

Legal update

Venezuela's pricing regulations

October 2015

Public law

The Office of the National Superintendent for the Defense of Socio Economic Rights (SUNDDE for its acronym in Spanish) initially published in the Official Gazette, Issue N° 40.774 dated October 26, 2015, Administrative Provision No. 070/2015, which regulates the methods to determine, set and mark prices in the entire national territory (Provision), which was re-printed due to a material error in the Official Gazette Issue N° 40.775 dated October 27, 2015.

Hereinafter are the most relevant aspects of the Provision:

Regulated prices categories

- *Maximum Selling Price for the Producer or Importer (PMVPI)*: This is the highest price, expressed in bolivars, that can be set for a certain good or service by the regulated subject producing or importing such good.
- *Maximum Selling Price to the Consumer (PMVP)*: This is the highest price at which the good or service may be sold to the final user in retail commerce. Its determination and setting pertains to the producer or importer of the good. It shall be made up by adding the PMVPI, plus the brokerage margin assigned to the other members of the distribution chain, taking into account the restrictions referred to in the Maximum Profit Margin and to the Maximum Brokerage Margin.
- *Fair Price*: This is a price determined and set for a good or service by the SUNDDE on its Website. These prices cannot be increased without prior authorization by the SUNDDE.

The Fair Price and the PMVP are the selling prices to the final consumer of the goods and services in the entire national territory.

Maximum profit margin

- Importers of goods: up to 20%.
- National producers and service providers: 30%.
- Maximum Brokerage Margin (notwithstanding the number of brokers in the distribution or commercialization chain of the good or service): up to 60%. Such margin is a percentage ratio between the PMVP and the PMVPI, as expressed in the following formula:

$$MI = \left(\left(\frac{PMVP}{PMVPI} \right) - 1 \right) \cdot 100$$

Aspects of price setting

When determining and setting the prices in the above-mentioned categories, the SUNDDE or the regulated subject, as the case may be, shall take into account: (i) The cost structure of the good or service; (ii) the PMVPI; (iii) the maximum permitted profit margin to each regulated subject; (iv) the maximum brokerage margin for the entire distribution and commercialization chain; and (v) the strategic character of the good.

Obligation to set and mark prices

PMVP markings and setting of the Fair Price is mandatory for all application subjects.

Prohibition on Fair Price markings

The Provision expressly prohibits application subjects to mark a “Fair Price” on any product whose price has not been set by the SUNDDE.

Marking modes

PMVP markings or setting of the Fair Price shall be done through any of the methods described hereinafter, according to the order of preference stated herein:

- Marking on the body of the good.
- Stamping through self-adhesive label.
- Printed listing.

Under no circumstances shall it be understood that with the publishing of physical or digital lists or catalogues not exhibited together with the good or service, that this provision has been faithfully complied with.

The SUNDDE may publish on its Website listings by categories of goods or services to which a certain marking method is applicable, if due to the characteristics of the good or service it is difficult to determine the method to be applied, or if there is no uniformity in the marking used by regulated subjects commercializing the same good.

The Provision regulates the parameters of the three marking methods above and the information to be included in the marking.

Prohibition on double marking and modifications

Under no circumstances can: more than one PMVP be marked on the same good or service; labels be removed, or the price originally set removed or modified; prices set on price lists be higher than the marked prices. Regulated subjects shall be subject to the penalties set forth in the Organic Law on Fair Prices.

Penalties

The PMVP becomes an objective element to determine speculative behavior, if any good or service is sold over such maximum price.

Effectiveness

This provision became effective on October 27, 2015.

Luis Ernesto Andueza
Ana Carolina Serpa

For further information, please contact one of the following lawyers:

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| > Luis Ernesto Andueza | Caracas | +58 212.276.0007 | luis.andueza@nortonrosefulbright.com |
| > Ana Carolina Serpa | Caracas | +58 212.276.0028 | anacarolina.serpa@nortonrosefulbright.com |

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