

**DSWD OPINION NO. 18 S. 2024**

**FOR : PAUL D. LEDESMA**  
Assistant Secretary for Regional Operations

**FROM : THE ASSISTANT SECRETARY FOR GASSG AND CONCURRENT OFFICER-IN-CHARGE, LEGAL SERVICE**

**SUBJECT : COMMENTS ON THE PROPOSED DEED OF DONATION AND ACCEPTANCE BETWEEN PMFTC, INC. AND DSWD**

**DATE : 19 February 2024**

This has reference to your MEMORANDUM requesting for our comments on the draft DEED OF DONATION AND ACCEPTANCE with PMFTC INC. for the donation of three (3) mobile clinics in favor of DSWD.

In this regard, please consider our comments below.

We respectfully submit that the proposed Donation from PMFTC, INC. is in violation of the **World Health Organization Framework Convention on Tobacco Control (WHO FCTC)**<sup>1</sup>, **Joint Memorandum Circular (JMC) No. 2010-01** of the **Civil Service Commission (CSC)** and **Department of Health (DOH)**<sup>2</sup>, and relevant DSWD issuances, *i.e.* **Administrative Order (AO) No. 2018-007** and **Administrative Order No. 2019-011**.

**PMFTC, INC.**, the Philippine affiliate of Philip Morris International (PMI), is one of the **cigarette manufacturers** in the Philippines. It manufactures five (5) out of the ten (10) brands available to the market.<sup>3</sup>

The WHO FCTC to which the Philippines is a signatory, aims to protect present and future generations from the health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco for its objective. Article 5.3 of the General Obligations of WHO FCTC states:

*"In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law."*

To operationalize Article 5.3 of WHO FCTC, the CSC and DOH issued **JMC No. 2010-01**, or the **"Protection of the Bureaucracy Against Tobacco Industry Interference"**. Item 3.0 of said JMC provides:

**"3.0 Prohibitions**

<sup>1</sup> Ratified by the President on 23 September 2003, and concurred by the Senate on 25 April 2005.

<sup>2</sup> Attached as **Annex "A"**

<sup>3</sup> Retrieved 16 January 2024, from <https://www.pmi.com/markets/philippines/en/about-us/overview>.

### 3.1 Unnecessary interaction with Tobacco Industry

**Public officials and employees shall interact with the tobacco industry only when strictly necessary for the latter’s effective regulation, supervision or control.** Transparency in all interactions with the tobacco industry shall be observed. Any necessary interaction with the tobacco industry should be carried out in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, public officials and employees shall act to prevent or correct this perception.

3.2 xxx

### 3.3 Accepting Gifts, Donations and Sponsorship

**Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity favor, entertainment, loan or anything of monetary value in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office from any person or business related to the tobacco industry.**

xxx" (Emphasis and Underline Supplied)

CSC-DOH JMC No. 2010-01 further provides that “[a]ny violation of this Circular shall be considered a ground for administrative disciplinary action pursuant to Rule XIV (Discipline) of the Omnibus Rules Implementing Book V of Executive Order No. 292, without prejudice to the filing of criminal as well as civil actions under existing laws, rules and regulations.”

The foregoing CSC-DOH JMC was adopted by the DSWD in its **AO No. 2018-007** or “*Policy on the Protection of the Bureaucracy against Tobacco Industry Interference supplementing the Enhanced Guidelines on the Code of Conduct for Personnel of the DSWD*”, and **AO No. 2019-011** or “*Guidelines on the Adoption and Implementation of Policies on Tobacco Control and Protection against Tobacco Industry Interference in the DSWD*”.

Particularly under **Item VII (3) of DSWD AO No. 2019-011**, which provides:

#### “VII. General Guidelines

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#### 3. Sponsorships and Receipt of Donations

**3.1 The Department shall not solicit or accept any donation, gifts, loan, gratuity favor or anything of monetary value, whether in cash or in kind, for disaster operations, relief assistance, and sponsorships to centers and institutions from the tobacco industry.**


xxx" (Emphasis Supplied)

Hence, it is clearly prohibited for the Department to accept any donation from any person or business related to the tobacco industry.

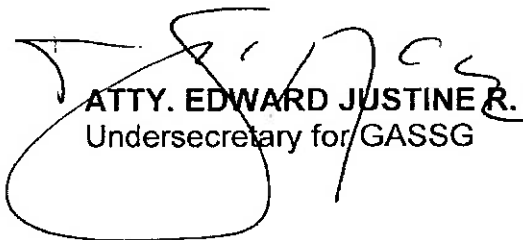
The Legal Service respectfully recommends that the Department **DECLINE** the offer or the proposed donation from PMFTC, INC., a cigarette manufacturer in the Philippines in view of existing international convention, issuances and policies on tobacco control and protection against tobacco industry interference.

Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration. Thank you.

  
**ATTY. GINA V. WENCESLAO**  
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Approved by:

  
**ATTY. EDWARD JUSTINE R. ORDEN**  
Undersecretary for GASSG