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CONSUMER PROTECTION in the PHILIPPINES

A Country Report by:

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1987 Constitution of the Philippines

“The State shall protect consumers from trade malpractices and from substandard or hazardous substances.”

-- Article XVI, General Provisions, Section 9



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Republic Act 7394 (Consumer Act of the Philippines)

Approved : 13 April 1992

Effectivity : 15 July 1992



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R.A. 7394

Basic Policies

- To protect the interests of the consumer
- Protect his general welfare
- To establish standards of conduct for business and industry



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R.A. 7394

Objectives

1. Protection against hazards to health and safety
2. Protection against deceptive, unfair and unconscionable sales acts and practices
3. Provision of information and education to facilitate sound choice and proper exercise of rights by the consumer
4. Provision of adequate rights and means of redress
5. Involvement of consumer representatives in the formulation of social and economic policies



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R.A. 7394

Coverage

Consumer product quality and safety

Safe/Quality food, drugs, cosmetics, devices

Deceptive, unfair and unconscionable sales acts
and practices

Consumer product and service warranty

Labeling and fair packaging

Liability for products and services



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R.A. 7394

Coverage (con't)

Advertising and promotion

Regulation of repair and service firms

Consumer credit transaction

Consumer complaints

Creation of a National Consumer Affairs Council

Under separate legislation by other agencies, not covered by R.A. 7394: competition, electronic commerce, professional services, banking, insurance, provision of utilities and sustainable consumption



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R.A. 7394

Implementing Agencies

Department of Agriculture

Department of Health

Department of Trade and Industry

Department of Education

Bangko Sentral ng Pilipinas

Local Governments

*Organized CONSUMERNET to facilitate exchange of
consumer-related information/policy among
agencies*



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Consumer Education and Awareness

- Implementing agencies undertakes own education/information campaigns (i.e. seminars, lectures, fora, print materials, radio/TV programs)
- Consumer topics (i.e. consumer rights and responsibilities, product standards and safety, environment concerns, among others) are integrated in secondary school curriculum.
 - Department of Education in cooperation with other Departments/Agencies with consumer-welfare functions developed the curriculum



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On Product Safety

- Responsible Agency for consumer product safety/alert
 - Department of Agriculture—products related to agriculture
 - Department of Health—products related to food, drugs, cosmetics, devices and hazardous substances
 - Department of Trade and Industry—all other consumer products



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On Product Safety

- Article 10, Chapter I, Title II of R.A. 7394 provides:
“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...in the sound discretion of the department it may declare a consumer product to be imminently injurious, unsafe, or dangerous, and order its immediate recall, ban or seizure from public sale or distribution...”



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On Product Safety

- Article 15, Chapter I, Title II of R.A. 7394 provides:
 - Imported products shall be refused entry if such product (1) fails to comply with 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 a material defect



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On Product Safety

Article 15, Chapter I, Title II of R.A. 7394

- 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
- 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



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Consumer Redress Mechanism

Pursuant to Chapter III, Title V of R.A. 7394
(Consumer Act of the Philippines):

- Investigation may commence (1) upon petition or (2) upon letter-complaint from any consumer
- That, upon finding of a *prima facie* violation, concerned department may *motu proprio* or
- Upon verified complaint commence formal administrative action against any person



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Consumer Redress Mechanism

- Consumer Arbitration Officers (CAO) are appointed; have original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints (*108 trained mediators in 2007*)
- Appeal from Orders of CAO. Appealable to concerned Department Secretary within 15 days from receipt of Order
- Decision on Appeal. Department Secretary decides appeal within 30 days from receipt of appeal; becomes final after 15 days from receipt unless a petition for certiorari is filed with proper court



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Consumer Redress Mechanism

Administrative penalties include, among others:

- Issuance of cease and desist order
- Condemnation and seizure of consumer product found hazardous to health and safety
- Imposition of administrative fine ranging from P500 to P300,000 depending on gravity of offense



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Consumer Redress Mechanism

Alternative Dispute Resolution

Enacted Republic Act 9285 (Alternative Dispute Resolution Law) institutionalizes use of an alternative dispute resolution in commercial contracts and other civil matters not constituting criminal acts; establishes the Office for Alternative Dispute Resolution (attached to the Department of Justice)

Issued Executive Order 523 (2006) mandating all administrative bodies to promote the use of alternative modes of dispute resolution



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Government Partnership with Consumer Organizations

- Consumer organizations invited to participate in dialogues/consultations in formulating administrative rules and regulations affecting consumer welfare and protection
- Congress invites consumer organizations/representatives to its public hearings of consumer welfare-related Bills
- R.A. 7394 provides for four (4) representatives from consumer organizations of nationwide base to the National Consumer Affairs Council
- Celebrates Consumer Welfare Month (October) in cooperation with consumer organizations



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Industry Code(s) on Consumer Protection

Self-regulation On Advertising

Advertising Board of the Philippines (ADBoard)—considered the umbrella organization of the advertising industry in the Philippines

- Guided by its Advertising Content Regulation Manual and Standards of Trade Practices and Conduct Manual

Government does not require business to abide by codes established by certain industry sectors; but ensures that no laws/regulations are violated



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Challenges in Implementation/Enforcement of Consumer Protection

By Agency

- Inadequate personnel
- Inadequate funds
- e-commerce transactions/fraud
- Lack of strong consumer constituency

By Increased Flow of Goods within ASEAN

- Ensuring safety and quality of imported products (i.e. compliance with in-country standards)
- Counterfeit goods
- Cross-border remedies for defective goods/unfair sales practices



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