



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

A. Francisco Gold Condominium II
EDSA Cor. Mapagmahal St., Diliman
Quezon City



LEGAL SERVICE

DILG Legal Opinion No. 70 s. 2011

NOV 08 2011

ATTY. ERWIN C. LARDIZABAL
Corporate Affairs Department
Nestle Philippines, Inc.
31 Plaza Drive, Rockwell Center,
Makati City

Dear **Atty. Lardizabal**:

This has reference to your 18 October 2011 letter requesting this Department's opinion on whether or not the tricycles operated by your partners in the Business on Wheels (BOW) program fall within the context of the provisions of DILG Memorandum Circular No. 2007-01, entitled: "*Basic Considerations in the Preparation of City or Municipal Tricycle and Pedicab Franchise and Regulatory Ordinance or Code*," specifically on the 1st bullet of paragraph (D), Item III of said MC, which proscribes the operation of tricycles and pedicabs on national highways.

Please note that DILG MC No. 2007-01 was issued by the Department to regulate the operations of tricycles and pedicabs rendering transport services to the general public, pursuant to the DOTC's "*Guidelines to Implement the Devolution of LTRFB's Franchising Authority Over Tricycles-For-Hire to Local Government Units Pursuant to the Local Government Code (RA No. 7160)*."

Under the Guidelines issued by the DOTC, a tricycle-for-hire is defined as follows:

"1. A *Tricycle-for-Hire* is a motor vehicle composed of a fitted with a single-wheel side car or a motorcycle with two-wheel cab operated to render transport services to the general public for a fee."

DILG MC No. 2007-01, on the other hand, defines a tricycle as follows:

"1. *Tricycle* – a motor vehicle composed of a motorcycle fitted with a single-wheel side car or a motorcycle with a two-wheel cab operated to render transport services to the general public."

Municipalities and cities are also granted the power to regulate the operation of tricycles and grant franchises within their respective territorial jurisdictions subject to the guidelines prescribed by the DOTC pursuant to Sections 447 (3) (vi) and 458 (3) (vi) of the Local Government Code of 1991.

Clearly, the prohibition for the operation of tricycles on national highways applies only to those rendering transport services to the public.

Applying the foregoing to the case of BOWers and/or tricycles which do not render transport services to the public, while it may be said that the use of their tricycles do not come within the purview of DILG MC No. 2007-1, this does not mean that they are excluded from the regulatory power of the DOTC and the LGUs.

We hope the foregoing sufficiently addresses your concern.

Very truly yours,

ATTY. JESUS B. DOQUE IV
Director III