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ADVISORY NOTE 02 - 2023
Date: 29th August 2023

ADVISORY NOTE IN REGARDS TO MISLEADING CONDUCT

The information contained in this Advisory Note is a summary of some of the key aspects and obligations of suppliers under the Fair Trading Act, 2022, which relates to Misleading conduct. This advisory note is issued as a general overview thereof to businesses. Due to limitations in length of this note, many parts of the Act have not been covered. Suppliers are advised to consult the Act itself. This note should not be treated as a substitute for legal advice.

Subject: Compliance with Section 85 (1) of the Fair Trading Act 2022 (FTA, 2022)

Businesses should not try to gain advantage of consumers by engaging in misleading conducts in relation to the supply or promotion of goods or services. Section 85 (1) of the Fair Trading Act, 2022 (FTA, 2022) prohibits *a person in trade or commerce in connection with the supply or possible supply of goods or service or in connection with the promotion by any means of the supply or use of goods or services, from engaging in conduct that is, or is likely to mislead or deceive the public.*

In an effort to ensure compliance, businesses are advised to take note of the following;

a. Claims should be true, accurate and based on reasonable grounds. A business must be able to prove any claim they advertise.
b. Consumers should be able to easily understand all the details of the promotion.
c. Relevant information or information that are in conflict with the overall message of the advertisement should not be in fine print.
d. Disclosures should be worded in a simple manner and be prominently displayed which means that consumers must be able to notice it, read it, and understand it.
e. Promotions for any services or goods should not include any claims against a third party which cannot be proved.
f. It should be disclosed in promotions if goods or services are in limited amounts or are subject to availability.
g. Advertisements should contain clear, transparent information and not create a false sense of urgency to consumers.
h. Silence can also be misleading if it results in omission of relevant information that is required for consumers to make informed decisions.

Suppliers are encouraged to carefully review activities and procedures to ensure compliance with the provisions of the FTA, 2022.

Advisory Note published in accordance to Section 6 (2) (b) of the Fair Trading Act, 2022
FAIR TRADING COMMISSION, AUGUST 2023

Fair Trading Commission
Seychelles