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11 March 2008

DEPARTMENT CIRCULAR

No. 2008 - 0064

TO : ALL CONCERNED

**SUBJECT : Certain Provisions of Administrative Order No. 2006-0012
declared as ineffective.**

Please be reminded that the Supreme Court has sustained all provisions of Administrative Order No. 2006-0012 under G.R. No. 173034 dated October 9, 2007 and are thus valid and in effect, except the following which were declared null and void:

SECTION 4. (f) Advertising, promotions, or sponsorships of infant formula, breastmilk substitutes and other related products are prohibited.

SECTION 11. *Prohibition.* – No advertising, promotions, sponsorships, or marketing materials and activities for breastmilk substitutes intended for infants and young children up to twenty four (24) months, shall be allowed, because they tend to convey or give subliminal messages or impressions that undermine breastmilk and breastfeeding or otherwise exaggerate breastmilk substitutes and/or replacements, as well as related products covered within the scope of this Code.

SECTION 46. *Administrative Sanctions.* – The following administrative sanctions shall be imposed upon any person, juridical or natural, found to have violated the provisions of the Code and its Implementing Rules and Regulations:

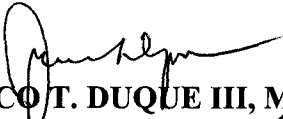
- (a) 1st violation – Warning;
- (b) 2nd violation – Administrative fine of a minimum of Ten Thousand (P10,000.00) to Fifty Thousand (P50,000.00) Pesos depending on the gravity and extent of the violation, including the recall of the offending product;
- (c) 3rd violation – Administrative Fine of a minimum of Sixty Thousand (P60,000.00) to One Hundred Fifty Thousand (P150,000.00) Pesos, depending on the gravity and extent of the violation, and in addition thereto, the recall of the offending product, and suspension of the Certificate of Product (CPR);

- (d) 4th violation – Administrative Fine of a minimum of Two Hundred Thousand (P200,000.00) to Five Hundred (P500,000.00) Thousand Pesos, depending on the gravity and extent of the violation; and in addition thereto, the recall of the product, revocation of the CPR, suspension of the License to Operate (LTO) for one year;
- (e) 5th and succeeding repeated violations – Administrative fine of One Million (P1,000,000.00) Pesos, the recall of the offending product, cancellation of the CPR, revocation of the License to Operate (LTO) of the company concerned, including the blacklisting of the company to be furnished the Department of Budget and Management (DBM) and the Department of Trade and Industry (DTI);
- (f) An additional penalty of Two Thousand Five Hundred (P2,500.00) Pesos per day shall be made for every day the violation continues after having received the order from the IAC or other such appropriate body, notifying and penalizing the company for the infraction.

For purposes of determining whether or not there is “repeated” violation, each product violation belonging or owned by a company, including those of their subsidiaries, are deemed to be violations of the concerned milk company and shall not be based on the specific violating product alone.

In lieu of Section 46 (Administrative Sanction), Section 13 of Executive Order No. 51 on sanctions will be followed.

For your information and guidance.


FRANCISCO T. DUQUE III, MD, MSc.
Secretary of Health