



**LEGAL SERVICE
GENERAL ADMINISTRATION AND SUPPORT
SERVICES GROUP**
DSWD-GF-004 | REV 03 | 22 SEP 2023

DRN: LS-L-LO-24-10-82480-C

MEMORANDUM

FOR : **MICHAEL CRISTOPHER R. MATHAY**
Director III, Disaster Response Management Bureau (DRMB)

FROM : **THE ASSISTANT SECRETARY FOR GENERAL
ADMINISTRATION AND SUPPORT SERVICES GROUP
(GASSG) AND CONCURRENT OFFICER-IN-CHARGE, LEGAL
SERVICE**

SUBJECT : **REQUEST FOR LEGAL ADVICE ON THE PROHIBITED ACTS
UNDER SECTION 19 OF REPUBLIC ACT NO. 10121 OR THE
PHILIPPINE DISASTER RISK REDUCTION AND
MANAGEMENT ACT OF 2010**

DATE : **04 DECEMBER 2024**

This pertains to your Memorandum¹ seeking for legal advice from the Legal Service (LS) on the coverage of the Prohibited Acts under Section 19 of Republic Act (R.A.) No. 10121 or the "*Philippine Disaster Risk Reduction and Management Act of 2010*".

In your Memorandum, your office received an emailed letter dated 30 September 2024 of the Agency Operations Service (AOS) endorsing the complaint received through AOS Action Center with Grievance Ticket No. AOS-23-09-39-50089. The complainant (anonymous sender) narrated purchasing and receiving a DSWD family food pack (FFP) box from Shopee (Online Shopping) supplied by a certain Ms. Angela Monreal of Malolos City, Bulacan.

The following are the facts presented on the email thread:

1. AOS received an email dated 29 September 2024 from Kei Gee (miakareng@yahoo.com) with photos of the DSWD relief supplies box and the seller's name and address as Angela Monreal of L24 B6 Malagi St. Maunlad Homes Subd., Mojon, Malolos City, Bulacan. The email sender further inquired and stated:
 - *Is there a prohibition against using the Relief Supplies box from DSWD?*
 - *Can a personal business reuse it? Are you implying that if the contents of the package do not match the relief goods you distributed, there is no liability?*
 - *I have processed a return/refund with Shopee. The seller is: (photos of the DSWD relief supplies box and the seller's name and address)*

¹ Attached as Annex "A"



2. On the same day, AOS Action Center replied on the email sender's inquiry with a Grievance Ticket No. AOS-23-09-39-50089 including the questions below:

Upang maagap namin itong matugunan, maaari po ba kami manghingi ng iba pang impormasyon para sa transaksyong ito

- *Anu-ano ang mga laman o items na dumating sa inyong order mula sa Shopee upang maikumpara namin ang laman na ipadala sa inyo ng seller sa laman ng DSWD relief goods?
Kung maari, mga larawan ng groceries na laman ng DSWD Box na naipadala sa inyo ang nais namin makuhanan.*
- *Impormasyon ng Seller, pangalan sa shoppee, contact information, ano ano ang mga "groceries" na inyong inorder*
- *Ang transaksyon po ba na ito ay nareport na din po sa sa Shopee? Kailan?
Kung mapapatunayan na may paglagbag ang naturang seller base na din sa mga ebidensiya na inyong maipapadala sa amin, umasa po kayo na amin itong aaksyunan sa aming tanggapan. Ang inyong kumpletong impormasyon na maibabahagi sa amin ay makakatulong upang ito ay ma-validate at mabigyang aksyon.*

The email further states *"Additionally, she claims that the Relief supplies came from her stepfather who works in the barangay - Brgy. Catmon."*

3. AOS consequently forwarded the email thread dated 30 September 2024 to DRMB, attaching photos of the relief supplies box and the seller's information, the anonymous complaint, and the Grievance Ticket No. AOS-23-09-39-50089.

In view of the foregoing, your office specifically inquired if this case falls under Section 19 (Prohibited Acts) of R.A No. 10121 highlighting the paragraph below:

(h) Accepting, possessing, using or disposing relief goods, equipment or other aid commodities not intended for nor consigned to him/her;

Our Opinion:

After careful review, this level opines that the prohibition under Section 19 of R.A. No. 10121 will apply if it is evident that the FFP box in question is indeed a DSWD FFP sold by a seller via shopee.

Section 19 of R.A. No. 10121² explicitly states:

Section 19. Prohibited Acts. - Any person, group or corporation who commits any of the following prohibited acts shall be held liable and be subjected to the penalties as prescribed in Section 20 of this Act:

(a) Dereliction of duties which leads to destruction, loss of lives, critical damage of facilities and misuse of funds;

² Republic Act 10121, AN ACT STRENGTHENING THE PHILIPPINES DISASTER RISK REDUCTION AND MANAGEMENT SYSTEM, PROVIDING FOR THE NATIONAL DISASTER RISK REDUCTION AND MANAGEMENT FRAMEWORK AND INSTITUTIONALIZING THE NATIONAL DISASTER RISK REDUCTION AND MANAGEMENT PLAN, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.

- (b) Preventing the entry and distribution of relief goods in disaster-stricken areas, including appropriate technology, tools, equipment, accessories, disaster teams/experts;*
- (c) Buying, for consumption or resale, from disaster relief agencies any relief goods, equipment or other and commodities which are intended for distribution to disaster affected communities;*
- (d) Buying, for consumption or resale, from the recipient disaster affected persons any relief goods, equipment or other aid commodities received by them;*
- (e) Selling of relief goods, equipment or other aid commodities which are intended for distribution to disaster victims;*
- (f) Forcibly seizing relief goods, equipment or other aid commodities intended for or consigned to a specific group of victims or relief agency;*
- (g) Diverting or misdelivery of relief goods, equipment or other aid commodities to persons other than the rightful recipient or consignee;*
- (h) Accepting, possessing, using or disposing relief goods, equipment or other aid commodities not intended for nor consigned to him/her;*
- (i) Misrepresenting the source of relief goods, equipment or other aid commodities by:
 - (1) Either covering, replacing or defacing the labels of the containers to make it appear that the goods, equipment or other aid commodities came from another agency or persons;*
 - (2) Repacking the goods, equipment or other aid commodities into containers with different markings to make it appear that the goods came from another agency or persons or was released upon the instance of a particular agency or persons;*
 - (3) Making false verbal claim that the goods, equipment or other and commodity in its untampered original containers actually came from another agency or persons or was released upon the instance of a particular agency or persons;**
- (j) Substituting or replacing relief goods, equipment or other aid commodities with the same items or inferior/cheaper quality;*
- (k) Illegal solicitations by persons or organizations representing others as defined in the standards and guidelines set by the NDRRMC;*
- (l) Deliberate use of false at inflated data in support of the request for funding, relief goods, equipment or other aid commodities for emergency assistance or livelihood projects; and*
- (m) Tampering with or stealing hazard monitoring and disaster preparedness equipment and paraphernalia.*

Nevertheless, it shall be noted that as of date, LS has no information on the matters requested by AOS to the email sender's inquiry with a Grievance Ticket No. AOS-23-09-39-50089. Hence, in order to align with the context of the questions raised by the

email sender, this level will provide comments based on the hypothetical inquiries raised. To address these inquiries, we provide the following answers:

1. *Is there a prohibition against using the Relief Supplies box from DSWD?*
 - The law clearly prohibits the selling or buying, consumption or disposal and even acceptance, possession or use of the Department's *relief goods, equipment or other aid commodities*, such as FFPs, that are intended for distribution to disaster victims or affected communities. However, the prohibited acts under Section 19 relate to *relief goods, equipment or other aid commodities* and is silent on the use, reuse or recycling of the FFP box itself.
2. *Can a personal business reuse it? Are you implying that if the contents of the package do not match the relief goods you distributed, there is no liability?*
 - a. *Can a personal business reuse it?*
 - In relation to the first query as to the use of the DSWD FFP box, there is no express prohibition on the reuse by a commercial or business entity of the empty/used relief supplies box itself under Section 19 of R.A. No. 10121. However, we are of the view that to avoid any wrong perception by the public, as what triggered the query from the complainant buyer from Shopee, said empty/used FFP box should not be reused commercially, and if so, proper markings must be made on the box such as "X" or "NOT A RELIEF SUPPLIES BOX" to signify that the person or entity using, reusing or recycling the box is not in any way connected to the Department and to avoid confusion or misconception among the Department's clients.

While R.A. No. 10121 is silent on the matter discussed above, it shall be noted that the FFP box contains the DSWD brand or logo, and the use of government brand or logo must be in accordance with the existing laws and regulations. The DSWD Memorandum Circular (M.C.) No. 01 series of 2024³ provides for the standardization, unification, and relevance to the current trends of all Information, Education and Communication (IEC) materials and other collaterals of the DSWD Office, Bureau, Service (OBS) including Field Offices (FOs). Pursuant to the internal guidelines of the DSWD and existing laws, this M.C. adopted the enhanced DSWD Brand and Visual Identity Guidelines containing the DSWD Agency Logo, Logo Variations, Logo Usage, among others. One of the areas covered by these guidelines include the *Disaster Relief Goods' Packaging* such as but not limited to the FFP box. Moreover, this M.C. also provides that unauthorized or illegal use of the DSWD logo by private individuals/institutions/organizations shall constitute as a violation of pertinent provisions under the Intellectual Property Code and the Revised Penal Code. Section 147 and Article 177 of the aforementioned laws provide, respectively:

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³ AMENDMENT TO THE MEMORANDUM CIRCULAR (MC) NO. 14 SERIES OF 2021 WITH THE SUBJECT AMENDING THE GUIDELINES ON THE IMPLEMENTATION OF THE DSWD BRAND DESIGN AND ITS CONSISTENT APPLICATION IN ALL AGENCY COLLATERALS, COMMUNICATIONS AND MARKETING MATERIALS

SECTION 147. Rights Conferred. – 147.1. *The owner of a registered mark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs or containers for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.*

147.2. The exclusive right of the owner of a well-known mark defined in Subsection 123.1(e) which is registered in the Philippines, shall extend to goods and services which are not similar to those in respect of which the mark is registered: Provided, That use of that mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered mark: Provided, further, That the interests of the owner of the registered mark are likely to be damaged by such use.
(n)

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ART. 177. Usurpation of authority or official functions.—*Any person who shall knowingly and falsely represent himself to be an officer, agent or representative of any department or agency of the Philippine Government or of any foreign government, or who, under pretense of official position, shall perform any act pertaining to any person in authority or public officer of the Philippine Government or of any foreign government, or any agency thereof, without being lawfully entitled to do so, shall suffer the penalty of prison correctional in its minimum and medium periods.*

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In view of the foregoing, the rights conferred to the DSWD is protected under the Intellectual Property Code and the unauthorized use of the FFP box bearing the well-known logo and brand of the DSWD could result in civil liability. On the other hand, the criminal aspect of the unauthorized use of the DSWD logo and brand requires that the person must knowingly and falsely represent himself to be an officer, agent or representative of any department or agency of the Philippine Government or who, under pretense of official position, shall perform any act pertaining to any person in authority or public officer of the Philippine Government. In this regard, there is a need to commence and conduct an investigation to ferret out the truth regarding the sale of FFP box in Shopee and consequently the unauthorized use of the DSWD logo and brand, as the intent of the person is material in order to determine a criminal liability.

- b. *Are you implying that if the contents of the package do not match the relief goods you distributed, there is no liability?*
- If the DSWD FFP box contains the department's relief goods, equipment or other aid commodities, then the DSWD relief supplies box purchased and received by the complainant buyer from Shopee would squarely fall under the prohibited acts, particularly Sec. 19 (h) of R.A. No. 10121.
 - If the DSWD FFP box is found to have contents other than the department's relief goods, equipment or other aid commodities, we reiterate that since the

law is silent on this, determination of liability may not be tenable. In order to establish liability, there is a need to ascertain the contents of the FFP box purchased from Shopee as the prohibited acts under Section 19 relate to the Department's relief goods, equipment or other aid commodities. Although R.A. No. 10121 is silent on the use, reuse or recycle of the FFP box, please be guided on the authorized use of the Department's logo and brand pursuant to the existing laws and regulations as discussed in the previous question.

Notwithstanding, the Department is not precluded from enforcing the applicable provisions of R.A. No. 10121 against persons/entities who may happen to be distributing, selling, substituting and misrepresenting relief goods, equipment or other aid commodities from the DSWD.

As ways forward, the Department, through the DRMB, may propose policies on how to properly use, reuse and recycle FFP boxes, if the same should be allowed at all. To avoid the recurrence of the above incident, the DRMB may put additional markings on the FFP box such as "NOT FOR SALE", "NOT FOR COMMERCIAL REUSE/RECYCLING" or similar reminders to the public.

Please be advised that the above comments are based solely on the information provided by your office, and may vary based on the additional information or document/s or when the facts are changed or elaborated.

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

MCMUG/MGFN/10065

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary for GASSG