

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



'13 SEP 10 AIO :42

SENATE

Senate Bill No. 1589

RECEIVED BY: *Ji*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Advertising wields an immense influence in our contemporary society. Not only is it a communication tool which brings buyers and sellers together but also a viable mechanism of control. Taking into account the power and impact of modern-day advertising, there has to be a foolproof mechanism which shall enable the State to ensure truth in advertising, uphold the people's right to know and protect them from unfounded and fraudulent claims.

Republic Act 7394 (The Consumer Act of the Philippines) was enacted primarily to protect the consumers against false, deceptive and misleading advertisements. Unfortunately, the law fails to address the substantiation and documentation of advertising claims. As a result, the consuming public continues to fall prey to the empty words and promises of unscrupulous advertisers.

This bill seeks to improve the quality of advertisements by requiring all advertisers to maintain a file containing the evidence of safety, performance, efficiency, quality and comparative price of the advertised product. Such data shall, upon demand, be made available to the public except for trade secrets, customer lists or other financial matters which may be considered confidential. Furthermore, it seeks to increase the imposable administrative fine to deter large-scale perpetrators of deceptive and unethical advertising practices.

In view of the foregoing, the immediate enactment of the bill is earnestly urged.


JINGGOY EJERCITO ESTRADA
Senator

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**AN ACT
AMENDING ARTICLES 116 AND 164 OF REPUBLIC ACT NO. 7394
OTHERWISE KNOWN AS THE CONSUMER ACT OF THE PHILIPPINES**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Article 110 of Republic Act No. 7394 is hereby amended to read as follows:

"Article 140. *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 including 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 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 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.

"ALL ADVERTISERS SHALL BE REQUIRED, ON DEMAND BY THE IMPLEMENTING AGENCY CONCERNED, TO SUBMIT WITH RESPECT TO ANY ADVERTISEMENT SUCH TESTS, STUDIES, RESEARCHES OR SURVEYS INCLUDING TESTIMONIALS AND ENDORSEMENTS THEY HAD IN THEIR POSSESSION PRIOR TO THE TIME CLAIMS MADE AND WHICH PURPORT TO SUBSTANTIATE ANY CLAIMS, STATEMENTS OR REPRESENTATIONS MADE

IN THE ADVERTISEMENT REGARDING THE SAFETY, PERFORMANCE, EFFICACY, QUALITY OR COMPETITIVE PRICE OF THE PRODUCT ADVERTISED.

"THE CLAIMS, STATEMENTS OR REPRESENTATIONS SUBJECT TO THE ABOVE REQUIREMENTS SHALL BE IDENTIFIED IN AN ORDER TO FILE SPECIAL REPORT WHICH WILL BE ISSUED TO ADVERTISERS BY THE IMPLEMENTING AGENCY ACTING *MOTU PROPIO* OR AT THE INSTANCE OF AN INTERESTED PARTY. ALL IMPLEMENTING AGENCIES SHALL BE AUTHORIZED TO COMPEL THE PRODUCTION OF SAID MATERIALS.

"EXCEPT FOR TRADE SECRETS, CUSTOMER LISTS OR OTHER FINANCIAL DATA WHICH MAYBE PRIVILEGED, THE INFORMATION OBTAINED SHALL BE MADE AVAILABLE TO THE PUBLIC ON THE BASES OF THE FOLLOWING CONSIDERATIONS:

- (A) THAT PUBLIC DISCLOSURE CAN ASSIST CONSUMERS IN MAKING A RATIONAL CHOICE AMONG COMPETING CLAIMS;
- (B) THAT THE PUBLIC'S NEED FOR USEFUL INFORMATION IS NOT BEING MET VOLUNTARILY BY ADVERTISERS;
- (C) THAT RELEASE OF REPORTS, SUMMARIES, INDICES OR OTHER PUBLICATION SHALL ALERT THE CONSUMERS, BUSINESSMEN AND PUBLIC INTEREST GROUPS TO POSSIBLE VIOLATIONS OF THE ACT."

SEC. 2. Article 164 of Republic Act No. 7394 is hereby amended to read as follows:

"Article 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 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) xxx
- 2) xxx
- 3) xxx
- 4) xxx
- 5) xxx

6) THE IMPOSITION OF ADMINISTRATIVE FINES IN SUCH AMOUNTS AS MAY BE DEEMED REASONABLE BY THE SECRETARY, WHICH SHALL IN NO CASE BE LESS THAN TWENTY THOUSAND (20,000.00) PESOS BUT NOT MORE THAN FIVE HUNDRED THOUSAND (500,000.00) PESOS DEPENDING ON THE GRAVITY OF THE OFFENSE AND AN ADDITIONAL FINE OF NOT MORE THAN TEN THOUSAND (10,000.00) PESOS FOR EACH DAY OF CONTINUING VIOLATION."

SEC. 3. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,