

*Caracas, March 2nd 2025.*

## **Comments on the Regime Governing Promotions and Offers in the Draft Law for the Protection of Socioeconomic Rights**

**Andrés Linares Benzo**

*Partner*

On the matter of promotions and offers for goods and services, Administrative Ruling No. 077/2014, issued by the National Superintendency for the Defense of Socioeconomic Rights (SUNDDE), is currently in force and being applied; this ruling establishes the procedure for authorizing promotions submitted to that agency.

Although SUNDDE bases this Administrative Ruling on the authority conferred upon it by the Organic Law on Fair Prices to establish the general conditions for the offering, promotion, and advertising of goods and services, we consider that such regulatory authority would not permit the establishment, through sub-legal means, of a requirement and administrative procedure for prior authorization to carry out promotional activities and offers of goods or services, since such a limitation, by directly affecting the exercise of economic freedom and specifically the freedom of trade enshrined in the Constitution, **should only be established through an express legal provision.**



Indeed, Article 112 of the CRBV expressly provides that such economic freedom may only be subject to the limitations established by the Constitution itself or by law for reasons of human development, public health, environmental protection, or other matters of social interest.

Given that the promotion and offering of goods and services; and their advertising form an essential part of commerce and, therefore, their exercise is protected by the aforementioned economic freedom, the Public Administration may not, through sub-statutory instruments, impose the requirement of prior authorization from the administrative body without there being an express legal authorization to do so; for this reason, in our opinion, **the ruling would be tainted by illegality and unconstitutionality.**

Regardless of the aforementioned criticism, and on the occasion of the presentation for discussion of the Draft Organic Law on the Protection of Socioeconomic Rights which was approved in its first reading by the National Assembly in January 2026 and is currently in the public consultation phase, we note that the draft includes four articles specifically aimed at regulating the conditions applicable to promotions and offers of goods and services.

These provisions include requirements regarding the information that such promotions or offers must contain, particularly concerning the time, quantity, method, location, and other requirements for accessing the promotion or offer. Furthermore, it is stipulated that raffles, contests, gifts, prizes, or similar activities associated with the promotion, offer, and sale of goods and services shall be subject to special regulations issued by the competent ministry in this matter. Finally, the draft law reproduces the provision that grants the competent administrative authority the power to establish the general conditions for the offering, promotion, and advertising of goods and services.



We consider that the aforementioned proposed regulations are appropriate and effectively seek to develop and protect, in a concrete manner, the constitutional right of consumers and users to have access to adequate and non-misleading information regarding the content and characteristics of the products and services they consume, as provided for in Article 117 of the Constitution.

Notwithstanding the foregoing, **the bill makes no mention whatsoever of the requirement to obtain prior authorization from the competent authority to conduct promotions and offers of goods and services.**

In this regard, if the aforementioned bill is approved without such a requirement, we could conclude, in theory, as we have argued, **that such authorization could not be imposed by sub-legal means** by the competent administrative body, even if that body retains the legal authority to establish the general conditions for promotions and offers.

However, in order to guarantee the principle of **legal certainty regarding** the applicable legal regime, I believe that the draft law **should expressly state that prior authorization is not required to carry out promotional activities and offers of goods and services.**

In this vein, with regard to this aspect of legislative policy, we believe that mechanisms for limiting and restricting economic freedoms in the interest of protecting the public interest must be applied in a **measured and proportionate** manner, so as to ensure, to the greatest extent possible, the protection of all the rights, freedoms, and interests involved.

From this perspective, it should be noted that promotional activities and offers of goods and services in commerce bring dynamism and mobility to markets, promote free competition, and offer consumers and users the opportunity to obtain goods and services under better economic conditions. However, these commercial activities, by their very nature, **require agile and expeditious processes in terms of time and space, in order to meet market needs in a timely manner.**

Consequently, limiting from the outset promotions and offers of goods and services by subjecting them to **prior authorization**, which entails the suspension or halting of the marketing of products and services until such authorization is obtained, could be considered an effective **limitation and curtailment of the right to freedom of trade lacking sufficient justification**.

Additionally, from the perspective of public administration, the prior authorization mechanism entails the establishment of a large-scale **bureaucracy** to handle the numerous authorization requests from all suppliers of goods and services and to provide timely responses within the short timeframes established by the regulations, which in practice is difficult to achieve, often leading to **administrative delays** that hinder the exercise of individuals' freedom of trade. For its part, the preparation and processing of authorization requests entails additional costs and time, which ultimately have an **adverse effect** on merchants' decisions to carry out promotions or offers.

I believe that the public's right to information regarding the terms of promotions and offers, as well as protection against false or misleading advertising, **can be adequately guaranteed through oversight mechanisms or subsequent reporting of conduct contrary to such rights**, through the corresponding sanctioning and/or remedial procedures for any damages, coupled with the application of **precautionary or preventive measures**, in accordance with the legal system, when warranted by the seriousness of the specific case.

Furthermore, and in any case, the rights of consumers and users could be guaranteed through the **procedure of simply notifying** the administrative authority of the promotion or offer prior to its publication, while always maintaining the possibility for the administrative body to subsequently review it, order its suspension, and apply the corresponding sanctions in the event that the promotion or offer is



contrary to law. In this regard, we must recall that this solution was already present in the previous repealed legislation in force from 1992 to 2004, and that it continued to be applied in administrative practice until 2009, when the Law expressly imposed the requirement of prior authorization, only to later omit this requirement in the current Organic Law on Fair Prices.

In conclusion, as a suggestion within the framework of the public consultation process for the draft Organic Law for the Protection of Socioeconomic Rights, which is currently under its second reading in the National Assembly, I believe that with regard to promotions or offers of goods and services, the legal text **should include an express reference stating that such promotions or offers do not require prior authorization** issued by the competent authority for their implementation, while always maintaining the power of subsequent control or supervision in the event that such promotions or offers infringe upon the rights of consumers or users. As an **alternative proposal**, it could in any case be required to simply provide **prior notification to the authority** regarding the promotion or offer in question, without requiring authorization for its publication.

#### Contacts:

**LEGA Abogados**  
**Office:**  
**+58 (212) 277.22.00**  
**Email: [infolaw@lega.law](mailto:infolaw@lega.law)**  
**Website: [www.lega.law](http://www.lega.law)**

**Andrés Linares Benzo**  
**Email: [alinares@lega.law](mailto:alinares@lega.law)**  
**T: +58 (212) 2772237**



The objective of the LEGA Perspectives is to provide information to the clients and related of LEGA. This LEGA Perspective reflects the point of view of its author. Readers should not act on the basis of the information contained in this LEGA Perspective, without first obtaining specific legal advice. This LEGA Perspectives can be reproduced, in whole or in part, always indicating its author, source and origin in a prominent way.