price monitoring and market surveillance).
- Training on consumers issues e.g. identification of fraud, counterfeit products, fair trade laws, price fixing, E-Commerce, etc.
- Enforcing laws/codes of conducts that protect consumers
- Monitoring compliance to laws/codes of conduct
- Developing management and leadership skills

4.2.1.1 Capacity building assistance

To address the needs cited above, respondents preferred the following forms of capacity building assistance in order of priority:

1. Manual and toolkit
2. Seminar, workshop, symposium, forum
3. Training on consumer specific areas
4. Study and exposure visit
5. Database management
6. Certified programmes on consumer studies (diploma or degree)
7. Provision of experts
8. Fundraising

4.2.2 Enforcement

Almost 70% of these respondents shared experiencing medium to high level of difficulties in enforcing consumer protection activities and programmes, while only 26% said otherwise.

Under enforcement, these are the areas which the key stakeholders identified:

- Monitoring of relevant laws/policies/codes of conduct (94.7)
- Protection of consumer rights in general (84.3%)
- Enforcement of relevant laws (84.2%)
- Addressing complaints (84.2%)
- Consumer redress (73.7%)

When asked which of the above difficulties the respondents would wish to prioritise, below is the general ranking:

1. Adequate finances
2. Adequate number of staff
3. Staff with appropriate experience/skills/qualifications
4. Access to training
5. Adequate laws

This section outlines the capacity building assistance required in ensuring consumer protection in consumer specific areas in order of priority:

Product safety and labelling: Capacity building assistance

Target agencies: DTI, DA, DOH, LGUs

- Awareness and educational programmes on product
- Establishment of redress system
- Training on development of standards and monitoring compliance
- Training on risk assessment
- Impact of unsafe products on women
- Monitoring and enforcement of laws/codes of conduct and mandatory standards on product safety and labelling

Phone and Internet services, and E-Commerce: Capacity building assistance

Target agencies: DTI, NTC

- Development, implementation and evaluation of consumer protection policies on phone and Internet services & E-commerce
- Monitoring and enforcement of laws/codes of conduct and mandatory standards on phone and Internet services & E-commerce
- Good standards development practices on phone and Internet services & E-commerce
- Development, implementation and assessment of consumer protection programmes on phone and Internet services & E-commerce
- Establishment of a redress system (e.g. handling complaints) on phone and Internet services & E-commerce
- Technical assistance on consumer protection with regard to phone and Internet services & E-commerce

Consumer credit and banking: Capacity building assistance

Target agencies: BSP, and SEC

- Training on Financial literacy (e.g. managing finance and debt), Ethical finance and banking practices, Best practices on access to consumer credit
- Leadership and management development
- Good standards development practices on consumer credit and banking
- Establishment of a redress system (e.g. handling complaints) on consumer credit and banking
- Technical assistance on consumer credit and banking
- Networking and stakeholder engagement on consumer protection, consumer credit and banking.

Environment: Capacity building assistance

Target agency: Department of Environment and Natural Resources, local government units

- Development, implementation and evaluation of consumer protection policies on environment
- Monitoring and enforcement of laws/codes of conduct on environmental consumer services

- Good standards development practices related to environment and consumer protection
- Research & Development (R&D) on environment and consumer protection
- Training on: Environment and health standards
- Establishment of a redress system (handling complaints) on consumer protection with regard to environmental issues (e.g. helpline or hotline for reporting of environmental violations)
- Establishment of institutional structures on environment and consumer protection
- Leadership and management development in development and consumer protection

Healthcare services: Capacity building assistance

Target agency: Department of Health, local government units

- Good standards development practices on healthcare services
- Monitoring and enforcement of laws/codes of conduct and mandatory standards on healthcare services
- Training on: Health needs of women, Rational use of medicines and supplements, Patient safety standards, Ethical marketing of drugs
- Research & Development (R&D) on consumer protection and healthcare services
- Information management system (e.g. data management system)

Professional Services: Capacity building assistance

Target agency: Professional Regulation Commission

Consumer rights and protection related to services of legal or medical professionals

4.2.3 Redress Mechanisms

These are the gaps in providing more effective consumer redress:

- Setting up of fully-functional redress mechanisms in government offices (adequate, competent and dedicated staff)
- Increase human resources in existing offices
- Install new technology for database
- Training on complaints handling
- Expansion of redress mechanisms in the provinces
- Increased public awareness on consumer redress

There are a number of reasons why consumers would rather not complain and seek redress in cases of dissatisfaction over a product or a service they paid for. Below, some of these are highlighted.

A survey done in Asia says that culturally Filipinos are least likely to end a business relationship despite bad customer service compared with counterparts in three other

Southeast Asian countries.⁴⁶ It is the Filipino *hiya* or shame trait stems from losing *amor propio* which is a Spanish word meaning pride. Filipinos find it difficult to confront someone so as not to humiliate the person or cause person to lose his *amor propio*.⁴⁷

Weak customer service representatives that are not empowered to make decisions is also one major complaint in the country.⁴⁸ A study found that the most popular channel for customer service is still a telephone with a *live agent*, although in the Philippines text messaging is also very popular as this is more affordable.

There are now proposals at the Congress to set up an independent quasi-judicial entity to handle all consumer complaints. This shall relieve the DTI from an all-encompassing function of policy-making, implementation and enforcement. Also, this will improve DTI's present complaints handling policy of 'repair, replace, and refund'. Currently, it is voluntary on the part of businesses the right to recall.

At present, DTI only order recall that covers unsafe and hazardous products belonging to its jurisdiction, and in assistance with the DOH with respect to toys, medicines, and contaminated milk.

Below are the common complaints of consumers in specific areas which the DTI and other key stakeholders from the government and non-government organisations as well as the business sector should consider when developing or improving their consumer redress programmes:

4.2.3.1 Product safety and labelling

In relation to product safety and labelling, consumers are facing these challenges: food safety and labelling, food aid and dumping, and lack of consumer awareness of products standards to guarantee compliance with product safety and quality.

Currently, there is no system for data collection on consumer injuries due to unsafe products and inadequate labelling e.g. electrical shocks, poisoning, defective/unsafe toys, etc.

The only available control so far is on advertisement targeting children under the Children's *Television Act of 1997* which is aligned with internationally accepted programmes of action for children's television.

4.2.3.2 Phone & Internet Services and E-Commerce

Statistics in 2009 shows that 29.7% of the country's population are using the Internet⁴⁹. This number, however, is contentious as this does not include those accessing the service

⁴⁶ Business World. *Filipinos most forgiving of bad customer service* (04/10/2010) .<http://www.abs-cbnnews.com/business/04/09/10/filipinos-most-forgiving-bad-customer-service>. Retrieved on 2010-10-10).

⁴⁷ See <http://www.philippine-portal.com/arts-and-culture/traditions-and-customs/values-traits-and-gestures.html>

⁴⁸ Business World. *Filipinos most forgiving of bad customer service* (04/10/2010) .
<http://www.abs-cbnnews.com/business/04/09/10/filipinos-most-forgiving-bad-customer-service>. Retrieved on 2010-10-10.

⁴⁹ [Http://www.internetworldstats.com/stats3.htm](http://www.internetworldstats.com/stats3.htm)

through internet cafes based on the flourishing number of internet shops, particularly near schools and universities.

Cellular mobile telephone system is the preferred mode of service with mobile subscribers hitting 60 million in 2009. Landline subscribers grew to an estimated seven million due to the availability of wireless landline service. Mobile subscribers in the Philippines are divided into two basic segments; postpaid and prepaid subscribers, with an estimated ratio of 15:85 in favour of prepaid. 3G users in the Philippines, whether for mobile phones or USB modem devices, are projected to grow to eight to 10 million in 2010. This will be driven by social networking sites, location-based uses, gaming devices (delivering content through non-traditional devices), and healthcare, among others. The Philippines continues to be the world leader in the Short Messaging Service (SMS) market. Carriers process close to 1 billion text messages per day.⁵⁰

According to a report that compiled data from Reuters, the New York Times, among others, the average Filipino mobile subscriber sent an average of 600 text messages per month, or 43% more than their US counterparts.⁵¹

The common complaints related to these services are:

- Inefficient and substandard phone and internet services
- Rebates and decent customer service
- Deceptive advertising
- Inadequate and irresponsible contact points where consumers could lodge complaints and seek redress for their grievances
- Access to phone and Internet services, and E-Commerce

4.2.3.3 Consumer credit and banking

The sources of consumer credit and loan in the country are banks, cooperatives, loan sharks, credit cards, and pawnshops. Consumers are experiencing these difficulties:

- Tight credit policies of banks, particularly with respect to requirements for assessing and accepting credit application
- Weak information system on available credit facilities
- Poor information dissemination on credit facilities
- Weak institutional and operational structures and systems for the efficient delivery of microfinance services by cooperatives, cooperative rural banks, NGOs, pawnshops and lending investors to the poor in a sustainable manner.

Economic growth and the consequent rise in incomes have encouraged some women to become entrepreneurs and establish their own businesses. However, laws and the policies of credit institutions do not yet reflect the reality of women in business. Although the Women in Nation Building Act of the Philippines gives men and women equal rights to enter into contracts and loan agreements, the consent of the husband is necessary to obtain credit if property is used as collateral.⁵²

⁵⁰ United States of America Department of Commerce. *The Philippine Market*. http://www.buyusa.gov/philippines/en/philippine_market_profile.html. Retrieved on 2010-10-10.

⁵¹ The Daily Blend. 'The Philippines is still the World's Text Messaging Capital' (18 August 2010). <http://thedailyblend.net/philippines-still-worlds-text-messaging-capital-1006.html>

⁵² Asian Development Bank. Socioeconomic Context and the Law: Factors Affecting Women's Status. http://docs.google.com/viewer?a=v&q=cache:OAS_xlbvNY4J:www.adb.org/documents/studies/Sociolegal_Status_Women/chap_02.pdf+married+women+in+the+philippines+need+husband+cons

For millions of women around the world, Philippines included, landownership and access to credit are keys to survival, yet rarely their right. Current economic conditions and structural adjustment policies further deny women economic opportunity in every part of the world without exception. (CIDA 1995: 8)

4.2.3.4 *Environment*

The Philippines ranks eighth among the top ten countries most vulnerable to climate change, according to a new study presented at the ongoing United Nations climate summit here in Copenhagen. The data shows that over the 18-year span the Philippines suffered every year 799 deaths in addition to an average of US\$ 544 million worth of climate-related damages. According to the index, the nation suffered the maximum casualties from extreme weather conditions in 1991 while 2008 witnessed the most damage.⁵³

Residential waste collection and disposal is a major problem in the country. The amount of solid waste produced here has grown into a huge garbage crisis. The Payatas dumpsite tragedy in 2000 claimed the lives of hundreds. In spite of the *Ecological Solid Waste Management Act* and the establishment of the National Solid Waste Management Commission, waste problem persists. This is especially high in Metro Manila where an estimated 7,000 metric tons of solid waste are generated daily. The problem has now even gone beyond Metro Manila, affecting growing and developing municipalities and cities across the country, and hitting us where it hurts: the economy. In 2003, municipal solid waste generated stands at 10M tons per year on a national scale. Of this, only 13% is reused and a miniscule of 5% is recycled and sold. The rest end up in dumps.

In other areas of the environment, the government has done some programmes to address issues related to energy, air and water and these are outlined below:

The Department of Energy implemented the 'Philippine Energy Efficiency Program' which aims to phase out inefficient technologies through the use of energy efficient lighting system instead of incandescent bulbs. The project is envisioned to generate electricity savings and reduce environmental pollution.

The Biodiesel Act of 2006 encouraged the energy sector to push for the use of alternative energy for transportation. In February 2010, the Department of Energy made it mandatory for gasoline stations to sell 2% biodiesel blend. The plan is to increase biodiesel blend to as high as 20% by year 2030. From January to September 2009, actual ethanol sales reached 14 million litres. Aside from biodiesel and bioethanol usage, other government programmes also encourage the use of natural gas, auto-LPG and nuclear energy. By 2010, the target of 200 buses utilising compressed natural gas is expected to complete the first pilot phase of the program to jumpstart the commercial phase. Liquefied petroleum gas as an alternative source of transport fuel also increased in acceptance. To date there are about 15,000 taxi cabs using this type of fuel nationwide.

[ent+for+credit&hl=en&gl=my&pid=bl&srcid=ADGEEsIk1jXJS6cd1HpMgnGGDO7Rj-uJEIkM9B5Fk519W4sixsQHMAOrYUfMyk5UHKnadIkMEE6ggSnjBotxywiPFsm6lm1374JOUbCSQYDpL_BANLzBHmd628wef9rO9qr7JfOIWjbT&sig=AHIEtbQtU8fdNR9Gqsjnwr84O0p3eBY43g](http://www.climatemediapartnership.org/reporting/stories/philippines-eighth-most-vulnerable-to-climate-change/) Retrieve on 2010-10-10.

⁵³ Climate Change Media Partnership. *Philippines eighth most vulnerable to climate change*. <http://www.climatemediapartnership.org/reporting/stories/philippines-eighth-most-vulnerable-to-climate-change/> Retrieved on 2010-10-10.

The EMB National Capital Region monitors roadside TSP (total suspended particulates) concentrates in Metro Manila through its 24 sampling stations located near major thoroughfares. Concentration of other pollutants are monitored through the Metro Manila Airshed Ambient Air Quality Monitoring Network which started operating in 2003.⁵⁴

In terms of protecting water sources, the government prohibits the constructions of houses or commercial establishments within the 25-meter distance from water sources used for drinking to prevent it from contamination as embodied in the '*Sanitation Code of the Philippines*.' The government also imposes an environmental user fee system to regulate the disposal of liquid waste to water bodies. The research, however, shows that to date, the government has no rainwater harvesting program. Although in the face of water crisis being experience nationwide, the Department of Environment and Natural Resources released a statement urging the national government to consider rainwater harvesting technology as a potential solution to the country's problems on flooding and water shortages.

4.2.3.5 Healthcare services

Consumers in the Philippines have two common complaints when they access government and private hospitals. Both lack institutionalised grievance mechanism for consumer redress that will protect the interest and welfare of patients and to uphold their right to health and to safe, humane, decent, and quality of health care. Also, in both type of healthcare, there area some cases of unethical practices and malpractices.

The accessibility of safe and quality healthcare services is still very much a challenge for consumers especially amid the rising cost of medicines, substandard drugs, and brain drain or the migration of health professionals abroad in pursuit of the proverbial greener pasture. In public hospitals, consumers complain that they have limited medical facilities and personnel and tariff for medical services has increased. In private healthcare institutions, it the increasing cost of service fees and medicines that consumers complain about.

There are government measures to promote safe use of traditional medicines and to integrate them into mainstream healthcare system. The highly westernised medical field in the country first encountered a more accepting role of traditional medicine in the health delivery system in 1992 when former Health Secretary Juan Flavier laid the groundwork for the passage of the Traditional Medicine Act of 1997. This paved the way for the creation of the Philippine Institute of Traditional and Alternative Health Care, a government owned and controlled corporation attached to the Department of Health to answer the needs of the people through the provision and delivery of traditional and alternative health care products, services and technologies that have been proven safe, effective and affordable.

4.2.3.6 Professional services

The most sought type of professional services in the country are medical (dental, medicine, midwifery and nursing), legal accounting and financial services, and engineering. The study only covers legal and medical services and based on findings, accessibility related to rising cost of professional services and cases of unreported malpractices are the two most common complaints.

⁵⁴ The Environmental Management Bureau's 2004 Report.

4.2.4 Implementing Agencies on Consumer Protection

Some capacity building gaps were already mentioned in the previous pages based on the general survey. In this section, these gaps will not be repeated but will be listing down the needs of these agencies based on the key informant interviews.

4.2.4.1 ACCP focal point

- Training on redress mechanisms
- Study visit to see best practices on consumer protection implementation and redress mechanisms
- Funding for consumer education program
- Increased staff
- IT improvement
- A regional platform for exchange on consumer protection among AMS

4.2.4.2 Interagency coordination

- Meeting
- Funding for consumer education program

4.2.4.3 Other stakeholders

For consumer organisations

- Increasing the institutional and human capacities
- Setting up of a federation to serve as umbrella organisation in the country
- Seed funding for initial programmes

For the business sector

- Training on consumers' perspective
- Training on social responsibility
- More collaboration opportunities

5. RECOMMENDATIONS FOR CAPACITY BUILDING ON CONSUMER PROTECTION

5.1 CAPACITY BUILDING ROADMAP AND IMPLEMENTATION PLAN

In the ACCP Workshop conducted in Malaysia on 29 November - 1 December 2010, the Philippine representatives were asked to identify five major areas for prioritisation for their national capacity building roadmap. They have identified the following as immediate needs within one to two years:

- (i) National policy
- (ii) Master plan
- (iii) Consumer NGO development
- (iv) Consumer advocacy
- (v) Enforcement

According to the ACCP focal point, they have been planning to develop their national policy on and master plan for consumer protection. However, this has not been done till now. They conveyed that this country report will serve as major input in developing these documents and hopefully ASEAN and CIKL will assist them in this objective.

There are a number of consumer organisations in the Philippines. However, most of these are issue based and are highly dependent and attached to high profile figures. At the roundtable discussion, participants representing this sector have limited staff and resources to run fully functional offices. The DTI has acknowledged the importance of a strong consumer movement to represent consumers. Thus, it hopes to organise them in 2011 and set up a federation which the DTI envisions to be its partner in championing consumer rights.

In terms of enforcement, the focus and priority should be building up on knowledge and techniques on handling specific consumer issues. The survey indicates that respondents, although they have high level of awareness on the general consumer protection law, have limited information regarding laws, policies and programmes covering the specific issues, i.e. product safety and labelling, healthcare services, consumer credit and banking, etc.

On the next page is the Roadmap for Capacity Building Needs on Consumer Protection of the Philippines as recommended by CIKL.

IMPLEMENTATION PLAN FOR THE CAPACITY BUILDING ON CONSUMER PROTECTION IN THE PHILIPPINES

The National Capacity Building Roadmap on Consumer Protection of the Philippines			
Areas	SHORT TERM (2011)	Medium term (2011-2013)	Long term (2011-2015)
1. NATIONAL CONSUMER PROTECTION POLICY	To develop a national consumer policy	Translate the national consumer policy into plans and programmes	Review the national consumer policy to see applicability.
2. CONSUMER MASTER PLAN	Formulate a consumer master plan and identify implementation milestones	Translate the master plan into programmes and projects, and identify implementation milestones	Review and update action plan, and identify implementation milestones
3. PRINCIPAL CONSUMER PROTECTION LAW	Identify the gaps in existing legal regime for consumer protection nationally; review pending consumer protection legislations changes; and consolidate gaps and changes for amendments	Draft required legislation, lobby for its approval	Translate legislation amendments into programmes and projects
4. CONSUMER RELATED LAWS AND STATUES	Review consumer-related laws and statues to address emerging and/or clashing issues	Draft required legislation amendment/s, lobby for approval	Review related laws and statues
5. ESTABLISHING INSTITUTIONAL MECHANISMS	Strengthen the National Consumer Affairs Council and review functions and membership	Conduct an institutional review of the council and update strategic plan	
		Formulate a strategic action plan for core areas, and identify implementation milestones	Develop an information management system that will monitor implementation of consumer protection activities in the country, programmes and projects
	Activate consumer protection offices of all enforcement agencies, review functions and resources, formulate	Review plans and programmes and fine tune strategies	

The National Capacity Building Roadmap on Consumer Protection of the Philippines			
	action plans and identify implementation milestones		
	Conduct training for local government units regarding consumer protection related devolved functions.	Strengthen local government units on consumer protection related devolved functions i.e. health, environment, infrastructure, and on consumer redress	
6. ENFORCEMENT AGENCIES			Develop consumer protection strategic objectives at the local level, identify milestones, and provide funding for consumer protection related programmes
	Strengthen existing redress mechanism through training, adequate staff, and promote the mechanism through a nationwide awareness campaign	Review existing redress mechanisms	Set up accessible redress mechanisms nationwide
7. HUMAN RESOURCE DEVELOPMENT	Conduct an institutional and human capacity building needs	Develop HR Development programmes and upgrade HR capacity to meet emerging needs	Develop a continuing education program for staff and management
8. PROGRAMMES FOR CORE CONSUMER AREAS	From the master plan, develop strategic objectives for core consumer areas and identify milestones	Translate the master plan into programmes and projects, and identify implementation milestones	Review plans and programmes, fine tune strategies, and identify implementation milestones
9. CONSUMER EDUCATION AND AWARENESS	Identify best practices in the country and other countries and adopt these into national context and needs	Identify best practices in the country and other countries and adopt these into national context and needs	
		Develop a national consumer education policy	Review formal and informal consumer education programmes, identify implementation milestones

The National Capacity Building Roadmap on Consumer Protection of the Philippines			
	Reinforce existing consumer education via media, movie houses, IEC and partnership with major retail establishments	Implement a continuing consumer education program for the general public	Implement a continuing consumer education for the general public
	Mainstream consumer education via tri and new media	Mainstream consumer education via tri and new media	Mainstream consumer education via tri and new media, and make it part of media's public service
10. CONSUMER NGO DEVELOPMENT/INDUSTRY	Establish Certified Establishments in major retails nationwide	Develop a consumer protection module for commercial Industries	Adoption of ISO26000/Social Responsibility by the business sector
	Strengthen consumer organisations in the country	Organise a consumer federation that will represent consumers in all consumer-related debates and issues	Set up consumer protection awareness mechanisms in local communities
		Set up a sustainable funding for the consumer federation	Develop NGO strategic plans and identify implementation milestones
11. PARTICIPATION IN CONSUMER PROTECTION	Enhance support for leadership and management development in CP		
	Identify areas for participation for all stakeholders		
12. IMPLEMENTATION OF INDUSTRY CODES OF CONDUCT	Promote review of industry codes that are in place for the last 10 years and above	Integrate consumer protection in all business operations	Adopt ISO26000/Social Responsibility by the business sector
13. WOMEN AND CONSUMER PROTECTION	Identify areas of concern for women consumers	Integrate gender dimension into consumer policies and legislations	Consolidate women's participation at all levels

The National Capacity Building Roadmap on Consumer Protection of the Philippines			
14. PROTECTION OF CHILDREN AS CONSUMERS	Conduct a national assessment of policies and government programmes/initiatives that affect or impact on children	Create an enabling environment for children as consumer	Implement consumer awareness in school program nationwide, and conduct education program for out-of-school children.
15. ADVOCACY	Make this an integral key point of the master plan to advocate for consumer protection and awareness	Develop a national advocal plan and corresponding action plan	Review plans and programmes, fine tune strategies, and identify implementation milestones
16. FINANCE	Mobilise the consumer protection trust fund to promote consumer education and develop consumer organisations	Conduct a feasibility plan for the trust fund and identify projects for its funding	Review plans and programmes, fine tune strategies, and identify implementation milestones
	Identify funding requirements of consumer protection programmes and projects and potential sources; conduct initial fundraising for key and urgent consumer protection activities	Develop a sustainable funding mechanism for consumer protection programmes and projects, conduct ambitious and active donor conferences to support consumer protection programmes	Develop self-sustaining programmes and projects to promote consumer protection

5.2. PRIORITISATION OF STRATEGIES AND FOCUS AREAS

This section aims to provide recommendations to improve the capacities of key implementing agencies and their partners (i.e. NGOs and business organisations) in carrying out their consumer protection-related functions. These recommendations are divided into three categories:

- i.) **Legislation** that covers the capacity building needs in making laws on consumer protection,
- ii.) **Implementation**, the capacity building needs in the execution of plans i.e. consumer education programmes and other initiatives, and
- iii.) **Enforcement** to include capacity building needs to effect legislation i.e. training and human resources

The prioritisation of capacity building needs is mainly based on the general survey, particularly the '*index of assistance required to support the work on consumer protection*'. Inputs gathered in the key informant interviews and roundtable discussions are also integrated in this section to provide explanation for the prioritisation.

From among the three categories listed above, it is implementation that majority of stakeholders would need capacity building assistance. It generated the highest index mark at 3.95 with five as the highest index set. This is followed by enforcement and finally, legislation. Below are the specific capacity building needs in each area listed in order of priority:

5.2.1 Legislation

1. Research on existing consumer protection laws to cover emerging issues
2. Developing appropriate policies/laws and programmes in relevant areas of work for consumer protection

5.2.2 Implementation

1. Awareness and educational programmes
2. Developing strategic plans for consumer protection
3. Implementation and evaluation of consumer protection programmes (e.g. price monitoring and market surveillance)
4. Developing consumer organizations (government linked agencies, NGOs, independent)
5. Establishing legal and institutional mechanisms for consumer representation
6. Consumer issues impacting on women

5.2.3 Enforcement

1. Good standard development practices related to quality and safety standards
2. Training staff on consumer issues (e.g. identification of fraud, counterfeit products, fair trade laws, price fixing, E-commerce etc.)
3. Enforcing laws/codes of conducts that protect consumers
4. Monitoring compliance to laws/codes of conduct
5. Developing management and leadership skills

6. Technical assistance on consumer protection
7. Establishing and/or managing redress mechanisms
8. Establishing institutional mechanisms for implementing consumer protection policy
9. Hiring competent personnel
10. Information technology management

The factor that can be taken into account why legislation received the lowest index as an area of assistance required is perhaps the fact that the Philippines has enough legal basis already for consumer protection, and one with the most comprehensive laws. The specific capacity building needs in this area to date are those relating to legislation gaps that relate to:

- Emerging consumer issues
- Tightening of loose provisions of the general consumer act i.e. integration of informal ‘ambulatory’ business sector, stiffening of penalties for violations.
- Creation of an independent quasi-judicial entity to centrally handle all consumer complaints.

In terms of implementation, awareness and information programmes topped the list of all areas where intervention is highly needed. In a meeting with DTI-BTRCP, it was found out that they have done a number of educational materials aimed at increasing consumer awareness about their basic rights and these are in various formats e.g. posters, pamphlets, and theatre advertisements, among others. However, the distribution of these materials has been limited due to funding and lack of dissemination channels. Funding to reproduce the materials and partners to assist them reach out to consumers in local communities is needed.

Aside from the above, the Bureau sees that there is a gap in the entire gamut of implementing consumer protection program and initiatives. The missing link which will improve the enabling environment for consumers are the consumers, themselves. The Bureau encourages the participation of consumer organisations in its projects and programmes, however, they are not organised to serve as the bureau’s partner. Thus, to date, the Bureau partners with commercial establishments in setting up consumer welfare desks as they provide consistent and more accessible venue for consumer information and redress.

The involvement of consumer organisations is embodied in the *Consumer Act* and it says:

‘The Departments shall establish procedures for meaningful participation by consumers or consumer organizations in the development and review of department rules, policies and programmes. Such procedures shall include provisions for a forum, where consumers can express their concerns and recommendations to decision makers. The departments shall exert efforts to inform consumers of pending proceedings where their participation is important.’ (Art. 156. Consumer Participation)

Consumer organisations in the Philippines are predominantly established to address issue-based consumer concerns. They are understaffed with no regular funding for

operations, and at some point are heavily dependent on affiliation with high profile figures in the consumer movement.

Thus, this report supports the Bureau's program of action in the next years to empowering consumer organisations in the country by organising their presence on local, provincial and national levels. The hope is for them to serve as the DTT's partner in serving as conduit in consumer education and implementing consumer protection initiatives as well as watchdogs of the behaviour of the business sector in the country.

In terms of enforcement, the focus and priority should be building up on knowledge and techniques on handling specific consumer issues. The survey indicates that respondents, although they have high level of awareness on the general consumer protection law, have limited information regarding laws, policies and programmes covering the specific issues, i.e. product safety and labelling, healthcare services, consumer credit and banking, etc.

6. CONCLUSION

Amid the presence of a comprehensive legislative basis for consumer protection, there are three major gaps which this research has compiled along with general recommendations to address them.

1. The government agencies implementing consumer protection in the country are experiencing challenges and are in need of capacity building assistance in executing laws and in the implementation of consumer protection programmes and initiatives. In general, the kind of environment that they are operating reveals these gaps:

- i. Inadequate finances
- ii. Inadequate number of staff
- iii. Limited staff with appropriate experience/skills/qualifications
- iv. Need access to training
- v. Inadequate laws (to cover emerging issues)

To improve their capacities to pursue their mandate, they would need assistance in these areas:

- i. Awareness and education programmes, in terms of development and dissemination
- ii. Developing strategic plans for consumer protection
- iii. Implementation and evaluation of consumer protection programmes (e.g. price monitoring and market surveillance.
- iv. Training on consumers issues e.g. identification of fraud, counterfeit products, fair trade laws, price fixing, E-Commerce, et.
- v. Enforcing laws/codes of conducts that protect consumers
- vi. Monitoring compliance to laws/codes of conduct
- vii. Developing management and leadership skills

2. There is a need to empower the voice of consumers by strengthening consumer organisations. To pursue this, the following are needed:

- i. Organising and empowering of consumer organisations in local, provincial and national level
- ii. Establishing a federation of consumer organisations which shall serve as the government partner in developing and implementing better and responsive consumer protection initiatives as well as voice of consumers in issues that matter to them

3. There is a need for a regional information network among ASEAN Member States. A regional information and communication platform that will enable exchange among ASEAN member states on best practices, knowledge exchange and crossborder transactions that will mutually protect consumers in the region. To date, there is no mechanism in place regionally that would provide consumer protection implementing agencies and their partners handle this area.

- End -

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A. APPENDIX 1

LIST OF STAKEHOLDERS

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Roundtable discussion

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B. APPENDIX 2

Key Informant Interview Questions

Guidelines for discussion with Key Informants

Note: The questions below are not prescriptive; they are guidelines for a discussion to elicit information in addition to what has been obtained from the general questionnaire. Not all questions will be relevant for all Key Informants. The interviewer should exercise discretion in deciding which of the questions are relevant for a specific Key Informant.

Ice breaking questions

- A1 Please introduce yourself and where you are from etc.
Please share with us about the work of your organization/division/department/unit and who are your target audiences etc.?
- A2 Please elaborate further about the functions of your /division/department/unit in relation to consumer protection issues.
- A3 In general, what kind of activities and programmes has your /division/department/unit conducted/implemented related to consumer protection?
- A4 Share with us some strategies you have used in implementing these programmes and activities.

▪ Sharing and discussion on preliminary findings of the general survey in each country

- B1 Power point presentation by interviewer (CIKL)
- B2 **Potential questions:**
20. Do these findings reflect the actual situation of consumer protection in your country?

Some leading questions- e.g. How well are the policies implemented?; there a centralized, nationwide mechanism for compiling and analyzing consumer complaints (in the seven aspects of consumer protection that is being reviewed); How are newly emerging issues in consumer protection identified? Does anyone conduct research into this area?; Can you describe any redress mechanisms available for consumers (in the seven aspects of consumer protection that is being reviewed) and Are there any specific issues relating to women (in the seven aspects of consumer protection that is being reviewed)? How are they being addressed?

- B3 Potential questions for the seven consumer protection areas (as in the general survey):
- Environment;
 - Product safety and labelling;
 - Healthcare and medical services;
 - Consumer credit and banking;
 - Phone, internet services and E-commerce;
 - Professional services (legal and medical)
- B4 Try to elicit the reasons for the absence of policies and/or laws related to the relevant areas.

Refer to questions from the general survey questionnaire for each specific area relevant to the Key Informant. (Please see attachment)

▪ Best practices (following the question A3)

- C1 To your knowledge, have the activities/programmes conducted by your /division/department/unit achieved their goals and objectives?
- C2 What are the key success factors (benchmarks) of these activities/programmes?
- C3 Please suggest some strategies/frameworks that can be used to improve consumer

protection activities and programmes.

C4 Do you have examples of programmes/activities that can be replicated?

C5 Have you received any form of recognition for your programmes and activities?

▪ **Capacity Building Needs for Consumer Protection**

D1 From your perspective, do you have adequate staff for work on consumer related issues in your department/division/unit? Please elaborate.

Do you have problems in getting good staff?

- Competent staff

- High turnover

D2 What are your organization's challenges in managing and sustaining staff who are dealing with consumer protection areas? Please explain.

D3 What are other challenges faced by your /division/department/unit in implementing consumer protection activities and programmes?

D4 Has your organization/division/department/unit fully utilized the 2009 budget allocation for consumer awareness and education?

D5 Do you have a strategic plan for human resource development in your organization/division/department/unit?

Attachment

Questions from the general survey questionnaire for each specific area relevant to the Key Informant

Specific questions for Key Informants in Environment:

1. Does the national environmental policy include Sustainable Consumption and Sustainable Production Describe how?
2. Does the environmental policy focus on green issues (such as conservation)?
3. Are there regulations/ codes of conduct in place for:
 - Waste management
 - Environmental labelling
 - Organic products
 - Greenhouse gas reduction/carbon emission claims
 - Water quality and energy efficiency
 - Air quality
4. Please describe how they have been implemented and what impact they have had on consumer protection
5. Is there a national authority/body(s) that oversees consumer protection in environmental issues such as water, energy, air or waste?
6. Are women involved in the development and implementation of environmental policies?
7. Is there a redress mechanism in place to address complaints relating to breaches/violations of environmental consumer services?
8. How good is the cooperation between the environmental authority and NGOs on consumer protection? Explain
9. Are there specific programmes aimed at educating consumers on major environmental issues affecting them and how their buying decision and consumption patterns impact on the environment?

Specific questions for Key Informants in product safety and labelling:

1. What are relevant laws on product safety and liability?
2. Are there laws prohibiting false and misleading product labelling?

3. Is labelling of products in relation to their characteristics, weight, and price required by law?
4. Is there a national standards authority/body that develops standards for product quality and safety?
5. Are there product safety standards available for adoption and implementation in manufacturing and provision of goods and services?
6. Are standards made mandatory for product safety?
7. Is there a code of conduct in place with regards to health and safety of consumers implemented by manufacturers/distributors?
8. Has the government taken steps to prohibit entry into national markets of products banned elsewhere?
9. Is accredited product testing facilities available in your country? (e.g. for fresh and preserved food, vegetables and fruits, toys)
10. Is there a national rapid alert system in place to restrict dangerous consumer products that pose a serious risk to the health and safety of consumers?
11. Is there a mechanism in place to issue warnings on unsafe products in the market?
12. Are there measures to ensure that unsafe products are recalled from the market within a reasonable time period?
13. Are there mechanisms in place for an in-depth risk assessment of:
 - New technologies use in food (e.g. GMO, probiotics)
 - Unsafe chemicals on consumer products

Specific questions for Key Informants healthcare and medical services:

1. Is there a policy in place to ensure affordable and quality healthcare?
2. Is there a national drug policy to regulate drugs and ensure safety, quality and efficacy of drugs?
3. Are there laws prohibiting false and misleading healthcare and medical advertisements?
4. Are there mechanisms in place to ensure healthcare institutions comply with minimum quality and safety standards for medical equipment and facilities?
5. Is there a patient's charter in place for consumer protection (e.g. right to information, right to get second opinion)
6. Is there a national health financing scheme? (e.g. national health insurance)
7. Do all persons in your country, irrespective of citizenship, have access to free/subsidized public healthcare?
8. Are there measures in place in your country on ethical marketing of drugs by pharmaceutical companies?
9. Are there mechanisms in place to prevent illegal importation/smuggling of pharmaceutical products into your country

Specific questions for Key Informants in consumer credit and banking:

1. What are the relevant laws on consumer credit and banking in relation to: Hire purchase
2. Does the government place a limit on interest rates charged by lending institution to consumers?
3. Are there measures in place to notify/inform consumers on the basis on fees and charges?
4. Do debt collection agencies of the banks use reasonable methods to recover loans?
5. Are there measures to restrict sharing of credit data amongst credit providers through credit reference agencies?
6. Are there restrictions limiting entry of foreign banks?
7. Are there regulations and safeguards on personal data protection?

8. Does your country have a financial debt counselling agency to support consumers in addressing financial difficulties/debts?
9. Are there laws prohibiting false and misleading advertisements on consumer credit and banking?

Specific questions for Key Informants in Phone and internet services, and E-commerce:

1. What are the relevant laws in place dealing with:
 - Phone and internet services?
 - E-commerce?
2. Are there laws prohibiting false and misleading advertisements on phone and Internet services, and E-commerce?
3. Are there laws in place to protect consumers in relation to online transactions? (e.g. online scams, security of personal data)
4. Are there laws regulating internet content (censorship, firewall)?
5. Are there laws in place to protect security and prevent misuse of phone and internet services (e.g. cyber crimes, phishing, hacking, security of electronic payments, email and SMS spams)
6. Are there regulations on phone and internet services and E-commerce covering:

Specific questions for Key Informants in professional services (medical and legal):

1. Are there laws governing the conduct of professional services medicine and law?
2. Are there measures for foreign medical professionals located abroad to provide services cross-border to patients in your country?
3. Are consumers represented in developing policies on conduct of Medical and Legal professional services?
4. Are there restrictions in recognizing professional qualifications in medical and legal services?
5. Are there restrictions limiting entry of: foreign medical and legal professionals?
6. Is there a registration and licensing procedure for foreign medical and legal professionals?
7. Are there restrictions on advertising for medical and legal professional services?
8. Are there legal provisions regulating the setting of medical and legal professional fees?

KII – Questions

A. Laws (Consumer Protection)

1. Is it challenging for your agency to recruit/get staff, who are able to:
 - Draft Consumer Protection Laws;
 - Enforce them; and
 - Undertake awareness programmes on Consumer Protection related laws

(Only for countries who have a principal Consumer Protection law)

1. If reviews of Consumer Protection laws have been done periodically, what were the areas reviewed and why?
2. Were the reviews done with internal expertise or with the assistance of external consultants?
3. Would you be able to assist ASEAN members who do not have a principal Consumer Protection Act e.g. in area of training etc?

B. Policies / Development Plans

1. What are the strategies for Consumer Protection in your National Development Plans?
2. If answer is NO ----- What is holding back your country from including consumer protection in your development plans?
3. Action Plans for Consumer Protection
4. What kind of capacity building does your country need to implement action plans for consumer protection policies?

A. Redress Mechanisms

1. Do you think the existing consumer redress mechanisms are necessary?
2. If Yes, what are the best practices in your country's redress mechanisms?
3. If No, what can be done to improve the redress mechanisms?
4. What would you need to achieve this? (response to question iii above)

B. Enforcement

1. What are the challenges you face in enforcing Consumer Protection laws and regulations?
2. If you need to strengthen your Enforcement Agency, what do you need? (e.g. Human Resources, expertise, budget, training and etc).

C. Product Safety

1. Why does dumping of products happen?
2. Why is it difficult to stop dumping of dangerous/hazardous products? Why does it occur? Some reasons e.g. :
 3. Consumer demand for cheap poor quality goods?
 4. Weak laws related to product safety?
 5. Insufficient personnel?
 6. Lack of capacity to check/carry out inspection?
 7. Lack of standards?
 8. What are the weaknesses at points of entry?
9. Is there lack of collaboration within countries e.g. information sharing on dangerous and hazardous products?

D. E-Commerce

1. Misuse of Data
2. What are the challenges faced by consumers in your country in this area?
3. What are the awareness for redress in e-commerce transactions?
4. Are there programmes to bridge the Digital Divide?

E. Banking and Finance

1. Do you think the financial services industry is sufficiently regulated to protect consumers (in your country)? Or
2. Are consumer protection practices of financial institutions adequately regulated? (e.g. measures to prevent predatory lending, illegal collection practices etc.)
3. Are consumer satisfied with compliance and dispute handling mechanisms?
4. Debt is a serious consumer problem worldwide. What measures have been taken to help consumers who have serious financial problems? (e.g. Debt management/counselling agencies, best practices?)
5. Are the financial literacy programmes for consumers?

6. Provide some examples of best practices that promote transparency, redress and financial education for consumers.
7. Are consumers included in policy dialogue related to financial institutions? Is there a level playing field?

THANK YOU

C. APPENDIX 3
Roundtable Discussion Programme

ROUNDTABLE DISCUSSION

October 15, 2010

Ibon Foundation Conference Room

10:00 AM

AGENDA

Part 1

1. Introduction: Consumers International and the research project 'Roadmapping Capacity Building Needs on Consumer Protection in ASEAN Member States'
2. Presentation of the general research findings
3. Discussions / Q and A

Part 2

4. Capacity building needs on consumer protection and sectoral impacts
 - Product safety and labelling
 - Consumer credit and banking
 - Phone and internet services, and E-Commerce
 - Healthcare services
 - Environment
 - Professional services
 - Other emerging needs.
5. Feedback and discussions from relevant stakeholders

D. APPENDIX 4 LIST OF RELEVANT LAWS FOR CONSUMER PROTECTION

No.	Areas	Relevant laws ⁵⁵
1.	General consumer protection	<ul style="list-style-type: none"> ▪ Consumer Act of the Philippines, 1992 ▪ DAO No. 2 Series of 2002 ▪ DAO No. 8 Series of 2002 ▪ DAO No. 7 Series of 2006 ▪ DAO No. 6 Series of 2007 ▪ EO 913 ▪ RA No. 7581 (Price Act) ▪ RA No. 71 (Price Tag Law) ▪ Act. No. 3883, as amended (Business Name Law) ▪ R.A. No. 3952 (Bulk Sales Law) ▪ Act No. 2728, as amended by Act No. 3715 and 3969 (Law on Brokerage) ▪ Act No. 3893 (Bonded Warehouse Act) ▪ DAO No. 2 Series of 2010 Addenda to DAO No. 2 Series of 1993
2.	Product safety and labelling	<ul style="list-style-type: none"> ▪ Food, Drug and Cosmetic Act of 1963 ▪ Philippine Standardization Law of 1964 ▪ DAO No. 01 Series of 2008 ▪ Asin Law of 2005, Act for Salt Iodization Nationwide (ASIN)”. ▪ Tobacco Regulation Act of 2003 ▪ Food Fortification Act of 2000 ▪ RA 7183 (1992) ▪ Agriculture and Fisheries Modernization Act of 1997 ▪ Meat Inspection Code of the Philippines (2004) ▪ Administrative Order No. 2007-0044 ▪ Administrative Order No. 10 Series of 1993 ▪ PNS 2067: 2008 titled ‘Halal Foods – General guidelines ▪ Administrative Order No. 10 Series of 1993 ▪ Circular 2006-016 titled ‘Updated List of Food Additives’ adopted the Codex ‘General Standards for Food Additives’. ▪ Executive Order No. 51, otherwise known as the ‘Milk Code’. ▪ DOH Circular No. 2008-006 ▪ National Code of Marketing of Breast Milk Substitutes, Breast Milk Supplements, and related products
3.	Phones and Internet Services, and E-Commerce	<ul style="list-style-type: none"> ▪ Public Telecommunications Policy Act of 1995 ▪ The Commerce Law of 2000 ▪ Public Telecommunications Policy Act of 1995 ▪ Memorandum Circular No. 8-9-95 ▪ Memorandum Circular No. 05-06-2007

⁵⁵ Only major laws are listed here

No.	Areas	Relevant laws ⁵⁵
4.	Consumer credit and banking	<ul style="list-style-type: none"> ▪ Memorandum Circular No. 269, 2000 ▪ JOINT DTI-DOH-DA Administrative Order No. 1 Series of 2008 ▪ BSP issued Circulars No. 269 in 2000 and No. 542 in 2006 ▪ Republic Act. 7653 or the Charter of Bangko Sentral ng Pilipinas and Republic Act No. 337 or the General Banking Act, as amended. ▪ General Banking Law ▪ Law on Secrecy of Deposits of 1955 ▪ Presidential Decree (PD) No. 1792 issued 16 January 1981 ▪ New Central Bank Act of 1991 ▪ Foreign Currency Deposit Act of the Philippines of 1974 ▪ PD No. 1035 issued 30 September 1976 ▪ PD No. 1246 issued 21 November 1977 ▪ Rule 9.3.d, Revised Rules and Regulations Implementing the Anti-Money Laundering Act of 2001 ▪ Truth in Lending Act of 1963 ▪ BSP Circular No. 409 ▪ Access Devices Regulation Act of 1998 ▪ BSP Circular No. 398 dated 21 August 2003 ▪ BSP Circular No. 454 dated 24 September 2004 ▪ BSP Circular no. 702 series of 2010 ▪ Credit Information System Act of 2010 ▪ BSP Circular No. 471 dated 24 January 2005 ▪ BSP Circular No. 534 dated 26 June 2006 ▪ Law for the Disabled of 1982 ▪ BSP Manual of Regulations for Banks (MORB) ▪ RA 7906 (Thrift Banks Act of 1995) ▪ RA 7353 (Rural Banks Act of 1992) ▪ RA 6938 (Cooperative Code of 1990) ▪ RA 3591; RA 3591 as amended (2004) (PDIC Charter) ▪ PD 612 (Insurance code of 1974) ▪ IC memorandum Circular 9-2006 ▪ Batas Pambansa Bilang 68 (Corporation code of 1980) ▪ RA 9474 (An Act Governing the Establishment, Operation and Regulation of Lending Companies of 2007) ▪ RA 8553 (Financing Company Act of 1998) ▪ Related BSP Circular and SEC Memorandum Circulars
5.	Environmental quality and services	<ul style="list-style-type: none"> ▪ Spanish Code of Kalantiaw ▪ The Philippine Environmental Policy (Presidential Decree No. 1151) ▪ P.D. 1152, or the Philippine Environment Code, ▪ National Integrated Protected Areas System Act was passed by Congress in 1992 ▪ Clean Air Act was approved in 1999

No. Areas	Relevant laws ⁵⁵
	<ul style="list-style-type: none"> ▪ Ecological Solid Waste Management Act in 2000 ▪ Clean Water Act in 2004, and recently, the Biofuels Act in 2007. Last year, the Climate Change Act of 2009 was enacted for the full protection and the advancement of the right of the people ▪ Local Government Code
6. Healthcare services	<ul style="list-style-type: none"> ▪ National Health Insurance Act of 1995 ▪ Executive Order No. 851. BFAD ▪ Food and Drug Administration Act of 2009 ▪ Pharmacy Law of 1969 ▪ Special Law on Counterfeit Drugs of 1996 ▪ Generics Law of 1988 ▪ The Universally Accessible Cheaper and Quality Medicines Act of 2008 provides Filipinos with options and greater access to cheaper but quality medicines. ▪ Administrative Order No. 2008-1 ▪ RA 9165 ‘Comprehensive Dangerous Drugs Act of 2002’ ▪ RA 9257 ‘Senior Citizen Act of 2003’ as amended by RA 9994 or the ‘Expanded Citizen Act of 2010’ ▪ EO 302 on 29 March 2004
7. Professional services (medical and legal professions)	<ul style="list-style-type: none"> ▪ RC Modernization Act of 2000 ▪ The Philippine Medical Act of 1959 ▪ The Philippine Dental Act of 1965 ▪ RA 6397, 1971, an act providing for the integration of the Philippine Bar ▪ Philippine Nursing Act of 2002 ▪ The Philippine Midwifery Act of 1992 ▪ Code of Ethics of the Board of Medicine ▪ Code of Ethics of the Board of Dentistry ▪ Code of Ethics of the Board of Midwifery ▪ Code of Professional Responsibility

E. APPENDIX 5
List of Implementing Agencies

Implementing agencies

- Department of Trade and Industry
- Department of Agriculture
- Department of Health
- Local government units
- National Telecommunications Commission
- Bangko Sentral ng Pilipinas
- Securities and Exchange Commission
- Department of Environment and Natural Resources
- Target agency: Professional Regulation Commission

F. APPENDIX 6.
The Consumer Act of the Philippines

REPUBLIC ACT NO. 7394
THE CONSUMER ACT OF THE PHILIPPINES

TITLE I
GENERAL PROVISIONS

Article 1. Short Title. - This Act shall be known as the "Consumer Act of the Philippines."

Art. 2. Declaration of Basic Policy. - 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 following objectives:

- (a) protection against hazards to health and safety;
- (b) protection against deceptive, unfair and unconscionable sales acts and practices;
- (c) provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer;
- (d) provision of adequate rights and means of redress; and
- (e) involvement of consumer representatives in the formulation of social and economic policies.

Art. 3. Construction. - The best interest of the consumer shall be considered in the interpretation and implementation of the provisions of this Act, including its implementing rules and regulations.

Art. 4. Definition of Terms. - For purposes of this Act, the term:

- (a) "Advertisement" means the prepared and through any form of mass medium, subsequently applied, disseminated or circulated advertising matter.
- (b) "Advertising" means the business of conceptualizing, presenting or making available to the public, through any form of mass media, fact, data or information about the attributes, features, quality or availability of consumer products, services or credit.
- (c) "Advertising agency or Agent" means a service organization or enterprise creating, conducting, producing, implementing or giving counsel on promotional campaigns or programmes through any medium for and in behalf of any advertiser.

(d) "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.

(e) "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.

(f) "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, or in a consumer loan the amount paid to, receivable by or paid or payable to the buyer or to another person in his behalf.

(g) "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 substance 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 hazards to the 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.

(h) "Batch" means a quantity of any drug or device produced during a given cycle of manufacture.

(i) "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 for tax or 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.

(j) "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.

(k) "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 of 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.

(l) "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.

(m) "Commerce" means the sale, lease, exchange, traffic or distribution of goods, commodities, productions, services or property, tangible or intangible.

(n) "Consumer" means a natural person who is a purchaser, lessee, recipient or prospective purchaser, lessor or recipient of consumer products, services or credit.
chanrobles law

(o) "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 therefore is payable at some future time, whether in full or in instalments.

(p) "Consumer loan" means a loan made by the lender to a person which is payable in instalments 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.

(q) "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 food, drugs, cosmetics, and devices.

(r) "Consumer product safety rule" means a consumer product safety standard described in Article 78 or a rule under this Chapter declaring a consumer product banned hazardous product.

(s) "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) a 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).

(t) "Corrosive" means any substance which on contact with living tissue will cause destruction of tissue by chemical action.

(u) "Cosmetics" means (1) articles intended to be rubbed, poured, sprinkled 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 use as a component of any such article except that such term shall not include soap.

(v) "Counterfeit product" means any consumer product which, or the container or labelling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any 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 product manufacturer, processor, packer, or distributor.

(w) "Credit card" means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labour or services on credit.

(x) "Credit Sale" means a sale products, services or an interest in land to a person on credit where a debt is payable in instalments 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 no other or a nominal consideration has the option to become, the owner of the products or real property upon full compliance with the terms of the agreement.

(y) "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 is payable in instalment.

(z) "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 instalment basis, either as principal or as agent who requires as an incident to the extension of credit, the payment of a finance charge.

(aa) "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 instalment 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.

(ab) "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.

(ac) "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.

(ad) "Drugs" mean (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 any of the articles specified in clauses (1), (2), (3) and (4) of this paragraph.

(ae) "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.

(af) "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 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 Cup Tester: Provided, That the flammability or combustibility of solids 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.

(ag) "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 a component in the manufacture, preparation or treatment of food.

(ah) "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.

(ai) "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.

(aj) "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.

(ak) "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 any 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 labelling 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 substance, as construed in clause (a) of paragraph (1), by reason of bearing or containing such harmful substances described therein. chanrobles law

(al) "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 of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapour or two milligrams per litre by volume or less of mist or dust, provided such

concentration is likely to be encountered by man when the 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.

(am) "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.

(an) "Immediate container" means the container or package which is immediately after or near the substance but does not include package liners.

(ao) "Imminently hazardous product" means a consumer product which presents an unreasonable risk of death, serious illness or severe personal injury. chanrobles law

(ap) "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.

(aq) "Label, labelling" 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 identify, components, ingredients, attributes, directions for use, specifications and such other information as may be required by law or regulations.

(ar) "Manufacture" means and 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 labelling 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 consumer.

(as) "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 representatives or, in his absence, the importer, shall be deemed the manufacturer.

(at) "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. chanrobles law

(au) "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.

(av) "Mislabelled hazardous substance" means any hazardous substance intended, or packaged in a form suitable, for use in households, especially by children, the packaging or labelling 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, or 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", "vapour 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 defined as highly toxic; (viii) instructions for handling and storage of packages which require special care in handling or storage; and (ix) the statement "keep out of the reach of children", or its practical equivalent, if the article is intended for use by children and is not a banned hazardous substance, with 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 are located prominently and in contrast by typography, layout, with other printed matters on the label.

(aw) "New Drugs" mean (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 labelling 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; (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".

(ax) "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.

(ay) "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.

(az) "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 wrappings 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 costumers 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.

(ba) "Person" means any individual, partnership, corporation or association, trust, government or governmental subdivision or any other legal entity. chanrobles law

(bb) "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.

(bc) "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.

(bd) "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.

(be) "Principal display panel" means that part of the label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail or sale.

(bf) "Private labeller" 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 labelled 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.

(bg) "Radioactive substance" means any substance which emits ionizing radiation.

(bh) "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.

(bi) "Repair and service firm" means any business establishment, engaged directly or indirectly, in the repair, service or maintenance of any consumer product.

(bk) "Retailer" means a person engaged in the business of selling consumer products directly to consumers.

(bl) "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 consumers under a consumer sale transaction. It shall not include sampling or any distribution not for sale.

(bm) "Sales Promotion" means techniques intended for broad consumer participation which contain promises of gain such as prizes, in cash or in kind, as reward for the purchase of a product, security, 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 the sales, patronage and/or goodwill of a product.

(bn) "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 the supplier or distributor; or (3) the supplier or distributor provides or exercises supervision, direction or control over the selling practices of the seller.

(bo) "Service" shall mean, with respect to repair and service firms, services supplied in connection with a contract for construction, maintenance, repair, processing and treatment or cleaning of goods or of fixtures on land, or distribution of goods, or transportation of goods.

(bp) "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.

(bq) "Special packaging" means packaging that is designed or constructed to be significantly difficult for children five years of age to open or 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.

(br) "Standard" means a set of conditions to be fulfilled to ensure the quality and safety of a product;

(bs) "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 designated 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.

(bt) "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.

(bu) "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 on of the supplier.

(bv) "Technical personnel of repair and service enterprise" shall mean a machine 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.
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(bw) "Toxic substance" means any substance other than a radioactive substance which can cause injury, illness or death to man through ingestion, inhalation or absorption through any body surface.

(bx) "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.

CHAPTER 1

CONSUMER PRODUCT QUALITY AND SAFETY

Art. 5. Declaration of Policy. - It shall be the duty of the State:

(a) to develop and provide safety and quality standards for consumer products, including performance or use-oriented standards, codes of practice and methods of tests;

- (b) to assist the consumer in evaluating the quality, including safety, performance and comparative utility of consumer products;
- (c) to protect the public against unreasonable risks of injury associated with consumer products;
- (d) to undertake research on quality improvement of products and investigation into causes and prevention of product related deaths, illness and injuries;
- (e) to assure the public of the consistency of standardized products.

Art. 6. Implementing Agencies. - The provisions of this Article and its implementing rules and regulations shall be enforced by:

- (a) the Department of Health with respect to food, drugs, cosmetics, devices and substances;
- (b) the Department of Agriculture with respect to products related to agriculture; and
- (c) the Department of Trade and Industry with respect to other consumer products not specified above.

Art. 7. Promulgation and Adoption of Consumer Product Standards. - The concerned department shall establish consumer product quality and safety standards which shall consist of one or more of the following:

- (a) requirements to performance, composition, contents, design, construction, finish, packaging of a consumer product;
- (b) requirements as to kind, class, grade, dimensions, weights, material;
- (c) requirements as to the methods of sampling, tests and codes used to check the quality of the products;
- (d) requirements as to precautions in storage, transporting and packaging;
- (e) requirements that a consumer product be marked with or accompanied by clear and adequate safety warnings or instructions, or requirements respecting the form of warnings or instructions.

For this purpose, the concerned department shall adopt existing government domestic product quality and safety standards: Provided, That in the absence of such standards, the concerned department shall form specialized technical committees composed of equal number of representatives from each of the Government, business and consumer sectors to formulate, develop and purpose consumer product quality and safety standards. The said technical committees shall consult with the private sector, which may, *motu proprio*, develop its own quality and safety standards that shall be subject or

agencies after public hearings have been conducted for that purpose; and shall likewise consider existing international standards recognized by the Philippine Government.

Art. 8. Publication of Consumer Product Standards. - The concerned departments shall, upon promulgation of the above standards, publish or cause the publication of the same in two (2) newspapers of general circulation at least once a week for a period of not less than one (1) month. It may likewise conduct an information campaign through other means deemed effective to ensure the proper guidance of consumers, businesses, industries and other sectors concerned.

Art. 9. Effectivity of Rules. - (a) Each consumer product standard or safety rule shall specify the date such rule is to take effect, which shall not exceed ninety (90) days from the date promulgated unless the concerned department finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. After which, it shall no longer be legal to, or cause to, sell or distribute the consumer product not complying with the standards or rules.

(b) The department may, by regulation, prohibit a manufacturer from stockpiling consumer products so as to prevent such manufacturer from circumventing the purposes of this paragraph. The term "stockpiling" means manufacturing or importing a product between the date of promulgation of its consumer product safety rule and its effective date, at a rate which is significantly greater than the rate at which such product was produced or imported during a base period as prescribed in the regulation under this paragraph, ending before the date of promulgation of consumer product safety rule.

Art. 10. Injurious, Dangerous and Unsafe Products. - Whenever the departments find, by their own initiative or by petition of a consumer, that a consumer product is found to be injurious, unsafe or dangerous, it shall, after due notice and hearing, make the appropriate order for its recall, prohibition or seizure from public sale or distribution: Provided, That, in the sound discretion of the department it may declare a consumer product to be imminently injurious, unsafe or dangerous, and order is immediate recall, ban or seizure from public sale or distribution, in which case, the seller, distributor, manufacturer or producer thereof shall be afforded a hearing within forty-eight (48) hours from such order.

The ban on the sale and distribution of a consumer product adjudged injurious, unsafe or dangerous, or imminently injurious, unsafe or dangerous under the preceding paragraph shall stay in force until such time that its safety can be assured or measures to ensure its safety have been established.

Art. 11. Amendment and Revocation of Declaration of the Injurious, Unsafe or Dangerous Character of a Consumer Product. - Any interested person may petition the appropriate department to commence a proceeding for the issuance of an amendment or revocation of a consumer product safety rule or an order declaring a consumer product injurious, dangerous and unsafe.

In case the department, upon petition by an interested party or its own initiative and after due notice and hearing, determines a consumer product to be substandard or materially

defective, it shall so notify the manufacturer, distributor or seller thereof of such finding and order such manufacturer, distributor or seller to:

- (a) give notice to the public of the defect or failure to comply with the product safety standards; and
- (b) give notice to each distributor or retailer of such product.

The department shall also direct the manufacturer, distributor or seller of such product to extend any or all of the following remedies to the injured person:

- (a) to bring such product into conformity with the requirements of the applicable consumer product standards or to repair the defect in order to conform with the same;
- (b) to replace the product with a like or equivalent product that complies with the applicable consumer product standards and does not contain the defect;
- (c) to refund the purchase price of the product less a reasonable allowance for use; and
- (d) to pay the consumer reasonable damages as may be determined by the department.

The manufacturer, distributor or seller shall not charge a consumer who avails himself of the remedy as provided above of any expense and cost that may be incurred.

Art. 12. Effectivity of Amendments and Revocation of Consumer Product Safety Rule. - Any amendment or revocation of a consumer product safety rule made by the concerned department shall specify the date on which it shall take effect which shall not exceed ninety days from the date of amendment or revocation is published unless the concerned department finds, for a good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The department shall promulgate the necessary rules for the issuance, amendment or revocation of any consumer product safety rule. chanrobles law

Art. 13. New Products. - The concerned department shall take measures to make a list of new consumer products and to cause the publication by the respective manufacturers or importers of such products a list thereof together with the descriptions in a newspaper of general circulation.

Art. 14. Certification of Conformity to Consumer Product Standards. - The concerned department shall aim at having consumer product standards established for every consumer product so that consumer products shall be distributed in commerce only after inspection and certification of its quality and safety standards by the department. The manufacturer shall avail of the Philippine Standard Certification Mark which the department shall grant after determining the product's compliance with the relevant standard in accordance with the implementing rules and regulations.

Art. 15. Imported Products. - (a) Any consumer product offered for importation into the customs of the Philippine territory shall be refused admission if such product:

(1) fails to comply with an applicable consumer product quality and safety standard or rule;

(2) is or has been determined to be injurious, unsafe and dangerous;

(3) is substandard; or

(4) has material defect.

(b) Samples of consumer products being imported into the Philippines in a quantity necessary for purposes of determining the existence of any of the above causes for non-admission may be obtained by the concerned department or agency without charge from the owner or consignee thereof. The owner or consignee of the imported consumer product under examination shall be afforded an opportunity to a hearing with respect to the importation of such products into the Philippines. If it appears from examination of such samples or otherwise that an imported consumer product does not conform to the consumer product safety rule or is injurious, unsafe and dangerous, is substandard or has a material defect, such product shall be refused admission unless the owner or the consignee thereof manifests under bond that none of the above ground for non-admission exists or that measures have been taken to cure them before they are sold, distributed or offered for sale to the general public.

Any consumer product, the sale or use of which has been banned or withdrawn in the country of manufacture, shall not be imported into the country.

(c) If it appears that any consumer product which may not be admitted pursuant to paragraph (a) of this Article can be so modified that it can already be accepted, the concerned department may defer final examination as to the admission of such product for a period not exceeding ten (10) days, and in accordance with such regulations as the department and the Commissioner of Customs shall jointly promulgate, such product may be released from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All modifications taken by an owner or consignee for the purpose of securing admission of an imported consumer product under paragraph (c) shall be subject to the supervision of the concerned department. If the product cannot be so modified, or if the owner or consignee is not proceeding to satisfactorily modify such product, it shall be refused admission and the department may direct redelivery of the product into customs custody, and to seize the product if not so redelivered.

(e) Imported consumer products not admitted must be exported, except that upon application, the Commissioner of Customs may permit the destruction of the product if, within a reasonable time, the owner or consignee thereof fails to export the same.

(f) All expenses in connection with the destruction provided for in this Article, and all expenses in connection with the storage, cartage or labour with respect to any consumer product refused admission under this Article, shall be paid by the owner or consignee

and, in default of such payment, shall constitute a lien against any future importation made by such owner or consignee.

Art. 16. Consumer Products for Export. - The preceding article on safety not apply to any consumer product if:

(a) it can be shown that such product is manufactured, sold or held for sale for export from the Philippines, or that such product was imported for export, unless such consumer product is in fact distributed in commerce for use in the Philippines; and

(b) such consumer product or the packaging thereof bears a stamp or label stating that such consumer product is intended for export and actually exported.

Art. 17. Powers, functions and duties. - In addition to their powers, functions and duties under existing laws, the concerned department shall have the following powers, functions and duties:

(a) to administer and supervise the implementation of this Article and its implementing rules and regulations;

(b) to undertake researches, develop and establish quality and safety standards for consumer products in coordination with other government and private agencies closely associated with these products;

(c) to inspect and analyze consumer products for purposes of determining conformity to established quality and safety standards;

(d) to levy, assess, collect and retain fees as are necessary to cover the cost of inspection, certification, analysis and tests of samples of consumer products and materials submitted in compliance with the provisions of this Article;

(e) to investigate the causes of and maintain a record of product-related deaths, illnesses and injuries for use in researches or studies on the prevention of such product-related deaths, illnesses and injuries.

(f) to accredit independent, competent non-government bodies, to assist in (1) monitoring the market for the presence of hazardous or non-certified products and other forms of violations of Article 18; and (2) other appropriate means to expand the monitoring and enforcement outreach of the department in relation to its manpower, testing and certification resources at a given time.

(g) to accredit independent competent testing laboratories.

PROHIBITED ACTS AND PENALTIES

Art. 18. Prohibited Acts. - It shall be unlawful for any person to:

- (a) manufacture for sale, offer for sale, distribute in commerce, or import into the Philippines any consumer product which is not in conformity with an applicable consumer product quality or safety standard promulgated in this Act;
- (b) manufacture for sale, offer for sale, distribute in commerce, or import into the Philippines any consumer product which has been declared as banned consumer product by a rule in this Act;
- (c) refuse access to or copying of pertinent records or fail or refuse to permit entry of or inspection by authorized officers or employees of the department;
- (d) fail to comply with an order issued under Article II relating to notifications of substantial product hazards and to recall, repair, replacement or refund of unsafe products;
- (e) fail to comply with the rule prohibiting stockpiling.

Art. 19. Penalties. - (a) Any person who shall violate any provision of Article 18 shall upon conviction, be subject to a fine of not less than One thousand pesos (P1,000.00) but not more than Ten thousand pesos (P10,000.00) or imprisonment of not less than two (2) months but not more than one (1) year, or both upon the discretion of the court.

If the offender is an alien, he shall be deported after service of sentence and payment of fine without further deportation proceedings.

(b) In case the offender is a naturalized citizen, he shall, in addition to the penalty prescribed herein, suffer the penalty of cancellation of his naturalization certificate and its registration in the civil register and immediate deportation after service of sentence and payment of fine.

(c) Any director, officer or agent of a corporation who shall authorize, order or perform any of the acts or practices constituting in whole or in part a violation of Article 18, and who has knowledge or notice of noncompliance received by the corporation from the concerned department, shall be subject to penalties to which that corporation may be subject.

In case the violation is committed by, or in the interest of a foreign juridical person duly licensed to engage in business in the Philippines, such license to engage in business in the Philippines shall immediately be revoked.

CHAPTER II

FOOD, DRUGS, COSMETICS AND DEVICES

Art. 20. Declaration of Policy. - The State shall ensure safe and good quality of food, drugs, cosmetics and devices, and regulate their production, sale, distribution and advertisement to protect the health of the consumer.

Art. 21. Implementing Agency. - In the implementation of the foregoing policy, the State, through the Department of Health, hereby referred as the Department, shall, in accordance with the provisions of this Act:

- (a) establish standards and quality measures for food, drugs, devices and cosmetics;
- (b) adopt measures to ensure pure and safe supply of foods and cosmetics, and safe, efficacious and good quality of drugs and devices in the country;
- (c) adopt measures to ensure the rational use of drugs and devices, such as, but not limited to, banning, recalling or withdrawing from the market drugs and devices which are unregistered, unsafe, inefficacious or of doubtful therapeutic value, the adoption of an official National Drug Formulary, and the use of generic names in the labelling of drugs;
- (d) strengthen the Bureau of Food and Drugs.

Art. 22. Rules and Regulations on Definitions and Standards. - Whenever in the judgment of the Department, such action will promote honesty and fair dealing in the interest of consumers, it shall promulgate rules and regulations fixing and establishing a reasonable definition and standard of identity, a reasonable standard of quality and/or reasonable standard of fill of containers for food, drugs, cosmetics or devices.

Art. 23. Adulterated Food. - A food shall be deemed to be adulterated:

- (a) (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated under this clause if the quantity of such substance does not ordinarily render it injurious to health;
- (2) if it bears or contains any added poisonous or deleterious substance other than one which is (i) a pesticide chemical in or on a raw agricultural commodity, (ii) a food additive, (iii) a colour additive, for which tolerances have been established and it conforms to such tolerances;
- (3) if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food;
- (4) if it has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby, it may have been rendered injurious to health;
- (5) if it is, in whole or part, the product of a diseased animal or of an animal which has died other than by slaughter;
- (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

- (7) if it has passed its expiry date.
- (b) (1) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom and the same has not been substituted, by any healthful equivalent of such constituent;
- (2) if any substance, not a valuable constituent, has been added or substituted or in part therefore;
- (3) if damage or inferiority has been concealed in any manner; or
- (4) if any substance has been added thereto or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.
- (c) if it is, or bears or contains a colour additive which is unsafe under existing regulations: Provided, That the Department shall promulgate regulations providing for the listing of colour additives which are harmless and suitable for use in food for which tolerances have been established;
- (d) if it is confectionary, and it bears or contains any alcohol or non-nutritive article or substance except harmless colouring, harmless flavouring, harmless resinous glass not in excess of four-tenths (4/10) of one per centum (1%) natural gum and pectin: Provided, That this clause shall not apply to a safe non-nutritive article or substance if, in the judgment of the Department as provided by regulations, (1) such article or substance is of practical functional value in the manufacture, packaging or storage of such confectionery, (2) if the use of the substance does not promote deception of the consumer or otherwise results in adulteration or mislabelling in violation of any provision of this Act, and (3) would not render the product injurious or hazardous to health: Provided, further, That this paragraph shall not apply to any confectionery by reason of its containing less than one-half (1/2) of one per centum (1%) by volume of alcohol, derived solely from the use of flavouring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substance: Provided, finally, That the Department may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, promulgate regulations allowing or prohibiting the use of particular non-nutritive substances;
- (e) if it is oleomargarine, margarine or butter and any of the raw materials used therein consists in whole or in part of any filthy, putrid or decomposed substance, or such oleomargarine, margarine or butter is otherwise unfit for food;
- (f) if it has not been prepared in accordance with current acceptable manufacturing practice established by the Department through regulations.

Art. 24. Regulation of Unprocessed Food. - The provincial, municipal and city governments shall regulate the preparation and sale of meat, fresh fruits, poultry, milk, fish, vegetables and other foodstuff for public consumption, pursuant to the Local Government Code.

Art. 25. Tolerance for Poisonous Ingredients in Food. - Any poisonous or deleterious substance added to any food shall be deemed to be unsafe, except when such substance is required or can not be avoided in its production or can not be avoided by good manufacturing practice. In such case, the Department shall promulgate regulations limiting the quantity therein in such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall be deemed to be unsafe. In determining the quantity of such added substance to be tolerated in different articles of food, the Department shall take into account the extent to which the use of such article is required or can not be avoided in the production or manufacture of such articles and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substance.

Art. 26. Unsafe Food Additives, Exceptions for Conformity with Regulation. - A food additive, with respect to any particular use or intended use, shall be deemed unsafe unless: *chanrobles law*

(a) it and its use or intended use conforms to the terms of an exemption for being solely intended for investigational use by qualified experts; or

(b) it and its use or intended use is in conformity with a regulation issued by the Department prescribing the conditions under which such additives may be safely used.

Art. 27. Petition for Regulation of Food Additive. - Any person may, with respect to any intended use of a food additive, file with the Department a petition proposing the issuance of a regulation prescribing the conditions under which such additives may be safely used.

The Department shall (1) establish a regulation prescribing, with respect to one or more proposed uses of the food additive involved, (i) the conditions under which a food additive may be safely used including, but not limited to, specifications as to the particular food, classes of food, in which such additive may be used, (ii) the maximum quantity which may be used, or permitted to remain in or on such food; (iii) the manner in which such additive may be added to or used in or on such food, and (iv) any directions or other labelling or packaging requirement for such additive deemed necessary to assure the safety of such use, and shall notify the petitioner of such order and the reasons for such action; or (2) deny the petition and notify the petitioner of and the reasons for such action.

The Department may, at any time upon his own initiative, issue a regulation prescribing, with respect to any particular food additive, the conditions under which such additive may be safely used and the reasons thereof, and cause the publication of the same.

Art. 28. Effectivity of Regulations. - The regulations promulgated under the preceding articles shall take effect fifteen (15) days after its publication in a newspaper of general circulation but the Department may stay such effectivity if, after issuance of such order, a hearing is sought by any person adversely affected by such order.

DRUGS AND DEVICES

Art. 29. Adulterated Drugs and Devices. - A drug or device shall be deemed to be adulterated:

(a) (1) if it contains in whole or in part of any filthy, putrid, or decomposed substance which may affect its safety, efficacy or good quality; or (2) if it has been manufactured, prepared or held under unsanitary conditions whereby it may have been contaminated with dirt or filth or whereby it may have been rendered injurious to health; or (3) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it bears or contains any colour other than a permissible one as determined by the Department, taking into consideration standards of safety, efficacy or good quality.

(b) If it purports to be or is represented as a drug, the name of which is recognized in an official compendium, and its strength differs from, or its safety, efficacy, quality or purity falls below the standards set forth in such compendium, except that whenever tests or methods of assay as prescribed are, in the judgment of the Department, insufficient for the making of such determination, the Department shall promulgate regulations prescribing appropriate tests or methods of safety, efficacy, quality or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standards of strength, safety, efficacy, quality or purity therefore set forth in such compendium, if its difference in strength, safety, efficacy, quality or purity from such standards is plainly stated in its label and approved for registration as such.

(c) If it is not subject to the provisions of paragraph (b) and its strength differs from, or its efficacy, quality or purity falls below, that which it purports or is represented to possess.

(d) If a drug or device and any substance has been mixed or packed therewith, or any substance has been substituted wholly or in part thereof, so as to reduce its safety, efficacy, quality, strength or purity.

(e) If the methods used in, or the facilities or controls used for its manufacture or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety, quality and efficacy, and has the identity and strength, and meets the quality and purity characteristics which it purports or is represented to possess.

Art. 30. Exemption in Case of Drugs and Devices. - (a) The Department is hereby directed to promulgate regulations exempting from any labelling or packaging requirement of this Act drugs and devices which are, in accordance with the practice of the trade, to be processed, labelled or repacked in substantial quantities at establishments other than those where originally processes or packed, on conditions that such drugs and devices are not adulterated or mislabelled under the provisions of this Act upon removal from such processing, labelling or repacking establishment.

(b) (1) Drugs intended for use by man which:

- (i) are habit-forming;
- (ii) because of their toxicity or other potentiality for harmful effect, or method of their use is not safe for use except under the supervision of practitioner licensed by law to administer such drug;
- (iii) are new drugs whose applications are limited to investigational use;

shall be dispensed only (a) upon written prescription of a practitioner licensed by law to administer such drug, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in the drug being mislabelled while held for sale.

(2) Any drug dispensed by filling or refilling a written prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of Article 89, except paragraphs (a), (h), (2) and (3), and the packaging requirements of paragraphs (f) and (g), if the drug bears a label containing the name and address of the dispenser, the serial number and the date of the prescription or its filling, the name of the prescriber and, if stated in the prescription the name of the patient and the directions for use and cautionary statements, if any, container in such prescription. chanroble law

(3) The Department may, by regulation, remove drugs subject to Article 89 (d) and Article 31 from the requirements of sub-article (b) (1) of this Article, when such requirements are not necessary for the protection of the public health.

(4) A drug which is subject to sub-article (b) (1) of this Article shall be deemed to be mislabelled if any time prior to dispensing, its label fails to bear the statement "Caution: Should not be dispensed without prescription." A drug to which sub-article (b) (1) of this Article does not apply shall be deemed to be mislabelled if at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence.

Art. 31. Licensing and Registration. - (a) No person shall manufacture, sell, offer for sale, import, export, distribute or transfer any drug or device, unless an application filed pursuant to sub-article (b) hereof is effective with respect to such drug or device.

(b) Any person may file with the Department, through the Department, an application under oath with respect to any drug or device subject to the provisions of sub-article (a) hereof. Such persons shall submit to the Department: (1) full reports of investigations which have been made to show whether or not such drug or device is safe, efficacious and of good quality for use based on clinical studies conducted in the Philippines; (2) a full list of the articles used as components of such drug or device; (3) a full statement of the composition of such drug or device; (4) a full description of the methods used in and the facilities and controls used for the manufacture of such drug or device; (5) such samples of such drug or device and of the articles used as components thereof as the Department may require; (6) specimens of the labelling proposed to be used for such

drug or device; and (7) such other requirements as may be prescribed by regulations to ensure safety, efficacy and good quality of such drug and device.

(c) Within one hundred eighty (180) days after the filing of an application under this sub-article, or such additional period as may be agreed upon by the Department and the applicant, the Department shall either (1) approve the application if he then finds that none of the grounds for denying approval specified in sub-article (d) applies, or (2) give the applicant notice of an opportunity for a hearing before the Department under sub-article (d) on the question whether such application is approvable.

(d) If the Department finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the reports of the investigations which are required to be submitted to the Department pursuant to sub-article (b) hereof, do not include adequate tests by all methods reasonably applicable to show whether or not such drug or device is safe, efficacious and of good quality for use under the conditions prescribed, recommended or suggested in the proposed labelling thereof; (2) the results of such test show that drug or device is unsafe, inefficacious or of doubtful therapeutic value for use under such conditions or do not show that such drug or device is safe, methods used in, and the facilities and controls used for the manufacture of such drug or device are inadequate to preserve its identity, strength, quality and purity; or (4) upon the basis of the information submitted to him as part of the application, or upon the basis of any other information before him with respect to such drug or device, he has insufficient information to determine whether such drug or device is safe, efficacious or of good equality for use under such conditions; or (5) evaluated on the basis of the information submitted to him as part of the application, and any other information before him with respect to such drug or device, there is a lack of substantial evidence that the drug or device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended or suggested in the proposed labelling thereof; or (6) based on a fair evaluation of all material facts, such labelling is false or misleading in any way; he shall issue an order disapproving the application.

(e) The effectiveness of an application with respect to any drug or device shall, after due notice and opportunity for hearing to the applicant, by order of the Department be suspended if it finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug or device is unsafe or ineffective for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

(f) The Department shall promulgate regulations for exempting from the operation of this Article drugs and devices intended solely for investigational used by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs and devices.

(g) No person shall manufacture, sell, offer for sale, import, export, distribute or transfer any drug or device without first securing a license to operate from the Department after due compliance with technical requirements in accordance with the rules and regulations promulgated by the Department pursuant to this Act.

(h) No drug or device shall be manufactured, sold, offered for sale, imported, exported, distributed or transferred, unless registered by the manufacturer, imported or distributor thereof, in accordance with rules and regulations promulgated by the Department pursuant to this Act. The provisions of Article 31 (b), (d) and (e), to the extent applicable, shall govern the registration of such drugs and devices.

(i) The Department shall promulgate a schedule of fees for the issuance of the certificate of product registration and license to operate provided for under this Article.

Art. 32. Dangerous Drugs. - The importation, distribution, manufacture, production, compounding, prescription, dispensing and sale of, and other lawful acts in connection with, dangerous drugs of such kind and quantity as may be deemed necessary according to the medical and research needs of the country and the determination of the quantity/quantities to be imported, manufactured and held in stock at any given time by an authorized importer, manufacturer or distributor of dangerous drugs shall be under the jurisdiction and authority of the Dangerous Drugs Board as provided for by existing laws and regulations.

Art. 33. Banned or Restricted Drugs. - Banned or severely restricted drugs for health and safety reasons in their country of origin shall be banned and confiscated or its uses severely restricted whichever is appropriate, by the Department. The Department shall monitor the presence in the market of such drugs and cause the maintenance and regular publications of an updated consolidated list thereof.

CERTIFICATION OF DRUGS

CONTAINING ANTIBIOTICS

Art. 34. Certification of Certain Drugs. - (a) The Department shall, by regulations, provide for the certification of batches of drugs composed wholly or partially of any kind of antibiotic. A batch of such drug shall be certified if such drug has such characteristics of identity, strength, quality and purity, as the Department prescribes in such regulations as necessary to insure adequately safety and efficacy of use and good quality, but shall not otherwise be certified. Prior to the effective date of such regulations the Department, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof. For purposes of this Article and of Article 89 (j), the term "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(b) Whenever in the judgment of the Department, the requirements of this Article and of Article 89 (j) with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use and good quality, the Department shall promulgate regulations exempting such drug or class of drugs from such requirements.

(c) The Department shall promulgate regulations exempting from any requirement of this Article and of Article 89 (j), (l) drugs which are to be stored, processed, labelled, or

repacked at establishments other than those where manufactured, or condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

COSMETICS

Art. 35. Adulterated cosmetics. - A cosmetic shall be deemed to be adulterated:

(a) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the condition of use prescribed in the labelling thereof, or under the condition of use as are customary or usual: Provided, That this provision shall not apply to colour additive hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution: this product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness" and labelling of which bears adequate directions for such preliminary testing. For purposes of this paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) if it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) if it has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) if its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(e) if it is not a hair dye, and it bears or contains colour additive other than which is permissible.

(f) if any of its substances has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in parts therefore.

Art. 36. Factory Inspection. - a) For purposes of enforcement of this Article, officers or employees duly designated by the Department, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable hours, any factory, warehouse or establishment in which food, drugs, devices or cosmetics are manufactured, processed, packed or held, for introduction into domestic commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in domestic commerce; and (2) to inspect, in a reasonable manner, such factory, warehouse, or establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labelling therein.

(b) If the officer or employee making any such inspection of a factory, warehouse or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

(c) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator or agent in charge.

Art. 37. Provisional Permits. - Whenever the Department finds, after investigation, that the sale or distribution in commerce of any class of food, cosmetics, drugs or devices, may be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered into domestic commerce, it shall promulgate regulations providing for the issuance, suspension and revocation of provisional permits, offer for sale or transfer of such classes of food, cosmetics, drugs or devices to manufacturers, processors or packers of the same in such locality to which shall be attached such conditions governing the manufacture, processing or packing of such consumer products for such temporary period of time as may be necessary to protect public health; and after the effective date of such regulations, and during such temporary period, no person shall, offer for sale or transfer any such food, cosmetics, drugs or devices unless such manufacturer, processor or packer holds such permit.

Art. 38. Publicity and Publication. - (a) The Department may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the Department, imminent danger to health, or gross deception to the consumer. Nothing in this Article shall be construed to prohibit the Department from collecting, reporting, and illustrating the results of its investigations.

(b) The Department shall publish a Drug Reference Manual and Drug Bulletin to serve as reference by manufacturers, distributors, physicians, consumers and such other groups as may be deemed necessary. The Department is hereby authorized to sell the Drug Reference Manual at cost.

Art. 39. Administrative Sanctions. - In addition to the administrative sanctions provided for under Letter of Instructions No. 1223, the Department is hereby authorized to impose, after notice and hearing, administrative fines of not less than One thousand pesos (P1,000.00) nor more than Five thousand pesos (P5,000.00) for any violation of this Act.

PROHIBITED ACTS AND PENALTIES

Art. 40. Prohibited Acts. - The following acts and the causing thereof are hereby prohibited:

(a) the manufacture, importation, exportation, sale, offering for sale, distribution or transfer of any food, drug, device or cosmetic that is adulterated or mislabelled;

- (b) the adulteration or misbranding of any food, drug, device or cosmetic;
- (c) the refusal to permit entry or inspection as authorized by Article 36 to allow samples to be collected;
- (d) the giving of a guaranty or undertaking referred to in Article 41 (b) hereof which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the Philippines from whom he received in good faith the food, drug, device, or cosmetic or the giving of a guaranty or undertaking referred to in Article 41 (b) which guaranty or undertaking is false;
- (e) forging, counterfeiting, simulating, or falsely representing or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this Act;
- (f) the using by any person to his own advantage, or revealing, other than to the Department or to the courts when relevant in any judicial proceeding under this Act, any information concerning any method or process which as a trade secret is entitled to protection;
- (g) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labelling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such product is held for sale (whether or not the first sale) and results in such product being adulterated or mislabelled;
- (h) the use, on the labelling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under Article 31 hereof, or that such drug complies with the provisions of such articles; chanrobles law
- (i) the use, in labelling, advertising or other sales promotion, of any reference to any report or analysis furnished in compliance with Section 19 of Executive Order 175, Series of 1987;
- (j) the manufacture, importation, exportation, sale, offering for sale, distribution, or transfer of any drug or device which is not registered with the Department pursuant to this Act;
- (k) the manufacture, importation, exportation, sale, offering for sale, distribution, or transfer of any drug or device by any person without the license from the Department required in this Act;
- (l) the sale or offering for sale of any drug or device beyond its expiration or expiry date.
- (m) the release for sale or distribution of a batch of drugs without batch certification when required under Article 34 hereof.

Art. 41. Penalties. - (a) Any person who violates any of the provisions of Article 40 hereof shall, upon conviction, be subject to imprisonment of not less than one (1) year but not more than five (5) years, or a fine of not less than Five thousand pesos (P5,000.00) but not more than Ten thousand pesos (P10,000.00), or both such imprisonment and fine, in the discretion of the Court.

Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the President, General Manager, or the partners and/or the persons directly responsible therefore shall be penalized.

(b) No person shall be subject to the penalties of sub-article (a) of this Article for (1) having sold, offered for sale or transferred any product and delivered it, if such delivery was made in good faith, unless he refuses to furnish on request of the Department, the name and address of the person from whom he purchased or received such product and copies of all documents, if any there be, pertaining to the delivery of the product to him; (2) having violated Article 40 (a) if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Philippines from whom he received in good faith the product, or (3) having violated Article 40 (a), where the violation exists because the product is adulterated by reason of containing a colour other than the permissible one under regulations promulgated by the Department in this Act, if such person establishes a guaranty or undertaking signed by, and containing the name and address, of the manufacturer of the colour, to the effect that such colour is permissible, under applicable regulations promulgated by the Department in this Act.

CHAPTER III

HAZARDOUS SUBSTANCE

Art. 42. Declaration of Policy. - The State shall adopt measures designed to protect the consumer against substances other than food, drugs, cosmetics and devices that are hazardous to his health and safety.

Art. 43. Implementing Agency. - The Department of Health, hereby referred to as the Department, shall enforce the provisions of this Chapter.

Art. 44. Regulations Declaring Hazardous Substances and Establishing Variations and Exemptions. - The Department shall promulgate the rules and regulations governing the implementation of this Article.

To resolve uncertainty as to the coverage of this Article, the Department may, by regulations, declare as hazardous any substance of mixture of substances which he finds meets the requirements of paragraph (ak), clause (1) (i) of Article 4.

If the Department finds that for good and sufficient reasons, full compliance with the labelling requirements otherwise applicable under this Chapter is impracticable or is not necessary for the adequate protection of public health and safety, it shall promulgate regulations exempting such substances from these requirements to the extent he deems consistent with the objective of adequately safeguarding public health and safety, and any hazardous substance which does not bear a label in accordance with such regulations shall be deemed to be a mislabelled hazardous substance.

Art. 45. Imports: Regulations on Imported Hazardous Substances. - (a) The Commissioner of Customs shall deliver to the Department, upon its request, samples of hazardous substances being imported or offered for import to the Philippines, giving notice thereof to the owner or consignee who may appear before the Department and exercise the right to make testimony. If it appears from the examination of such samples that such hazardous substance is a mislabelled hazardous substance or banned hazardous substance, then such hazardous substance shall be refused admission except as may be provided in an order issued by the Department authorizing delivery of the refused products or substance under the requirements imposed therein. The Commissioner of Customs shall cause the destruction of any hazardous substance refused admission unless such is exported, under regulations issued by the Commissioner within ninety (90) days from the date of notice of such refusal or within such additional time as may be fixed by him.

(b) Pending decision on the admissibility of a hazardous substance being imported or offered for import, the Commissioner of Customs may authorize delivery of such hazardous substance to the owner or consignee upon execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default. If it appears to the Department that the hazardous substance can by relabeling or other action made to comply with the requirements of this Article final determination as to the admission of such hazardous substance may be deferred and upon filing of a timely written application by the owner or consignee and the execution by him of a bond as provided in the provision of this paragraph. The Department may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization, including destruction or export of such rejected hazardous substance. All such relabeling or other action pursuant to such authorization shall be in accordance with regulations and shall be under the supervision of an officer or employee of the Commission of Customs and the Department.

PROHIBITED ACTS AND PENALTIES

Art. 46. Prohibited Acts. - It shall be unlawful for any person to:

(a) introduce or deliver for introduction into commerce of any mislabelled hazardous substance or banned hazardous substance;

(b) alter, mutilate, destroy, obliterate or remove the whole or any part of the label of a mislabelled hazardous substance, or banned hazardous substance, if such act is done while the substance is in commerce or while the substance is held for sale, whether or not it is the first sale;

(c) receive in commerce any mislabelled hazardous substance or banned hazardous substance and the delivery or preferred delivery thereof at cost or otherwise;

(d) give the guaranty or undertaking referred to in paragraph (b) of Article 93 and paragraph (b) of Article 45 if such guaranty or undertaking is false except by a person who relied upon a guaranty or undertaking which he received in good faith;

(e) introduce or deliver for introduction into commerce or receive in commerce and subsequently deliver or preferred at cost or otherwise, or a hazardous substance in a reused food, drug, cosmetic or device container or in a container which, though not a reused container, is identifiable as a food, drug, cosmetic or device container by its labelling or by other identification. The use of a used food, drug, cosmetic or device container for a hazardous substance does not diminish the danger posed by the hazardous substance involved, therefore, such substance shall be deemed a mislabelled hazardous substance.

Art. 47. Penalties; exception. - (a) Any person who violates any of the provisions of Article 46 shall, upon conviction, be subject to a fine of not less than One thousand pesos (P1,000.00) or an imprisonment of not less than six (6) months but not more than five (5) years or both upon the discretion of the court.

(b) No person shall be subject to the penalties of paragraph (a) of this Article for (1) having violated paragraph (c) of Article 46 unless he refuses to furnish, upon request by the Department or his representative, the name and address of the person from whom he purchased such hazardous substances and (2) having violated paragraph (a) of Article 46, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person from whom he received in good faith, the hazardous substance to the effect that the hazardous substance is not a mislabelled hazardous substance or banned hazardous within the meaning of that term in this Act.

TITLE III

PROTECTION AGAINST DECEPTIVE, UNFAIR AND UNCONSCIONABLE SALES ACTS OR PRACTICES

CHAPTER I

DECEPTIVE, UNFAIR AND UNCONSCIONABLE SALES ACTS OR PRACTICES

Art. 48. Declaration of Policy. - The State shall promote and encourage fair, honest and equitable relations among parties in consumer transactions and protect the consumer against deceptive, unfair and unconscionable sales acts or practices.

Art. 49. Implementing Agency. - The Department of Trade and Industry, hereby referred to as the Department, shall enforce the provisions of this Chapter.

REGULATION OF SALES ACTS AND PRACTICES

Art. 50. Prohibition Against Deceptive Sales Acts or Practices. - A deceptive act or practice by a seller or supplier in connection with a consumer transaction violates this Act whether it occurs before, during or after the transaction. An act or practice shall be deemed deceptive whenever the producer, manufacturer, supplier or seller, through concealment, false representation of fraudulent manipulation, induces a consumer to enter into a sale or lease transaction of any consumer product or service.

Without limiting the scope of the above paragraph, the act or practice of a seller or supplier is deceptive when it represents that:

- (a) a consumer product or service has the sponsorship, approval, performance, characteristics, ingredients, accessories, uses, or benefits it does not have;
- (b) a consumer product or service is of a particular standard, quality, grade, style, or model when in fact it is not;
- (c) a consumer product is new, original or unused, when in fact, it is in a deteriorated, altered, reconditioned, reclaimed or second-hand state;
- (d) a consumer product or service is available to the consumer for a reason that is different from the fact;
- (e) a consumer product or service has been supplied in accordance with the previous representation when in fact it is not;
- (f) a consumer product or service can be supplied in a quantity greater than the supplier intends;
- (g) a service, or repair of a consumer product is needed when in fact it is not;
- (h) a specific price advantage of a consumer product exists when in fact it does not;
- (i) the sales act or practice involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms or other rights, remedies or obligations if the indication is false; and
- (j) the seller or supplier has a sponsorship, approval, or affiliation he does not have.

Art. 51. Deceptive Sales Act or Practices By Regulation. - The Department shall, after due notice and hearing, promulgate regulations declaring as deceptive any sales act, practice or technique which is a misrepresentation of facts other than those enumerated in Article 50.

Art. 52. Unfair or Unconscionable Sales Act or Practice. - An unfair or unconscionable sales act or practice by a seller or supplier in connection with a consumer transaction violates this Chapter whether it occurs before, during or after the consumer transaction. An act or practice shall be deemed unfair or unconscionable whenever the producer, manufacturer, distributor, supplier or seller, by taking advantage of the consumer's physical or mental infirmity, ignorance, illiteracy, lack of time or the general conditions of the environment or surroundings, induces the consumer to enter into a sales or lease transaction grossly inimical to the interests of the consumer or grossly one-sided in favour of the producer, manufacturer, distributor, supplier or seller.

In determining whether an act or practice is unfair and unconscionable, the following circumstances shall be considered:

- (a) that the producer, manufacturer, distributor, supplier or seller took advantage of the inability of the consumer to reasonably protect his interest because of his inability to understand the language of an agreement, or similar factors;
- (b) that when the consumer transaction was entered into, the price grossly exceeded the price at which similar products or services were readily obtainable in similar transaction by like consumers;
- (c) that when the consumer transaction was entered into, the consumer was unable to receive a substantial benefit from the subject of the transaction;
- (d) that when the consumer was entered into, the seller or supplier was aware that there was no reasonable probability or payment of the obligation in full by the consumer; and
- (e) that the transaction that the seller or supplier induced the consumer to enter into was excessively one-sided in favour of the seller or supplier.

Art. 53. Chain Distribution Plans or Pyramid Sales Schemes. - Chain distribution plans or pyramid sales schemes shall not be employed in the sale of consumer products.

Art. 54. Home Solicitation Sales. - No business entity shall conduct any home solicitation sale of any consumer product or service without first obtaining a permit from the Department. Such permit may be denied suspended or revoked upon cause as provided in the rules and regulations promulgated by the Department, after due notice and hearing.

Art. 55. Home Solicitation Sales; When Conducted. - Home solicitation sales may be conducted only between the hours of nine o'clock in the morning and seven o'clock in the evening of each working day: Provided, That solicitation sales may be made at a time other than the prescribed hours where the person solicited has previously agreed to the same.

Art. 56. Home Solicitation Sales; by Whom Conducted. - Home solicitation sales shall only be conducted by a person who has the proper identification and authority from his principal to make such solicitations.

Art. 57. Receipts for Home Solicitation Sales. - Sales generated from home solicitation sales shall be properly receipted as per existing laws, rules and regulations on sale transactions.

Art. 58. Prohibited Representations. - A home solicitation sale shall not represent that:

- (a) the buyer has been specially selected;
- (b) a survey, test or research is being conducted; or
- (c) the seller is making a special offer to a few persons only for a limited period of time.

Art. 59. Referral Sales. - Referral selling plans shall not be used in the sale of consumer products unless the seller executes in favour of the buyer a written undertaking that will grant a specified compensation or other benefit to said buyer in return for each and every transaction consummated by said seller with the persons referred by said buyer or for subsequent sales that said buyers has helped the seller enter into.

Art. 60. Penalties. - (a) Any person who shall violate the provisions of Title III, Chapter I, shall upon conviction, be subject to a fine of not less than Five Hundred Pesos (P500.00) but not more than Ten Thousand Pesos (P10,000.00) or imprisonment of not less than five (5) months but not more than one (1) year or both, upon the discretion of the court.

(b) In addition to the penalty provided for in paragraph (1), the court may grant an injunction restraining the conduct constituting the contravention of the provisions of Articles 50 and 51 and/or actual damages and such other orders as it thinks fit to redress injury to the person caused by such conduct.

CHAPTER II REGULATION OF PRACTICES RELATIVE TO WEIGHTS AND MEASURES

GENERAL PROVISION

Art. 61. Implementing Agency. - The provincial, city, or municipal treasurers shall strictly enforce the provisions of this Chapter, and its implementing rules and regulations: Provided, That, with respect to the use of the Metric System, it shall be enforced by the Department of Trade and Industry.

Art. 62. Sealing and Testing of Instruments of Weights and Measure. - All instruments for determining weights and measures in all consumer and consumer related transactions shall be tested, calibrated and sealed every six (6) months by the official sealer who shall be the provincial or city or municipal treasurer or his authorized representative upon payment of fees required under existing law: Provided, That all instruments of weights and measures shall continuously be inspected for compliance with the provisions of this Chapter.

Art. 63. Use of Metric System. - The system of weights and measures to be used for all products, commodities, materials, utilities, services and commercial transactions, in all contracts, deeds and other official and legal instruments and documents shall be the metric system, in accordance with existing laws and their implementing rules and regulations.

The Department of Trade and Industry shall also adopt standard measurement for garments, shoes and other similar consumer products.

PROHIBITED ACTS

Art. 64. Fraudulent Practices Relative to Weights and Measures. - The following acts relating to weights and measures are prohibited:

- (a) for any person other than the official sealer or his duly authorized representative to place or attach an official tag, seal, sticker, mark, stamp, brand or other characteristic sign used to indicate that such instrument of weight and measure has officially been tested, calibrated, sealed or inspected;
- (b) for any person to imitate any seal, sticker, mark, stamp, brand, tag or other characteristic sign used to indicate that such instrument of weight or measures has been officially tested, calibrated, sealed or inspected;
- (c) for any person other than the official sealer or his duly authorized representative to alter in any way the certificate or receipt given by the official sealer or his duly authorized representative as an acknowledgment that the instrument for determining weight or measure has been fully tested, calibrated, sealed or inspected;
- (d) for any person to make or knowingly sell or use any false or counterfeit seal, sticker, brand, stamp, tag, certificate or license or any dye for printing or making the same or any characteristic sign used to indicate that such instrument of weight or measure has been officially tested, calibrated, sealed or inspected;
- (e) for any person other than the official sealer or his duly authorized representative to alter the written or printed figures, letters or symbols on any official seal, sticker, receipt, stamp, tag, certificate or license used or issued;
- (f) for any person to use or reuse any restored, altered, expired, damaged stamp, tag certificate or license for the purpose of making it appear that the instrument of weight of measure has been tested, calibrated, sealed or inspected;
- (g) for any person engaged in the buying and selling of consumer products or of furnishing services the value of which is estimated by weight or measure to possess, use or maintain with intention to use any scale, balance, weight or measure that has not been sealed or if previously sealed, the license therefore has expired and has not been renewed in due time;
- (h) for any person to fraudulently alter any scale, balance, weight, or measure after it is officially sealed;
- (i) for any person to knowingly use any false scale, balance, weight or measure, whether sealed or not;
- (j) for any person to fraudulently give short weight or measure in the making of a scale;
- (k) for any person, assuming to determine truly the weight or measure of any article bought or sold by weight or measure, to fraudulently misrepresent the weight or measure thereof; or

(l) for any person to procure the commission of any such offense abovementioned by another.

Instruments officially sealed at some previous time which have remained unaltered and accurate and the seal or tag officially affixed thereto remains intact and in the same position and condition in which it was placed by the official sealer or his duly authorized representative shall, if presented for sealing, be sealed promptly on demand by the official sealer or his authorized representative without penalty except a surcharge fixed by law or regulation.

Art. 65. Penalties. - (a) Any person who shall violate the provisions of paragraphs (a) to (f) and paragraph (l) of Article 64 or its implementing rules and regulations shall, upon conviction, be subject to a fine of not less than Two hundred pesos (P200.00) but not more than One thousand pesos (P1,000.00) or by imprisonment of not more than one (1) year or both upon the discretion of the court.

(b) Any person who shall violate the provisions of paragraph (g) of Article 64 for the first time shall be subject to a fine of not less than Five hundred pesos (P500.00) or by imprisonment of not less than one (1) month but not more than five (5) years or both, upon the discretion of the court.

(c) The owner-possessor or user of instrument of weights and measure enumerated in paragraphs (h) to (k) of Article 64 shall, upon conviction, be subject to a fine of not less than Three hundred pesos (P300.00) or imprisonment not exceeding one (1) year, or both, upon the discretion of the court.

CHAPTER III

CONSUMER PRODUCT AND SERVICE WARRANTIES

Art. 66. Implementing Agency. - The Department of Trade and Industry, shall strictly enforce the provision of this Chapter and its implementing rules and regulations.

Art. 67. Applicable Law on Warranties. - The provisions of the Civil Code on conditions and warranties shall govern all contracts of sale with conditions and warranties.

Art. 68. Additional Provisions on Warranties. - In addition to the Civil Code provisions on sale with warranties, the following provisions shall govern the sale of consumer products with warranty:

(a) Terms of express warranty. - Any seller or manufacturer who gives an express warranty shall:

(1) set forth the terms of warranty in clear and readily understandable language and clearly identify himself as the warrantor;

(2) identify the party to whom the warranty is extended;

(3) state the products or parts covered;

(4) state what the warrantor will do in the event of a defect, malfunction or failure to conform to the written warranty and at whose expense;

(5) state what the consumer must do to avail of the rights which accrue to the warranty; and

(6) stipulate the period within which, after notice of defect, malfunction or failure to conform to the warranty, the warrantor will perform any obligation under the warranty.

(b) Express warranty - operative from moment of sale. - All written warranties or guarantees issued by a manufacturer, producer, or importer shall be operative from the moment of sale.

(1) Sales Report. - All sales made by distributors of products covered by this Article shall be reported to the manufacturer, producer, or importer of the product sold within thirty (30) days from date of purchase, unless otherwise agreed upon. The report shall contain, among others, the date of purchase, the model of the product bought, its serial number and the name and address of the buyer. The report made in accordance with this provision shall be equivalent to a warranty registration with the manufacturer, producer, or importer. Such registration is sufficient to hold the manufacturer, producer, or importer liable, in appropriate cases, under its warranty.

(2) Failure to make or send report. - Failure of the distributor to make the report or send them the form required by the manufacturer, producer, or importer shall relieve the latter of its liability under the warranty: Provided, however, That the distributor who failed to comply with its obligation to send the sales reports shall be personally liable under the warranty. For this purpose, the manufacturer shall be obligated to make good the warranty at the expense of the distributor.

(3) Retail. - The retailer shall be subsidiarily liable under the warranty in case of failure of both the manufacturer and distributor to honour the warranty. In such case, the retailer shall shoulder the expenses and costs necessary to honour the warranty. Nothing therein shall prevent the retailer from proceeding against the distributor or manufacturer.

(4) Enforcement of warranty or guarantee. - The warranty rights can be enforced by presentment of a claim. To this end, the purchaser needs only to present to the immediate seller either the warranty card or the official receipt along with the product to be serviced or returned to the immediate seller. No other documentary requirement shall be demanded from the purchaser. If the immediate seller is the manufacturer's factory or showroom, the warranty shall immediately be honoured. If the product was purchased from a distributor, the distributor shall likewise immediately honour the warranty. In the case of a retailer other than the distributor, the former shall take responsibility without cost to the buyer of presenting the warranty claim to the distributor in the consumer's behalf.

(5) Record of purchases. - Distributors and retailers covered by this Article shall keep a record of all purchases covered by a warranty or guarantee for such period of time corresponding to the lifetime of the product's respective warranties or guarantees.

(6) Contrary stipulations: null and void. - All covenants, stipulations or agreements contrary to the provisions of this Article shall be without legal effect.

(c) Designation of warranties. - A written warranty shall clearly and conspicuously designate such warranty as:

(1) "Full warranty" if the written warranty meets the minimum requirements set forth in paragraph (d); or

(2) "Limited warranty" if the written warranty does not meet such minimum requirements.

(d) Minimum standards for warranties. - For the warrantor of a consumer product to meet the minimum standards for warranty, he shall:

(1) remedy such consumer product within a reasonable time and without charge in case of a defect, malfunction or failure to conform to such written warranty;

(2) permit the consumer to elect whether to ask for a refund or replacement without charge of such product or part, as the case may be, where after reasonable number of attempts to remedy the defect or malfunction, the product continues to have the defect or to malfunction.

The warrantor will not be required to perform the above duties if he can show that the defect, malfunction or failure to conform to a written warranty was caused by damage due to unreasonable use thereof.

(e) Duration of warranty. - The seller and the consumer may stipulate the period within which the express warranty shall be enforceable. If the implied warranty on merchantability accompanies an express warranty, both will be of equal duration.

Any other implied warranty shall endure not less than sixty (60) days or more than one (1) year following the sale of new consumer products.

(f) Breach of warranties. - (1) In case of breach of express warranty, the consumer may elect to have the goods repaired or its purchase price refunded by the warrantor. In case the repair of the product in whole or in part is elected, the warranty work must be made to conform to the express warranty within thirty (30) days by either the warrantor or his representative. The thirty-day period, however, may be extended by conditions which are beyond the control of the warrantor or his representative. In case the refund of the purchase price is elected, the amount directly attributable to the use of the consumer prior to the discovery of the non-conformity shall be deducted.

(2) In case of breach of implied warranty, the consumer may retain in the goods and recover damages, or reject the goods, cancel and contract and recover from the seller so much of the purchase price as has been paid, including damages.

Art. 69. Warranties in Supply of Services. - (a) In every contract for the supply of services to a consumer made by a seller in the course of a business, there is an implied warranty that the service will be rendered with due care and skill and that any material supplied in connection with such services will be reasonably fit for the purpose for which it is supplied.

(b) Where a seller supplies consumer services in the course of a business and the consumer, expressly or by implication, makes known to the seller the particular purpose for which the services are required, there is an implied warranty that the services supplied under the contract and any material supplied in connection therewith will be reasonably fit for that purpose or are of such a nature or quality that they might reasonably be expected to achieve that result, unless the circumstances show that the consumer does not rely or that it is unreasonable for him to rely, on the seller's skill or judgment.

Art. 70. Professional Services. - The provision of this Act on warranty shall not apply to professional services of certified public accountants, architects, engineers, lawyers, veterinarians, optometrists, pharmacists, nurses, nutritionists, dieticians, physical therapists, salesmen, medical and dental practitioners and other professionals engaged in their respective professional endeavours.

Art. 71. Guaranty of Service Firms. - Service firms shall guarantee workmanship and replacement of spare parts for a period not less than ninety (90) days which shall be indicated in the pertinent invoices.

Art. 72. Prohibited Acts. - The following acts are prohibited:

(a) refusal without any valid legal cause by the local manufacturer or any person obligated under the warranty or guarantee to honour a warranty or guarantee issued;

(b) unreasonable delay by the local manufacturer or any person obligated under the warranty or guarantee in honouring the warranty;

(c) removal by any person of a product's warranty card for the purpose of evading said warranty obligation;

(d) any false representation in an advertisement as to the existence of a warranty or guarantee.

Art. 73. Penalties. - (a) Any person who shall violate the provisions of Article 67 shall be subject to fine of not less than Five hundred pesos (P500.00) but not more than Five thousand pesos (P5,000.00) or an imprisonment of not less than three (3) months but not more than two (2) years or both upon the discretion of the court. A second conviction under this paragraph shall also carry with it the penalty or revocation of his business permit and license.

(b) Any person, natural or juridical, committing any of the illegal acts provided for in Chapter III, except with respect to Article 67, shall be liable for a fine of not less than One thousand pesos (P1,000.00) but not more than Fifty thousand pesos (P50,000.00) or imprisonment for a period of at least one (1) year but not more than five (5) years, or both, at the discretion of the court.

The imposition of any of the penalties herein provided is without prejudice to any liability incurred under the warranty or guarantee.

CHAPTER IV LABELLING AND FAIR PACKAGING

Art. 74. Declaration of Policy. - The State shall enforce compulsory labelling, and fair packaging to enable the consumer to obtain accurate information as to the nature, quality and quantity of the contents of consumer products and to facilitate his comparison of the value of such products.

Art. 75. Implementing Agency. - The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations: Provided, That with respect to food, drugs, cosmetics, devices and hazardous substances, it shall be enforced by the concerned department.

Art. 76. Prohibited Acts on Labelling and Packaging. - It shall be unlawful for any person, either as principal or agent, engaged in the labelling or packaging of any consumer product, to display or distribute or to cause to be displayed or distributed in commerce any consumer product whose package or label does not conform to the provisions of this Chapter.

The prohibition in this Chapter shall not apply to persons engaged in the business of wholesale or retail distributors of consumer products except to the extent that such persons:

- (a) are engaged in the packaging or labelling of such products;
- (b) prescribe or specify by any means the manner in which such products are packaged or labelled; or
- (c) having knowledge, refuse to disclose the source of the mislabelled or mispackaged products.

Art. 77. Minimum Labelling Requirements for Consumer Products. - All consumer products domestically sold whether manufactured locally or imported shall indicate the following in their respective labels of packaging:

- (a) its correct and registered trade name or brand name;
- (b) its duly registered trademark;

- (c) its duly registered business name;
- (d) the address of the manufacturer, importer, repacker of the consumer product in the Philippines;
- (e) its general make or active ingredients;
- (f) the net quality of contents, in terms of weight, measure or numerical count rounded off to at least the nearest tenths in the metric system;
- (g) country of manufacture, if imported; and
- (h) if a consumer product is manufactured, refilled or repacked under license from a principal, the label shall so state the fact.

The following may be required by the concerned department in accordance with the rules and regulations they will promulgate under authority of this Act:

- (a) whether it is flammable or inflammable;
- (b) directions for use, if necessary;
- (c) warning of toxicity;
- (d) wattage, voltage or amperes; or
- (e) process of manufacture used if necessary.

Any word, statement or other information required by or under authority of the preceding paragraph shall appear on the label or labelling with such conspicuousness as compared with other words, statements, designs or devices therein, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase or use.

The above requirements shall form an integral part of the label without danger of being erased or detached under ordinary handling of the product.

Art. 78. Philippine Product Standard Mark. - The label may contain the Philippine Product Standard Mark if it is certified to have passed the consumer product standard prescribed by the concerned department.

Art. 79. Authority of the Concerned Department to Provide for Additional Labelling and Packaging Requirements. - Whenever the concerned department determines that regulations containing requirements other than those prescribed in Article 77 hereof are necessary to prevent the deception of the consumer or to facilitate value comparisons as to any consumer product, it may issue such rules and regulations to:

(a) establish and define standards for characterization of the size of a package enclosing any consumer product which may be used to supplement the label statement of net quality, of contents of packages containing such products but this clause shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any product;

(b) regulate the placement upon any package containing any product or upon any label affixed to such product of any printed matter stating or representing by implication that such product is offered for retail at a price lower than the ordinary and customary retail price or that a price advantage is accorded to purchases thereof by reason of the size of the package or the quantity of its contents;

(c) prevent the non-functional slack-fill of packages containing consumer products. For purposes of paragraph (c) of this Article, a package shall be deemed to be non-functionally slack-filled if it is filled to substantially less than its capacity for reasons other than (1) protection of the contents of such package; (2) the requirements of machines used for enclosing the contents in such package; or (3) inherent characteristics of package materials or construction being used.

Art. 80. Special Packaging of Consumer Products for the Protection of Children. - The concerned department may establish standards for the special packaging of any consumer product if it finds that:

(a) the degree or nature of the hazard to children in the availability of such product, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling and use of such product; and

(b) the special packaging to be required by such standard is technically feasible, practicable and appropriate for such product. In establishing a standard under this Article, the concerned department shall consider:

(1) the reasonableness of such standard;

(2) available scientific, medical and engineering data concerning special packaging and concerning accidental, ingestions, illnesses and injuries caused by consumer product;

(3) the manufacturing practices of industries affected by this Article; and

(4) the nature and use of consumer products.

Art. 81. Price Tag Requirement. - It shall be unlawful to offer any consumer product for retail sale to the public without an appropriate price tag, label or marking publicly displayed to indicate the price of each article and said products shall not be sold at a price higher than that stated therein and without discrimination to all buyers: Provided, That lumber sold, displayed or offered for sale to the public shall be tagged or labelled by indicating thereon the price and the corresponding official name of the wood: Provided, further, That if consumer products for sale are too small or the nature of which makes it

impractical to place a price tag thereon price list placed at the nearest point where the products are displayed indicating the retail price of the same may suffice.

Art. 82. Manner of Placing Price Tags. - Price tags, labels or markings must be written clearly, indicating the price of the consumer product per unit in pesos and centavos.

Art. 83. Regulations for Price Tag Placement. - The concerned department shall prescribe rules and regulations for the visible placement of price tags for specific consumer products and services. There shall be no erasures or alterations of any sort of price tags, labels or markings.

Art. 84. Additional Labelling Requirements for Food. - The following additional labelling requirements shall be imposed by the concerned department for food:

- (a) expiry or expiration date, where applicable;
- (b) whether the consumer product is semi-processed, fully processed, ready-to-cook, ready-to-eat, prepared food or just plain mixture;
- (c) nutritive value, if any;
- (d) whether the ingredients use are natural or synthetic, as the case may be;
- (e) such other labelling requirements as the concerned department may deem necessary and reasonable.

Art. 85. Mislabelled Food. - A food shall also be deemed mislabelled:

- (a) if its labelling or advertising is false or misleading in any way;
- (b) if it is offered for sale under the name of another food;
- (c) if it is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;
- (d) its containers is so made, formed, or filled as to be misleading;
- (e) if in package form unless it bears a label conforming to the requirements of this Act: Provided, That reasonable variation on the requirements of labelling shall be permitted and exemptions as to small packages shall be established by the regulations prescribed by the concerned department of health;
- (f) if any word, statement or other information required by or under authority of this Act to appear on the principal display panel of the label or labelling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs

or devices in the labelling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) if it purports to be or is represented as a food for which a definition or standard of identity has been prescribed unless:

(1) it conforms to such definition and standard; and

(2) its labels bears the name of the food specified in the definition or standards, and insofar as may be required by such regulations, the common names of optional ingredients other than spices, flavouring and colouring, present in such food;

(h) if it purports to be or represented as:

(1) a food for which a standard of quality has been prescribed by regulations as provided in this Act and its quality fall below such standard, unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards or fill of container have been prescribed by regulations as provided by this Act and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

i) if it is not subject to the provisions of paragraph (g) of this Article unless its label bears:

(1) the common or usual name of the food, if there be any; and

(2) in case it is manufactured or processed from two or more ingredients, the common or usual name of such ingredient; except the spices, flavourings and colourings other than those sold as such, may be designated as spices, flavourings and colourings without naming each: Provided, That to the extent that compliance with the requirement of clause (2) of this paragraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the concerned department of health;

(j) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin or mineral or other dietary properties as the concerned department determines to be, or by regulations prescribed as necessary in order fully to inform purchasers as its value for such uses;

(k) if it bears or contains any artificial flavouring, artificial colouring, or chemical preservative, unless it bears labelling, stating that fact: Provided, That to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the concerned department. The provisions of this paragraph or paragraphs (g) and (i) with respect to the artificial colouring shall not apply in the case of butter, cheese or ice cream.

Art. 86. Labelling of Drugs. - The Generics Act shall apply in the labelling of drugs.

Art. 87. Additional Labelling Requirements for Cosmetics. - The following additional requirements may be required for cosmetics:

- (a) expiry or expiration date;
- (b) whether or not it may be an irritant;
- (c) precautions or contra-indications; and
- (d) such other labelling requirements as the concerned department may deem necessary and reasonable.

Art. 88. Special Labelling Requirements for Cosmetics. - A cosmetic shall be deemed mislabelled:

- (a) if its labelling or advertising is false or misleading in any way;
- (b) if in package form unless it bears a label conforming to the requirements of labelling provided for in this Act or under existing regulations: Provided, That reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the concerned department;
- (c) if any word, statement or other information required by or under authority of this Act to appear on the label or labelling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labelling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (d) if its container is so made, formed or filled as to be misleading; or
- (e) if its label does not state the common or usual name of its ingredients.

Art. 89. Mislabelled Drugs and Devices. - A drug or device shall be deemed to be mislabelled:

- (a) if its labelling is false or misleading in any way;
- (b) if its in package form unless it bears a label conforming to the requirements of this Act or the regulations promulgated therefore: Provided, that reasonable variations shall be permitted and exemptions as to small packages shall be established by regulations prescribed by the concerned department.
- (c) if any word, statement or other information required by or under authority of this Act to appear on the principal display panel of the label or labelling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs

or devices in the labelling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(d) if it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote or sulfonmethane, or any chemical derivative of such substance, which derivative has been designated by the concerned department after investigation, and by regulations as habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning-May be habit forming";

(e) its labelling does not bear:

(1) adequate directions for use; and

(2) such adequate warning against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: Provided, That where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the concerned department may promulgate regulations exempting such drug or device from such requirement;

(f) if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labelled as prescribed therein: Provided, That the method of packing may be modified with the consent of the concerned department;

(g) if it has been found by the concerned department to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the concerned department, shall by regulations, require as necessary for the protection of the public health;

(h) (1) if it is a drug and its container is so made, formed or filled as to be misleading; or

(2) if it is an imitation of another drug; or

(3) if it is dangerous to health when used in the dosage, or with the frequency of duration prescribed, recommended or suggested in the labelling thereof;

(i) if it is, purports to be or is represented as a drug composed wholly or partly of insulin or of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless:

(1) it is from a batch with respect to which a certificate of release has been issued pursuant to regulations of the concerned department; and

(2) such certificate of release is in effect with respect to such drug: Provided, That this paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under Authority of this Act.

Art. 90. Regulation-making Exemptions. - The concerned department may promulgate regulations exempting from any labelling requirements of this Act food, cosmetics, drugs or devices which are, in accordance with the practice of trade, to be processed, labelled or repacked in substantial quantities at establishments other than those where originally processed, labelled or packed on condition that such food, cosmetics, drugs or devices are not adulterated or mislabelled under the provisions of this Act and other applicable laws upon approval from such processing, labelling and repacking establishments.

Art. 91. Mislabelled Hazardous Substances. - Hazardous substances shall be deemed mislabelled when:

(a) having been intended or packaged in a form suitable for use in households, especially for children, the packaging or labelling of which is in violation of the special packaging regulations issued by the concerned department;

(b) such substance fails to bear a label:

(1) which states conspicuously:

(i) the name and the place of business of the manufacturer, packer, distributor or seller;

(ii) the common or usual name or the chemical name, if there be no common or usual name, of the hazardous substance or of each component which contributes substantially to the harmfulness of the substance, unless the concerned department by regulation permits or requires the use of the recognized generic name;

(iii) the signal word "danger" on substances which are extremely flammable, corrosive or highly toxic;

(iv) the signal word "warning" or "caution" with a bright red or orange colour with a black symbol on all other hazardous substances;

(v) a clear statement as to the possible injury it may cause if used improperly;

(vi) precautionary measures describing the action to be followed or avoided;

(vii) instructions when necessary or appropriate for first-aid treatment;

(viii) the word "poison" for any hazardous substance which is defined as highly toxic;

(ix) instructions for handling and storage of packages which require special care in handling and storage; and

(x) the statement "keep out of the reach of children", or its practical equivalent, if the article is not intended for use by children and is not a banned hazardous substance, with 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 English language or its equivalent in Filipino; and

(2) on which any statement required under clause 1) of this paragraph is located prominently in bright red and orange colour with a black symbol in contrast typography, layout or colour with the other printed matters on the label.

Art. 92. Exemptions. - If the concerned department finds that for good or sufficient reasons, full compliance with the labelling requirements otherwise applicable under this Act is impracticable or is not necessary for the adequate protection of public health and safety, it shall promulgate regulations exempting such substances from these requirements to the extent it deems consistent with the objective of adequately safeguarding public health and safety, and any hazardous substance which does not bear a label in accordance with such regulations shall be deemed mislabelled hazardous substance.

Art. 93. Grounds for Seizure and Condemnation of Mislabelled Hazardous Substances. -

(a) Any mislabelled hazardous substance when introduced into commerce or while held for sale shall be liable to be proceeded against and condemned upon order of the concerned department in accordance with existing procedure for seizure and condemnation of articles in commerce: Provided, That this Article shall not apply to a hazardous substance intended for export to any foreign country if:

(1) it is in a package labelled in accordance with the specifications of the foreign purchaser;

(2) it is labelled in accordance with the laws of the foreign country;

(3) it is labelled on the outside of the shipping package to show that it is intended for export; and

(4) it is so exported,

(b) any hazardous substance condemned under this Article shall after entry of order of condemnation be disposed of by destruction or sale as the concerned department may direct, and the proceeds thereof, if sold, less the legal cost and charges, shall be paid into the treasury of the Philippines; but such hazardous substance shall not be sold under any order which is contrary to the provisions of this Act: Provided, That, after entry of the order and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such hazardous substance shall not be sold or disposed of contrary to the provisions of this Act, the concerned department may direct that such hazardous substance be delivered to or retained by the owner thereof for destruction or for alteration to comply with the provisions of this Act under the supervision of an officer or employee duly designated by the concerned department. The expenses for such supervision shall be paid by the person obtaining release of the hazardous substance under bond.

c) all expenses in connection with the destruction provided for in paragraphs (a) and (b) of this Article and all expenses in connection with the storage and labour with respect to such hazardous substance shall be paid by the owner or consignee, and default in such payment shall constitute a lien against any importation by such owner or consignee.

Art. 94. Labelling Requirements of Cigarettes. - All cigarettes for sale or distribution within the country shall be contained in a package which shall bear the following statement or its equivalent in Filipino: "Warning: Cigarette Smoking is Dangerous to Your Health". Such statement shall be located in conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout or colour with other printed matter on the package. Any advertisement of cigarette shall contain the name warning as indicated in the label.

Art. 95. Penalties. - (a) Any person who shall violate the provisions of Title III, Chapter IV of this Act, or its implementing rules and regulations, except Articles 81 to 83 of the same Chapter, shall be subject to a fine of not less than Five hundred pesos (P500.00) but not more than Twenty thousand pesos (P20,000.00) or imprisonment of not less than three (3) months but not more than two (2) years or both, at the discretion of the court: Provided, That, if the consumer product is one which is not a food, cosmetic, drug, device or hazardous substance, the penalty shall be a fine of not less than Two hundred pesos (P200.00) but not more than Five thousand pesos (P5,000.00) or imprisonment of not less than one (1) month but not more than one (1) year or both, at the discretion of the court.

(b) Any person who violates the provisions of Articles 81 to 83 for the first time shall be subject to a fine of not less than Two hundred pesos (P200.00) but not more than Five thousand pesos (P5,000.00) or by imprisonment of not less than one (1) month but not more than six (6) months or both, at the discretion of the court. A second conviction under this paragraph shall also carry with it the penalty of revocation of business permit and license.

CHAPTER V LIABILITY FOR PRODUCT AND SERVICE

Art. 96. Implementing Agency. - The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations.

Art. 97. Liability for the Defective Products. - Any Filipino or foreign manufacturer, producer, and any importer, shall be liable for redress, independently of fault, for damages caused to consumers by defects resulting from design, manufacture, construction, assembly and erection, formulas and handling and making up, presentation or packing of their products, as well as for the insufficient or inadequate information on the use and hazards thereof.

A product is defective when it does not offer the safety rightfully expected of it, taking relevant circumstances into consideration, including but not limited to:

- (a) presentation of product;
- (b) use and hazards reasonably expected of it;
- (c) the time it was put into circulation.

A product is not considered defective because another better quality product has been placed in the market.

The manufacturer, builder, producer or importer shall not be held liable when it evidences:

- (a) that it did not place the product on the market;
- (b) that although it did place the product on the market such product has no defect;
- (c) that the consumer or a third party is solely at fault.

Art. 98. Liability of Tradesman or Seller. - The tradesman/seller is likewise liable, pursuant to the preceding article when:

- (a) it is not possible to identify the manufacturer, builder, producer or importer;
- (b) the product is supplied, without clear identification of the manufacturer, producer, builder or importer;
- (c) he does not adequately preserve perishable goods. The party making payment to the damaged party may exercise the right to recover a part of the whole of the payment made against the other responsible parties, in accordance with their part or responsibility in the cause of the damage effected.

Art. 99. Liability for Defective Services. - The service supplier is liable for redress, independently of fault, for damages caused to consumers by defects relating to the rendering of the services, as well as for insufficient or inadequate information on the fruition and hazards thereof.

The service is defective when it does not provide the safety the consumer may rightfully expect of it, taking the relevant circumstances into consideration, including but not limited to:

- (a) the manner in which it is provided;
- (b) the result of hazards which may reasonably be expected of it;
- (c) the time when it was provided.

A service is not considered defective because of the use or introduction of new techniques.

The supplier of the services shall not be held liable when it is proven:

- (a) that there is no defect in the service rendered;

(b) that the consumer or third party is solely at fault.

Art. 100. Liability for Product and Service Imperfection. - The suppliers of durable or nondurable consumer products are jointly liable for imperfections in quality that render the products unfit or inadequate for consumption for which they are designed or decrease their value, and for those resulting from inconsistency with the information provided on the container, packaging, labels or publicity messages/advertisement, with due regard to the variations resulting from their nature, the consumer being able to demand replacement to the imperfect parts.

If the imperfection is not corrected within thirty (30) days, the consumer may alternatively demand at his option:

- (a) the replacement of the product by another of the same kind, in a perfect state of use;
- (b) the immediate reimbursement of the amount paid, with monetary updating, without prejudice to any losses and damages;
- (c) a proportionate price reduction.

The parties may agree to reduce or increase the term specified in the immediately preceding paragraph; but such shall not be less than seven (7) nor more than one hundred and eighty (180) days.

The consumer may make immediate use of the alternatives under the second paragraph of this Article when by virtue of the extent of the imperfection, the replacement of the imperfect parts may jeopardize the product quality or characteristics, thus decreasing its value.

If the consumer opts for the alternative under sub-paragraph (a) of the second paragraph of this Article, and replacement of the product is not possible, it may be replaced by another of a different kind, mark or model: Provided, That any difference in price may result thereof shall be supplemented or reimbursed by the party which caused the damage, without prejudice to the provisions of the second, third and fourth paragraphs of this Article.

Art. 101. Liability for Product Quantity Imperfection. - Suppliers are jointly liable for imperfections in the quantity of the product when, in due regard for variations inherent thereto, their net content is less than that indicated on the container, packaging, labelling or advertisement, the consumer having powers to demand, alternatively, at his own option:

- (a) the proportionate price;
- (b) the supplementing of weight or measure differential;
- (c) the replacement of the product by another of the same kind, mark or model, without said imperfections;

(d) the immediate reimbursement of the amount paid, with monetary updating without prejudice to losses and damages if any.

The provisions of the fifth paragraph of Article 99 shall apply to this Article.

The immediate supplier shall be liable if the instrument used for weighing or measuring is not gauged in accordance with official standards.

Art. 102. Liability for Service Quality Imperfection. - The service supplier is liable for any quality imperfections that render the services improper for consumption or decrease their value, and for those resulting from inconsistency with the information contained in the offer or advertisement, the consumer being entitled to demand alternatively at his option:

- (a) the performance of the services, without any additional cost and when applicable;
- (b) the immediate reimbursement of the amount paid, with monetary updating without prejudice to losses and damages, if any;
- (c) a proportionate price reduction.

Reperformance of services may be entrusted to duly qualified third parties, at the supplier's risk and cost.

Improper services are those which prove to be inadequate for purposes reasonably expected of them and those that fail to meet the provisions of this Act regulating service rendering.

Art. 103. Repair Service Obligation. - When services are provided for the repair of any product, the supplier shall be considered implicitly bound to use adequate, new, original replacement parts, or those that maintain the manufacturer's technical specifications unless, otherwise authorized, as regards to the latter by the consumer.

Art. 104. Ignorance of Quality Imperfection. - The supplier's ignorance of the quality imperfections due to inadequacy of the products and services does not exempt him from any liability.

Art. 105. Legal Guarantee of Adequacy. - The legal guarantee of product or service adequacy does not require an express instrument or contractual exoneration of the supplier being forbidden.

Art. 106. Prohibition in Contractual Stipulation. - The stipulation in a contract of a clause preventing, exonerating or reducing the obligation to indemnify for damages effected, as provided for in this and in the preceding Articles, is hereby prohibited, if there is more than one person responsible for the cause of the damage, they shall be jointly liable for the redress established in the pertinent provisions of this Act. However, if the damage is caused by a component or part incorporated in the product or service, its manufacturer,

builder or importer and the person who incorporated the component or part are jointly liable.

Art. 107. Penalties. - Any person who shall violate any provision of this Chapter or its implementing rules and regulations with respect to any consumer product which is not food, cosmetic, or hazardous substance shall upon conviction, be subject to a fine of not less than Five thousand pesos (P5,000.00) and by imprisonment of not more than one (1) year or both upon the discretion of the court.

In case of juridical persons, the penalty shall be imposed upon its president, manager or head. If the offender is an alien, he shall, after payment of fine and service of sentence, be deported without further deportation proceedings.

CHAPTER VI ADVERTISING AND SALES PROMOTION

Art. 108. Declaration of Policy. - The State shall protect the consumer from misleading advertisements and fraudulent sales promotion practices.

Art. 109. Implementing Agency. - The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations: Provided, That with respect to food, drugs, cosmetics, devices and hazardous substances, it shall be enforced by the Department of Health.

FALSE, DECEPTIVE AND MISLEADING ADVERTISEMENT

Art. 110. False, Deceptive or Misleading Advertisement. - It shall be unlawful for any person to disseminate or to cause the dissemination of any false, deceptive or misleading advertisement by Philippine mail or in commerce by print, radio, television, outdoor advertisement or other medium for the purpose of inducing or which is likely to induce directly or indirectly the purchase of consumer products or services.

An advertisement shall be false, deceptive or misleading if it is not in conformity with the provisions of this Act or if it is misleading in a material respect. In determining whether any advertisement is false, deceptive or misleading, there shall be taken into account, among other things, not only representations made or any combination thereof, but also the extent to which the advertisement fails to reveal material facts in the light of such representations, or materials with respect to consequences which may result from the use or application of consumer products or services to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual.

Art. 111. Price Comparisons. - Comparative price advertising by sellers of consumer products or services shall conform to the following conditions:

(a) Where the comparison relates to a former price of the seller, the item compared shall either have been sold at that price within the ninety (90) days immediately preceding the date of the advertisement, or it shall have been offered for sale for at least four (4) weeks

during such ninety-day period. If the comparison does not relate to an item sold or offered for sale during the ninety-day period, the date, time or seasonal period of such sale or offer shall be disclosed in the advertisement.

(b) Where the comparison relates to a seller's future price, the future price shall take effect on the date disclosed in the advertisement or within ninety (90) days after the price comparison is stated in the advertisement. The stated future price shall be maintained by the seller for a period of at least four (4) weeks after its effective date: Provided, That compliance thereof may be dispensed with in case of circumstances beyond the seller's control.

(c) Where the comparison relates to a competitor's price, the competitor's price shall relate to the consumer products or services advertised or sold in the ninety-day period and shall be representative of the prices similar consumer products or services are sold or advertised in the locality where the price comparison was made.

Art. 112. Special Advertising Requirements for Food, Drug, Cosmetic, Device, or Hazardous Substance. - (a) No claim in the advertisement may be made which is not contained in the label or approved by the concerned department.

(b) No person shall advertise any food, drug, cosmetics, device, or hazardous substance in manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit, or safety.

(c) Where a standard has been prescribed for a food, drug, cosmetic, or device, no person shall advertise any article or substance in such a manner that it is likely to be mistaken for such product, unless the article complies with the prescribed standard or regulation.

(d) No person shall, in the advertisement of any food, drug, cosmetic, device, or hazardous substance, make use of any reference to any laboratory report of analysis required to be furnished to the concerned department, unless such laboratory report is duly approved by such department.

(e) Any businessman who is doubtful as to whether his advertisement relative to food, drug, cosmetic, device, or hazardous substance will violate or does not conform with this Act or the concerned department's pertinent rules and regulations may apply to the same for consideration and opinion on such matter before such advertisement is disseminated to the public. In this case, the concerned department shall give its opinion and notify the applicant of its action within thirty (30) days from the date of application; otherwise, the application shall be deemed approved.

(f) No person shall advertise any food, drug, cosmetic, device, or hazardous substance unless such product is duly registered and approved by the concerned department for use in any advertisement.

Art. 113. Credit Advertising. - No advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit may:

(a) state that a specific periodic consumer credit amount or instalment amount can be arranged, unless the creditor usually and customarily arranges credit payment or instalments for that period and in that amount; and

(b) state that a specified down payment is required in any extension of consumer credit, unless the creditor usually or customarily arranges down payment in that amount.

Art. 114. Advertising of Open-end Credit Plan. - In case of an open-end credit plan, the rate of interest and other material features of the plan shall be disclosed in the advertisement.

Art. 115. Special Claims. - Any advertisement which makes special claims shall:

(a) substantiate such claims; and

(b) properly use research result, scientific terms, statistics or quotations.

PROMOTION OF SALES OF CONSUMER PRODUCTS AND SERVICES

Art. 116. Permit to Conduct Promotion. - No person shall conduct any sales campaigns, including beauty contest, national in character, sponsored and promoted by manufacturing enterprises without first securing a permit from the concerned department at least thirty (30) calendar days prior to the commencement thereof. Unless an objection or denial is received within fifteen (15) days from filing of the application, the same shall be deemed approved and the promotion campaign or activity may be conducted: Provided, That any sales promotion campaign using medical prescriptions or any part thereof or attachment thereto for raffles or a promise of reward shall not be allowed, nor a permit be issued thereof.

Art. 117. Suspension of Publication or Dissemination of Information. - The concerned department may, after due notice and hearing, suspend the publication and dissemination of any information accompanying a sales promotion campaign, if it finds the campaign to be in violation of the provisions of this Chapter or its implementing rules and regulations.

Art. 118. Conduct of Sales Promotion. - A sales promotion which is intended for broad consumer participation and utilizes mass media shall indicate the duration, commencement and termination of the promotion, the deadline for submission of entries and the governing criteria or procedure to be followed therein.

Art. 119. Packaging of Products Under Promotion. - The packaging of the products covered by the sales promotion shall not be tampered, neither shall any change in the product's package be affected without the authority of the sponsoring agency or the owner or manufacturer of the product.

Art. 120. Change in Starting and Termination Dates of Promotion. - The concerned department shall be advised of any delay of starting dates or termination dates and details of any change in the conduct of a sales promotion. Any change in the termination dates shall be published in a newspaper of general circulation before the expiration of the original schedule or the termination date, whichever comes first.

Art. 121. Determination of Winners. - The winners in any sales promotion shall be determined at a definite time and place and shall be verified by a representative of the concerned department and the sponsor. Immediately after the winners are selected or determined, a list with their addresses and corresponding prizes shall be submitted to the concerned department. All winners shall be announced or published in the same manner that the sales promotion was announced or published: Provided, That publication in a newspaper of general circulation shall be done in a legible manner at least once, if the sales promotion is national in scope: Provided, further, That such announcement and publication shall be done not later than two (2) weeks after the determination of winners. In all cases where the amount of the prize is Five hundred pesos (P500.00) or more, the winners shall also be notified in writing by registered mail or any communication wherein proof of notice or service can be verified.

Art. 122. Injunctive Relief. - (a) Whenever the concerned department has the reason to believe (1) that any person, partnership or corporation is engaged in or is about to engage in the dissemination or the causing of dissemination of any advertisement in violation of Articles 110 to 115, and (2) that the enjoining thereof would be to the interest of the public, the concerned department shall direct the filing of a complaint in the court of competent jurisdiction, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing, a temporary injunction or restraining order shall be granted without bond. Any such complaint shall be filed in the locality in which the person, partnership or corporation resides or transacts business.

(b) Any person who may suffer loss, damage or injury due to a false, misleading or deceptive advertisement as defined in Article 4 may file a complaint with injunction in his own name with any court of competent jurisdiction to recover damages, cost of suit and reasonable attorney's fees.

Art. 123. Penalties. - (a) Any person, association, partnership or corporation who shall violate any of the provisions of Articles 110 to 115 shall, upon conviction, be subject to a fine of not less than Five Hundred Pesos (P500.00) but not more than Five thousand pesos (P5,000.00) or an imprisonment of not less than one (1) month but not more than (6) months or both upon the discretion of the court.

(b) Any violation of the provisions of Articles 116 to 121 shall, upon conviction, subject the offenders to a fine of not less than Two hundred pesos (P200.00) but not more than Six hundred pesos (P600.00) or an imprisonment of not less than one (1) month but not more than six (6) months or both upon the discretion of the court. If the violation was committed by a juridical person, the manager, representative, director, agent or employee of said juridical person responsible for the act shall be deported after service of sentence and payment of the fine without need for further deportation proceedings.

Art. 124. Exemption from Penalties. - No publisher, radio broadcast, television licensee or medium for the dissemination of advertising shall be liable, under this Chapter, by

reason of dissemination by him of any false advertisement unless he refuses, on the request of appropriate authorities, to furnish the name and post office address of the manufacturer, packer, distributor seller or advertising agency. This exemption shall not apply however, to the manufacturer, packer, distributor or seller of the consumer product or service and the advertising agency responsible for the false and misleading advertising.

CHAPTER VII

REGULATION OF REPAIR AND SERVICE FIRMS

Art. 125. Declaration of Policy. - The State shall cause the accreditation of repair and service firms or establishments and their technical personnel in order to protect the interest of the consumers availing of their services.

Art. 126. Implementing Agency. - The Department of Trade and Industry, hereby referred to as the Department, shall enforce the provisions of this Chapter.

Art. 127. Minimum Requirements for Accreditation. - The following shall be the minimum requirements for accreditation or repair and service firms:

- (a) the duly registered business name, firm name or style of the firm; chanrobles law
- (b) date of issue and effectivity of the certificate of accreditation;
- (c) number and skills of technical personnel; and
- (d) required license for the repair or servicing of any consumer product as required by special laws.

Art. 128. Accreditation of Repair and Service Firm. - No person shall operate a repair and service firm or act as technical personnel therein without first being accredited by the Department.

Art. 129. Certification of Accreditation. - Upon compliance with the requirements for accreditation, the Department shall issue the corresponding certificate of accreditation. A separate certificate shall be required for each branch of an enterprise located in areas outside of the main office. However, with respect to repair and service centres of factory authorized representatives of franchised dealers, such centres may display a certified true copy of the certificate of accreditation of the parent company.

Art. 130. Suspension, Revocation or Cancellation of Certification of Accreditation. - Any certificate of accreditation may be suspended, revoked or cancelled by the Department, for cause, after due notice and hearing.

TITLE IV

CONSUMER CREDIT TRANSACTION

Art. 131. Declaration of Policy. - The State shall simplify, clarify and modernize the laws governing credit transactions and encourage the development of fair and economically sound consumer credit practices. To protect the consumer from lack of awareness of the true cost of credit to the user, the State shall assure the full disclosure of the true cost of credit.

Art. 132. Determination of Finance Charges. - Except as otherwise provided, the amount of the finance charges in connection with any consumer credit transaction shall be determined as the sum of all charges, payable directly or indirectly by the person to whom the credit is extended and imposed directly or indirectly by the creditor as an accident to the extension of credit, including any of the following type of charges which are applicable:

- (a) interest or time price differential and any amount payable under point or other system of additional charges;
- (b) collection fees which include finder's fees or similar charges;
- (c) credit investigation fees;
- (d) notarial fees, if any;
- (e) premium or other charges for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss. The implementing agency shall determine what items shall be exempted from the computation of the finance charges.

Art. 133. Determination of Simple Annual Rate. - The simple annual rate applicable to any extension of consumer credit shall be determined in accordance with the rules and regulations promulgated by the implementing agency.

Art. 134. Delinquency Charges. - With respect to a consumer credit transaction other than one pursuant to an open-end credit plan, the parties may agree to a delinquency charge on any instalment not paid in full on or before the tenth day after its scheduled or deferred due date.

Art. 135. Deferral Charges. - The parties in a consumer credit transaction may at any time agree in writing to a deferral of all or part of one or more unpaid instalments and the creditor may make and collect a charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure. A deferral charge may be collected at the time it is assessed.

Art. 136. Finance Charge on Refinancing. - The parties may agree on a finance charge in an open-end credit plan based on the amount financed resulting from the refinancing or consolidation at a rate not exceeding that permitted by the rules promulgated by the implementing agency.

Art. 137. Right to Prepay. - The person to whom credit is extended may prepay in full or in part, at any time without penalty, the unpaid balance of any consumer credit transaction.

Art. 138. Rebate on Prepayment. - Upon prepayment in full of the unpaid balance of a precomputed consumer credit transaction, refinancing or consolidation, an amount not less than the unearned portion of the finance charge calculated according to this Article shall be rebated to the person to whom credit is extended.

The unearned portion of the precomputed finance charge on consumer transactions repayable in substantially equal successive instalments shall be equal to at least that portion of finance charge which the sums of the instalment balances of the obligation scheduled to be outstanding after the instalment date nearest the date of prepayment bears to the sum of all instalment balances originally scheduled to be outstanding under the obligation.

For the purpose of determining the instalment date nearest the date of prepayment when payments are monthly, any payment made on or before the fifteenth day following an instalment due date shall be deemed to have been made as of the instalment due date, and if prepayment occurs after the fifteenth day, it shall be deemed to have been made on the succeeding instalment due date. This method of calculating rebates may be referred to as the "rule of 78" or "sum of the digits" method.

The implementing agency may promulgate and adopt rules and regulations with respect to other precomputed consumer credit transactions.

Art. 139. General Requirements on Credit Cost Disclosure. - Each creditor shall disclose, in accordance with the regulations of the implementing agency, to each person to whom consumer credit is extended, the disclosures required by this Act.

If there is more than one obligor, a creditor need not furnish a statement of information required under this Act to more than one of them.

Art. 140. Credit Sale, Required Disclosures. - Any creditor extending a consumer credit sale other than one pursuant to an open-end credit plan shall disclose in a statement to the extent applicable, the following information:

- (a) the cash price or delivered price of the property or service to be acquired;
- (b) the amounts, if any, to be credited as downpayment and/or trade in;
- (c) the total amount to be financed or the difference between the amounts set forth under paragraphs (1) and (2);
- (d) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
- (e) the finance charge expressed in terms of pesos and centavos;

- (f) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding balance of the obligation;
- (g) the effective interest rate;
- (h) the number, amount and due dates or periods of payments scheduled to repay the indebtedness; and
- (i) the default, delinquency or similar charges payable in the event of late payments.

Art. 141. Required Disclosure on Open-end Credit Plan. - Before opening any account under an open-end consumer credit plan, the creditor shall disclose, to the extent applicable, the following information:

- (a) the conditions under which a finance charge may be imposed, including the time period, if any, within which any credit extended may be repaid without incurring a finance charge;
- (b) the method of determining the balance upon which a finance charge may be imposed;
- (c) the method of determining the amount of the finance charges, including any minimum or fixed amount imposed as a finance charge;
- (d) where one or more periodic rates may be used to compute a finance charge, each such rate, the range of balances to which it is applicable, and the corresponding simple annual rate;
- (e) the conditions under which the creditor may impose a security lien and a description of the goods to which such lien may attach.

The implementing agency shall prescribe regulations consistent with commonly accepted accounting standards to carry out the requirements of this Article.

Art. 142. Required Disclosures on Consumer Loans Not Under Open-End Credit Plan. - Any creditor extending a consumer loan or in a transaction which is neither a consumer credit sale nor under an open-end consumer credit plan shall disclose, to the extent applicable, the following information:

- (a) the amount of credit of which the debtor will have the actual use, or which is or will be paid to him or for his account or to another person on his behalf;
- (b) all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge;
- (c) the total amount to be financed or the sum of the amounts referred to in paragraphs (a) and (b);

- (d) the finance charge expressed in terms or pesos and centavos;
- (e) the effective interest rate;
- (f) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation;
- (g) the default, delinquency or similar charges payable in the event of late payments;
- (h) a description of any security interest held or to be held or to be retained or acquired by the creditor in connection with the extension of credit and a clear identification of the property to which the security interest relates.

Art. 143. Form and Timing of Disclosure. - All disclosures required under this Act shall be made clearly and conspicuously in writing before the transaction is consummated.

Art. 144. Periodic Statement of Charges. - The periodic statement transmitted by the creditor in connection with any extension of consumer credit other than under an open-end consumer credit plan, shall set forth the following information:

- (a) the simple annual rate;
- (b) the effective interest rate;
- (c) the date by which, or the period (if any) within which payment must be made in order to avoid additional finance charges;
- (d) method of determining the balance upon which the finance charge may be imposed.

Art. 145. Exempted Transaction. - The foregoing requirements on consumer credit transactions shall not apply to the following credit transactions:

- (a) those involving extension of credits for business or commercial purposes, or to the Government and governmental agencies and instrumentalities, juridical entities or to organizations;
- (b) those in which the debtor is the one specifying the definite set of credit terms such as bank deposits, insurance contracts, sale of bonds or analogous transactions.

Art. 146. Sale of Consumer Products On Instalment Payment. - In a consumer credit sale other than one pursuant to an open-end credit plan, the obligation of the consumer to whom credit is being extended shall be evidenced by a single instrument which shall include, in addition to the disclosures required by this act, the signature of the seller and the person to whom credit is extended, the date it was signed, a description of the property sold and a description of any property transferred as a trade-in. The instrument evidencing the credit shall contain a clear and conspicuous typewritten notice to the person to whom credit is being extended that:

- (a) he should not sign the instrument if it contains any blank space;
- (b) he is entitled to a reasonable return of the precomputed finance charge if the balance is prepaid; and
- (c) he is entitled to an exact, true copy of the agreement.

In cases where the instrument will be sold at a discount to a bank, financing company or other lender, the said transferee shall be subject to all claims and defences which the debtor could assert against the seller of consumer products obtained hereto or with the proceeds thereof.

Art. 147. Penalties. - Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this Chapter or the Implementing rules and regulations issued thereunder shall be liable to such person in the amount of One thousand pesos (P1,000.00) or in amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed Three thousand pesos (P3,000.00) for any credit transaction and actual damages with the non-disclosure of the required information. Action to recover such penalty may be brought by such person within one (1) year from the date of the occurrence of the violation in any court of competent jurisdiction.

TITLE V

THE NATIONAL CONSUMER AFFAIRS COUNCIL

CHAPTER 1

ESTABLISHMENT AND COMPOSITION

Art. 148. National Consumer Affairs Council. - To improve the management, coordination and effectiveness of consumer programmes, a National Consumer Affairs Council is hereby created, hereinafter referred to as the "Council".

Art. 149. Composition. - The Council shall be composed of representatives from the following government agencies and non-government agencies:

- (a) Department of Trade and Industry;
- (b) Department of Education, Culture and Sports;
- (c) Department of Health;
- (d) Department of Agriculture;
- (e) four (4) representatives from consumer organizations of nationwide base to be chosen by the President from among the nominees submitted by the various consumer groups in the Philippines;
- (f) two (2) representatives from business/industry sector to be chosen by the President from among the nominees submitted by the various business organizations.

Art. 150. Chairman; Functions. - The Council shall be headed and presided by a Chairman who shall be elected by the members from among themselves. He shall

establish, with the concurrence of the Council, the policies, procedures and standards to govern the implementation and interpretation of the functions and duties of the Council.

Art. 151. Per Diems of Members. - The members of the Council shall be entitled to an allowance of Five hundred pesos (P500.00) per meeting actually attended but not more than Two thousand pesos (P2,000.00) a month.

Art. 152. The Secretariat. - The Council shall appoint an Executive Director who shall assist the Chairman and act as Secretary of the Council. The Department of Trade and Industry shall provide the Secretariat which shall assist the Council in the effective performance of its functions.

CHAPTER II POWERS AND FUNCTIONS

Art. 153. Powers and Functions. - The Council have the following powers and functions:

- (a) to rationalize and coordinate the functions of the agencies charged with consumer programmes and enforcement of consumer related laws to the end that an effective, coordinated and integrated system of consumer protection, research and implementation and enforcement of such laws shall be achieved;
- (b) to recommend new policies and legislation or amendments to existing ones;
- (c) to monitor and evaluate implementation of consumer programmes and projects and to take appropriate steps to comply with the established priorities, standards and guidelines;
- (d) to seek the assistance of government instrumentalities in the form of augmenting the need for personnel facilities and other resources;
- (e) to undertake a continuing education and information campaign to provide the consumer with, among others:
 - (1) facts about consumer products and services;
 - (2) consumer rights and the mechanism for redress available to him;
 - (3) information on new concepts and developments on consumer protection;
 - (4) general knowledge and awareness necessary for a critical and better judgment on consumption; and
 - (5) such other matters of importance to the consumer's general well-being.

Art. 154. Consumer Education in Schools. - The Department of Education, Culture and Sports, with the cooperation and advice of the Council, shall develop and adopt a

consumer education program which shall be integrated into existing curricula of all public and private schools from primary to secondary level.

A continuing consumer education program for out-of-school youth and adults shall likewise be developed and undertaken.

The consumer education program shall include information regarding:

(a) the consumer as a responsible member of society and his responsibility to develop:

(1) critical awareness which is the responsibility to be alert and questioning about the use of and price and quality of goods he uses;

(2) assertiveness which is the responsibility to assert himself and act so he is assured of a fair deal, aware that for as long as he remains to be a passive consumer he will continue to be exploited;

(3) social concern which is the responsibility to be aware of the impact of his consumption on other citizens, especially the disadvantaged; and

(4) environmental awareness which is the responsibility to understand the environmental consequences of his consumption, recognizing his individual and social responsibility to conserve natural resources for future generations;

(b) consumer rights; and

(c) practical problems the consumer faces in daily life.

Art. 155. Concerned Departments, Powers and Duties Under Existing Laws. - The concerned departments shall continue to exercise the powers and duties provided to them under existing laws, unless repealed or modified accordingly.

Art. 156. Consumer Participation. - The Departments shall establish procedures for meaningful participation by consumers or consumer organizations in the development and review of department rules, policies and programmes. Such procedures shall include provisions for a forum, where consumers can express their concerns and recommendations to decision makers. The departments shall exert efforts to inform consumers of pending proceedings where their participation is important. chanrobles law

Art. 157. Advisory Services. - The departments shall render advisory services upon request. The technical and legal assistance shall be made available to consumers and their organizations and to the general public.

Art. 158. Consumer Program Reforms. - Each concerned Department shall formulate and develop a consumer program consonant with the objectives of its charter or the applicable laws which program shall embody the standards set forth in Sections 156 and 157 of this Act. Copies of these programmes shall be furnished the Council. The

Executive Director shall, among his other functions, monitor and coordinate the implementation by the concerned agencies of their respective consumer programmes. After the close of the fiscal year, the Council shall submit to Congress and the Office of the President, a full report on the progress of the implementation of consumer programmes.

CHAPTER III CONSUMER COMPLAINTS

Art. 159. Consumer Complaints. - The concerned department may commence an investigation upon petition or upon letter-complaint from any consumer: Provided, That, upon a finding by the department of prima facie violation of any provisions of this Act or any rule or regulation promulgated under its authority, it may motu proprio or upon verified complaint commence formal administrative action against any person who appears responsible therefore. The department shall establish procedures for systematically logging in, investigating and responding to consumer complaints into the development of consumer policies, rules and regulations, assuring as far as practicable simple and easy access on the part of the consumer to seek redress for his grievances.

Art. 160. Consumer Arbitration Officers. - The concerned Department Secretaries shall appoint as many qualified consumer arbitration officers as may be necessary for the effective and efficient protection of consumer rights: Provided, however, That there shall be not more than ten (10) consumer arbitration officers per province, including the National Capital Region.

Art. 161. Consumer Arbitration Officers; Qualifications. - The consumer arbitration officer must be a college graduate with at least three (3) years experience in the field of consumer protection and shall be of good moral character.

Art. 162. Arbitration Officers; Jurisdiction. - The consumer arbitration officers shall have original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints, Provided, however, That this does not preclude the parties from pursuing the proper judicial action.

Art. 163. Investigation Procedure. - (a) The consumer arbitration officer shall conduct hearings on any complaint received by him or referred by the Council.

(b) Parties to the case shall be entitled to notice of the hearing, and shall be informed of the date, time and place of the same. A copy of the complaint shall be attached to the notice.

(c) The department shall afford all interested parties the opportunity to submit a statement of facts, arguments, offers of settlements or proposals of adjustments.

(d) The Consumer arbitration officer shall first and foremost ensure that the contending parties come to a settlement of the case.

(e) In the event that a settlement has not been effected, the Mediation officer may now proceed to formally investigate, hear and decide the case.

(f) The Consumer arbitration officer may summon witnesses, administer oaths and affirmations, issue subpoena and subpoena duces tecum, rule upon offers of proof and receive relevant evidence, take or cause deposition to be taken whenever the ends of justice would be served thereby, regulate the course of the hearing, rule on any procedural request or similar matter and decide the complaint.

In hearing the complaint, the mediation officer shall use every and all reasonable means to ascertain the facts in each complaint speedily and objectively without regard to strict rules of evidence prevailing in suits before courts. The complaints shall be decided within fifteen (15) days from the time the investigation was terminated.

Art. 164. Sanctions. - After investigation, any of the following administrative penalties may be imposed even if not prayed for in the complaint:

- (a) the issuance of a cease and desist order, Provided, however, That such order shall specify the acts that respondent shall cease and desist from and shall require him to submit a report of compliance therewith within a reasonable time;
- (b) the acceptance of a voluntary assurance of compliance or discontinuance from the respondent which may include any or all of the following terms and conditions:
 - (1) an assurance to comply with the provisions of this Act and its implementing rules and regulations;
 - (2) an assurance to refrain from engaging in unlawful acts and practices or unfair or unethical trade practices subject of the formal investigation;
 - (3) an assurance to comply with the terms and conditions specified in the consumer transaction subject of the complaint;
 - (4) an assurance to recall, replace, repair, or refund the money value of defective products distributed in commerce;
 - (5) an assurance to reimburse the complaint out of any money or property in connection with the complaint, including expenses in making or pursuing the complaint, if any, and to file a bond to guarantee compliance therewith.
- (c) restitution or rescission of the contract without damages;
- (d) condemnation and seizure of the consumer product found to be hazardous to health and safety unless the respondent files a bond to answer for any damage or injury that may arise from the continued use of the product;
- (e) the imposition of administrative fines in such amount as deemed reasonable by the Secretary, which shall in no case be less than Five hundred pesos (P500.00) nor more than Three hundred thousand pesos (P300,000.00) depending on the gravity of the offense, and an additional fine of not more than One thousand pesos (P1,000.00) or each day of continuing violation.

Art. 165. Appeal from Orders. - Any order, not interlocutory of the Consumer arbitration officer, becomes final and executory unless appealed to the Department Secretary concerned within fifteen (15) days from receipt of such order. An appeal may be entertained only on any of the following grounds:

- (a) grave abuse of discretion;
- (b) the order is in excess of the jurisdiction or authority of the consumer arbitration officer;
- (c) the order is not supported by the evidence or there is serious error in the findings of facts.

Art. 166. Decision on Appeal. - The Secretary 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.

TITLE VI

TRANSITORY AND FINAL PROVISIONS

Art. 167. Relation of the Act to Other Rights. - The provisions of this Act shall apply notwithstanding any agreement to the contrary but shall not restrict, limit or derogate from any other rights or remedies of a consumer under any other law.

Art. 168. Application of Laws Enacted Prior to the Act. - All actions or claims accruing prior to the effectivity of this Act shall be determined in accordance with the acts, laws, decrees and regulations in force at the time of the accrual.

Art. 169. Prescription. - All actions or claims accruing under the provisions of this Act and the rules and regulations 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. chanrobles law

Art. 170. Repealing Clause. - All laws, executive orders, rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed or amended accordingly.

Art. 171. Appropriations. - For the initial operating expenses of the National Consumer Affairs Council, the sum of Two million pesos (P2,000,000.00) is hereby appropriated out of funds of the National Treasury not otherwise appropriated. Thereafter, such sums as may be necessary to carry out its purpose shall be included in the General Appropriations Act.

Art. 172. Separability Clause. - If for any reason any article or provision of this Act or any portion thereof or the application of such article, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act shall not be affected by such decision. chanrobles law

Art. 173. Effectivity. - This Act shall take effect thirty (30) days from the date of its publication in the Official Gazette.

Approved: April 13, 1992

G. APPENDIX 7
General consumer protection law vis-a-vis the fundamental rights of consumers Matrix

THE EIGHT FUNDAMENTAL RIGHTS OF CONSUMERS		YES	NO
THE RIGHT TO SAFETY			
Protect consumers from products or services which are dangerous or unsafe, or whose use might cause injury to others, by:			
a.	establishing a general duty of safety upon suppliers	✓	
b.	banning the supply of unsafe goods;	✓	
c.	prescribing safety and information standards with which goods or services must comply;	✓	
d.	establishing procedures to examine products and services alleged to be unsafe	✓	
e.	monitoring the market place for unsafe goods and services;	✓	
f.	warning consumers of the possible risks involved in the use of certain goods or services.	✓	
Ensure that information about unsafe products and services is collected and made available to consumers, by:			
a.	establishing procedures to collect and disseminate information on particular goods and services identified as being unsafe	✓	
b.	establishing procedures for the notification to authorities by consumers of alleged hazardous goods and services; and	✓	
c.	requiring suppliers who become aware that their goods or services are unsafe to advertise any dangers.	✓	
Ensure that dangerous products are recalled from suppliers, by:			
a.	requiring any manufacturer who recalls goods for safety reasons to notify relevant authorities of the recall;	✓	
b.	establishing procedures for the monitoring of voluntary recalls to ensure they are effective;	✓	
c.	allowing relevant authorities to order a manufacturer to recall goods, and to specify how those goods are to be recalled; and	✓	
d.	giving relevant authorities power to investigate the actions of manufacturers to determine whether they have complied with laws relating to recalls	✓	

2. THE RIGHT TO BE INFORMED		YES	NO
Require all necessary information to be given to consumers about the goods and services they acquire, especially in relation to therapeutic goods and toxic products, by:			
a.	requiring appropriate statements and warnings to accompany toxic products;	✓	
b.	regulating the supply of therapeutic goods and toxic products to ensure information is disclosed in a manner consistent with international best practice;	✓	
c.	establishing procedures to monitor national and international developments relating to therapeutic goods and toxic products; and	✓	
d.	prescribing mandatory information standards to require particular information to be disclosed about particular goods not otherwise regulated	✓	
Ensure consumers are able to compare different products, by:			
a.	prohibiting deceptive packaging; and	✓	
b.	requiring packages to clearly identify their contents	✓	
c.	requiring packages to clearly identify their price	✓	
Protect consumers from conduct which is false or misleading, by:			
a.	prohibiting conduct, in relation to the supply of goods or services to a consumer, that is misleading or deceptive, or likely to mislead or deceive, or which is unfair	✓	
b.	prohibiting representations about goods or manufacturers and suppliers which are not true or which could mislead consumers; and	✓	
c.	prohibiting any particular sales or marketing practices which act to the detriment of consumers.	✓	
d.	require all necessary information to be given to consumers about food and drinks in order to enable them to make informed decisions regarding health and nutrition	✓	
e.	ensure that necessary information about goods and services is required to be accurate and comprehensible	✓	
3. THE RIGHT TO CHOOSE		YES	NO
Encourage consumers to acquire only the things they need, by:			
a.	establishing procedures for community and consumer education about products.	✓	
Protect consumers from anti-competitive conduct and exploitation, by:			

a.	ensuring manufacturers and suppliers do not abuse their powers; and	✓	
b.	giving consumers rights to obtain redress for goods which are unsafe, unsuitable, and defective or of poor quality.	✓	
c.	protect consumers by ensuring effective trade measurement practices and standards are adopted and enforced.	✓	
d.	prohibit direct sales and marketing practices without appropriate 'cooling off' periods.	✓	
4.	THE RIGHT TO BE HEARD	YES	NO
Ensure consumers can participate in the development of policies which affect them, including giving consumer representatives access to the media, by:			
a.	requiring administrative and political bodies responsible for matters affecting consumers to include members representing consumers;	✓	
b.	requiring laws and policies which affect consumers to be publicised before they are introduced to allow consumers to comment on them; and	✓	
c.	establishing procedures to channel any comments or complaints made by consumers to appropriate authorities, and to monitor the response to those comments or complaints.	✓	
d.	facilitate the establishment of complaints handling systems in both the government and non-government sectors, including the involvement of consumer representatives in the process	✓	
e.	ensure consumers have standing to take action in courts and tribunals, including as third parties, to protect consumer interests.	✓	
f.	enable consumers to take collective action before courts and tribunals.	✓	
g.	enable indigent consumers to enforce their rights by providing access to legal and financial assistance	✓	
5.	THE RIGHT TO REDRESS	YES	NO
Provide consumers with cost-effective, speedy and accessible means to enforce their legal rights, by:		✓	
a.	establishing a court or tribunal, with a simple procedure, to hear consumer complaints;	✓	
b.	prescribing procedures to ensure consumers know their rights and how to enforce them, particularly in relation to disadvantaged groups	✓	
c.	ensuring that consumers are allowed to play an equal role in the resolution of their disputes; and	✓	
d.	providing consumers with effective remedies and reasonable compensation if their complaints are found to be justified.	✓	

e.	provide consumers with a right to compensation if they are injured as a result of unsafe goods or faulty services.	✓	
Provide a mechanism through which consumers can channel their complaints and grievances to government, by:			
a.	establishing mechanisms to collect and register consumer complaints and grievances;	✓	
b.	prescribing procedures to investigate complaints; and	✓	
c.	prescribing procedures to monitor the number of complaints and grievances, and to report any results back to the consumer	✓	
Ensure that consumers are properly compensated for any loss suffered if their consumer rights are contravened, by:			
a.	ensuring any court or tribunal can provide a consumer with an appropriate remedy if it is established that the consumer's rights have been contravened.	✓	
b.	protect consumers from intimidation or harassment if they seek to enforce their rights.	✓	
Establish effective post-sale consumer protection, by:			
a.	implying into contracts for the supply of goods and services, non-excludable warranties governing acceptable quality, fitness for known purpose, and, in relation to services, that they are rendered with due care and skill.	✓	
6.	THE RIGHT TO CONSUMER EDUCATION	YES	NO
a.	Consumer law should be written in language which can be easily understood	✓	
Establish procedures which ensure consumers are informed about their consumer rights, particularly consumers with special needs, by:			
a.	prescribing mechanisms to monitor consumer awareness and use of their rights; and	✓	
b.	introducing laws to protect particular groups with special needs as required	✓	
c.	set in place mechanisms to inform consumers about how to enforce their rights	✓	
d.	ensure consumers are aware of their consumer responsibilities	✓	
7.	THE RIGHT TO A HEALTHY ENVIRONMENT	YES	NO
Protect consumers from pollution of the environment, by:			
a.	promoting the use of products which are environmentally friendly;	✓	
b.	encouraging recycling of consumer goods; and	✓	
c.	requiring environmentally dangerous products to carry appropriate warnings and instructions for the safe use and disposal of the product	✓	

Promote the use of non-toxic products where available, by:			
a.	promoting consumer awareness of safer alternatives to toxic products;	✓	
b.	establishing procedures to monitor international developments and ensure products which are banned overseas do not find their way into national markets	✓	
c.	ensure the social costs of pollution are minimised.	✓	
d.	encourage the promotion of ethical and socially responsible practices by the producers and suppliers of goods and services	✓	
8.	THE RIGHT TO THE SATISFACTION OF BASIC NEEDS	YES	NO
Consumer laws should promote the provision of information to consumers about products and substances which may adversely affect them, by:			
a.	requiring therapeutic goods to carry information about safety, efficacy, and side effects; and	✓	
b.	requiring any products containing hazardous substances to clearly list all its ingredients and to display appropriate warnings.	✓	
c.	protect consumers from unethical, unconscionable, and illegal practices especially in the supply or provision of: health care; housing and accommodation; education; water; energy; financial services; employment; retirement services; children's services; insurance; investment services; and food.	✓	
Protect the privacy of consumers, by:			
a.	ensuring telecommunications and other communications are secure from unauthorised interference and are not used to provide or promote unsolicited commercial communications;	✓	
b.	ensuring personal information about consumers is used only for the purposes for which it is collected and with their knowledge and approval; and	✓	
c.	ensuring that consumers have the right to access, amend and correct their personal information held by government or non-government entities.	✓	

H. APPENDIX AVAILABLE CONSUMER REDRESS

1. For general consumer complaints

Agencies	Types of complaints handled	Complaints filing mechanisms:
Government agencies		
DTI-Bureau of Trade Regulation and Consumer Protection	<p>Accepts, reviews, and resolves consumer queries and complaints</p> <p>Disputes involving untrue, deceptive or misleading advertisements; sale of paints and paint materials; fraudulent advertising, mislabelling and misbranding; monopolies and combinations in restraint of trade; importation and disposition of falsely marked articles; price tags; and product standards are under the exclusive jurisdiction of the Bureau.</p> <p>For inquiries on consumer-related policies</p>	<p>DTI provides the options for consumer redress:</p> <ol style="list-style-type: none"> 1) Call: 'Consumer Hotline' which stands for the department's acronym for easy recall: +632-7510-DTI (384). 2) send an SMS to 2DTI or 2384 for SUN subscribers and 2920 for Globe and Smart subscribers, which are the major mobile providers in the country. 3) Email BTRCP at btrecp@dti.gov.ph, 4) Access the DTI website and file a consumer complaint online: http://www.dtiincp.ph/cpapp/index.php / Reports also indicate that DTI features the 'i-reklamo', a web-enabled system that facilitates on-line acceptance of complaints, suggestions and queries, as well as on-line feedback mechanism. The link can not be located however. 5) Walk-in at the main office: The BTRCP 2/F Trade and Industry Bldg, 361 Sen. Gil J. Puyat Ave., Makati City Tel. Nos.: (+632) 751.3233 / 751. Fax: (+632) 890.4949
Consumer Arbitration Office DTI - Cebu Provincial Office	<p>Questionable service practices with regard to repair of cars, appliances, office machines, heavy equipment, excessive repair charges</p> <p>Sale of mislabelled products</p> <p>Fraudulent advertising</p> <p>Sale of "fake" goods</p> <p>Failure to award raffle</p>	<p>To report, visit the DTI-Cebu website and access the complaint form: http://www.dticebu.net.ph/09_f_03.htm</p> <p>Consumers are asked the following details: names and contact details of both complainant and respondent, complaint information, nature of complaint, proofs, and sign a sworn statement to certify the complaint.</p> <p>For online complaint handling, consumers may fill up the form online or he/she may print, fill out, and mail or fax the accomplished form.</p> <p>Consumers may also visit the Cebu office located at 3/F LDM Building, Corner Legaspi Street &</p>

Agencies	Types of complaints handled	Complaints filing mechanisms:
Government agencies		
	<p>prizes</p> <p>Violation of the Price Tag Law</p> <p>Complaints regarding real estate transactions</p> <p>Breach of Contract or warranty</p> <p>Violation of sales promotion mechanics</p> <p>Sale of defective or substandard products especially products without Product Standard mark like fire extinguisher, fuse, starter, ballast, circuit breaker, among others.</p>	<p>M.J. Cuenco Avenue, Cebu City 6000 Philippines</p> <p>Phone: (63-32) 2557084 / 2557084</p> <p>Fax: (63-32) 2557609</p>
<p>ConsumerNet</p> <p>A working network of 18 agencies covering consumer concern.</p>	<p>Accepts, reviews, and resolves consumer queries and complaints</p>	<p>Call the proper ConsumerNet agency, visit the Consumer Net website and see this link to see the 18 member agencies:</p> <p>http://www.dticebu.net.ph/09_g_02.htm</p>

2. Business-affiliated agencies

Agency	Types of complaints handled	Complaints filing mechanisms:
<p>Consumer Welfare Desks (CWDs) found in major shopping malls</p>	<p>Accept, review, and resolve consumer queries and complaints</p>	<p>Consumer may approach the CWDs located in strategic and visible areas in major retail stores in the country, usually near the customer service booths.</p>

3. SPECIFIC CONSUMER COMPLAINTS

- i. Products safety and labelling

Agency	Types of complaints handled	Complaints filing mechanisms:
Government		
Cooperative Development Authority	Products and services of cooperatives	Visit or call the Legal Division 5th Floor Benlor Building 1184 Quezon Avenue, Quezon City, Philippines Tel No. : (632) 373-6894 or (632) 373-6906; 373-9953 (Legal Unit) Fax : 371-2077 Email : webmaster@cda.gov.ph
Others		

ii. Phone and Internet, and E-Commerce

Agency	Types of complaints handled	Complaints filing mechanisms:
Government		
One Stop Public Assistance Centre (OSPAC), National Telecommunications Commission	Complaints versus any Broadcast, Cable Television (CATV), and Public Telecommunications Entities (PTEs) including Value Added Service (VAS) and Content Providers (CPs); All providers, suppliers, mobile service centres and sellers of telecommunications, radio telecommunications, broadcast and cable Television equipment, accessories and other paraphernalia, including radio dealers and mobile phone suppliers;	Consumers can file a case versus the service provider if the latter fails to address his/her complaints within 30 days after notifying the service provider of the complaint. The complaint forms are available at the One-Stop Public Assistance Centre (OSPAC) of the NTC Main Office, Regional Offices and/or can be downloaded from the NTC website. Consumers also may contact the OSPAC: Mr. Froilan Jamias at +632 926-7722 / 436-7722 or email at ospac@ntc.gov.ph ,

iii. Consumer credit and banking

Agency	Types of complaints handled	Complaints filing mechanisms:
Government		
Securities and Exchange	Corporate activities that violate laws and	Contact the Complaints and Investigation Division or Compliance and Enforcement

Agency	Types of complaints handled	Complaints filing mechanisms:
Commission	regulations relating to the Securities Law, Corporation Code and other laws administered by the Commission; and complaints and tips on possible violations	Department 5th Floor SEC Building EDSA, Greenhills, Mandaluyong City, Metro Manila, Philippines Email: ced@sec.gov.ph
Philippine Deposit Insurance Corporation	Deposit accounts in existing banks and claims against closed banks; queries about deposit insurance. It also provides information on queries about deposit insurance.	Contact the Depositors Assistance Bureau PDIC Ayala Extension Office, 6/F SSS Building, Ayala Avenue corner, V.A. Rufino St., Makati City Tel: 841-4631; 841-4642 Fax: 841-4637 Email: dab@pdic.gov.ph
Financial Consumer Affairs Group (FCAG), Bangko Sentral ng Pilipinas	Financial products and services offered by banks & NBFIs with quasi-banking functions	Contact the Financial Consumer Affairs Group, Central Supervisory Support Subsector, Supervision and Examination Sector at the: Bangko Sentral ng Pilipinas 5th floor Multi-Storey Building, BSP Complex, A. Mabini St., Malate, 1004 Manila Telephone Numbers: Trunk Line: (632) 524-7011, extension nos. 2584 Direct Line: (632) 523-3631
Industry-linked		
Banks	Consumer complaints and concerns	Complaint hotlines of companies

iv. Environmental Quality and Services

Agency	Types of complaints handled	Complaints filing mechanisms:
Bantay Kalikasan An NGO	It handles environmental complaints such as solid waste, air & water pollution.	ABS-CBN Foundation Inc.'s environmental arm which started operating on July 21, 1998. It is a media-based project supported by a multi-sector network of government agencies, private institutions, and non-government organizations Environmental complaints may be submitted through their website

Agency	Types of complaints handled	Complaints filing mechanisms:
		http://www.bantaykalikasan.com/hotline.php

v. Healthcare services

Agency	Types of complaints handled	Complaints filing mechanisms:
Food and Drug Administration (FDA)	Medicines Surveillance Integrating Consumer Reporting Project in Metro Manila to guard the country's drug supply and educate consumers on the proper use of drugs. Receives consumer reports of substandard drug preparations, adverse drug reactions, and counterfeit medicines	To report drug complaints, contact FDA via +632 807-8275, +63905-4171771 and 63909-2080500, or e-mail ireport@bfad.gov.ph . Reports can also be made via the Bantay Gamot Report Forms available in most drugstores. To report complaints against any drug, the caller may give his name, address, and contact numbers; to report adverse drug reactions, the caller will be asked to give other clinical data as needed. All reports will be treated as confidential and shall be analyzed and investigated following FDA protocol.
Bureau of Food and Drug/Food and Drug Administration	Product complaints	Consumers are advised to coordinate with the nearest DoH Centre for Health Development (CHD) for product complaints. If the Acting Consumer Arbitration Officers deem it fit that the complained product needs laboratory analysis, the product will be forwarded to the BFAD Laboratory Services Division. Contact details of the CHDs may be downloaded from the BFAD Website thru: http://www.bfad.gov.ph/DIRECTORYGUIDE.htm .

vi. Professional services (legal and medical)

Agency	Types of complaints handled	Complaints filing mechanisms:
Government		
Professional Regulation Commission (PRC)	Formal Complaints	Formal complaints have to be submitted in person at the PRC office. Formal complaints that are submitted undergo four stages: 1) Docketing and Calendar - this starts from the date of filing of the complaint to when the notice of pre-trial is sent to the parties.

Agency	Types of complaints handled	Complaints filing mechanisms:
		2) Pre-trial and Depositions – covers the pre-trial, depositions, and other practices designed to dispense with, or limit time for the reception of evidence 3) Reception of Evidence – evidence for both the complainant and for the respondent are presented as well as the rebuttal evidence. 4) Decision-making – discussions and vote on the case and the preparation and signing of the decision.