

DEPARTMENT ADMINISTRATIVE ORDER NO. 10

SERIES OF 2006

SUBJECT: Reiterating the Rules on Price Tags/Labels and Providing Prohibition Against the Imposition of a Surcharge, Extra Charge or Additional Charge in the Use of Credit/Automated Teller Machine (ATM)/Debit Cards for Payment of Purchases of Consumer Products or Services

WHEREAS, Republic Act No.7394, otherwise known as the Consumer Act of the Philippines, declares that it is the policy of the State to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry;

WHEREAS, Article 3 of Republic Act No. 7394 declares that 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;

WHEREAS, the progress in technology of the globalized economy comes along with the convenience of business activities and consumer transactions through the use of credit cards as a mode for payment of goods and services;

WHEREAS, the credit/ATM/debit card holders must be protected from sellers/retailers who impose surcharges or additional amount over and above the price tag on the goods and services in the use of credit cards in payment thereof;

WHEREAS, there is a need to amplify and supplement the current DTI Department Administrative Order No. 09, dated 10 September 2002, providing rules on price tags and labels;

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

Section 1. Scope and Coverage. This Order shall apply to all retailers and retail sales to consumers.

Section 2. One Price Tag Requirement. Every retailer is required to display a price tag to indicate the price of each consumer good and/or services, as required in Articles 81 to 83 of the Consumer Act of the Philippines or R.A. No. 7394.

The price tag must be written clearly, indicating the price of the consumer product including Value Added Tax (VAT) whenever the consumer product is VATABLE. Service charge, if any, shall not be included in the price tag.

Example:

1. Correct – When the price tag is inclusive of VAT as shown in Official Receipt issued.

PRODUCT	1	1	P26.00
PRODUCT	2	1	36.00
PRODUCT	3	1	112.00
TOTALSALES			P174.00
TAX INCLUDED			18.65

The consumer pays P 174.00 only.

2. Wrong – When the price tag is exclusive of VAT as shown in the Official Receipt issued.

PRODUCT	1	1	P26.00
PRODUCT	2	1	36.00
PRODUCT	3	1	112.00
SUB TOTAL			P174.00
VAT			18.65
TOTAL SALES			192.65

The consumer pays P 192.65.

Section 3. Modes of Payment and other Price Tag Practices . It is necessary to consider business practices relative to the mode of payment to determine compliance with Price Tag Law. These practices include the following:

1. When the consumer pays in cash, he shall pay only the price indicated in the price tag.
2. When the consumer pays through a credit/ATM/debit card, he shall pay only the price indicated in the price tag.
3. When the retailer offers the consumer an option to pay in cash, card or on installment, the same is allowed provided the payment options shall be disclosed by way of a separate information to the consumer but not in the price tag.
4. Price tag indicating a separate CASH PRICE TAG and REGULAR PRICE TAG on each product or service is not allowed.
5. Price tag indicating a separate CASH PRICE TAG and CARD PRICE TAG on each product or service is not allowed.

Section 4. *Price Reduction Sales Promotion.* In case of sales promotions involving price reduction, seasonal sales, reduced revenue sale, discount sales, and other general or selected prize reductions, it shall comply with the provisions of Rule XIII, Sections 1, 1.1 to 1.6 of Department Administrative Order No. 2, Series of 1993 implementing the Consumer Act of the Philippines.

Section 5. *Prohibition Against Surcharging by Retailers.* All retailers who honor/accept credit/ATM/debit cards for payment shall not require the cardholders to pay a surcharge, extra charge, or additional charge over and above the price tag on the consumer goods and services.

Section 6. *Consumer Complaints.* The provisions of the Consumer Act under Article 159 to 166 as well as DTI Department Administrative Order No. 07, Series of 2006 shall govern consumer complaints on violations of Articles 81 to 83 of the Consumer Act and this Order.

Section 7. *Penalties.* Violations of the provisions of Article 81 to 83 of the Consumer Act and this Order shall be penalized under Article 95(b) and Article 164 of the same Act quoted as follows:

- 1.) Article 95 (b) of the Consumer Act: any person who violates the provisions of Article 81 to 83 for the first time shall be subject to a fine of not less than Two hundred pesos (P200.00) but no 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 thereunder shall carry with it the penalty of revocation of business permit and license.
- 2.) Article 164 of the Consumer Act wherein after formal investigation, any of the following administrative penalties may be imposed on the respondent 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; and
- 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 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.

Section 8. *Repealing Clause.* All orders and issuances which are inconsistent with this Order are hereby repealed or amended accordingly.

Section 9. *Publication and Effectivity.* This Order shall be published in two (2) newspapers of general circulation and shall take effect fifteen (15) days after its publication.

Issued this 18 day of October, 2006 in Makati City, Philippines.

(Sgd.) PETER B. FAVILA
Secretary

Recommended by:

(Sgd.) ZENAIDA CUISON MAGLAYA
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