

ADMINISTRATIVE RULING ON DETERMINATION, FIXING,  
AND MARKING OF PRICES (REPRINTED)

Due to an error, Administrative Ruling dated October 25, 2015 was modified and published again in Official Gazette No. 40.775 of October 27, 2015. Therefore, Administrative Ruling No. 070/2015 of October 27, 2015, issued by the National Superintendent for the Defense of Socioeconomic Rights, which regulates the Methods for Determination, Fixing, and Marking of Prices in all of the National Territory (the "Ruling") was published in said Official Gazette No. 40.775 of October 27, 2015.

Find below the most significant aspects:

1. The purpose of the Ruling is to establish the ordinary regime for regulating the determination, fixing, and marking of the prices of the goods and services commercialized in the national territory, which will not limit the capacity of the National Superintendence for the Defense of Socioeconomic Rights (*Superintendencia Nacional para la Defensa de los Derechos Socioeconómicos* - "SUNDDE") to issue general or particular technical rules intended to govern an economic sector, a group of regulated entities/individuals, or an individual or group of individuals, as necessary.
2. The Ruling establishes a group of definitions including:
  - **Regulated Entity/Individual:** Any natural or legal person of those indicated in article 2 of the Decree with the Status, Value, and Force of Organic Law of Fair Prices ( *Ley Orgánica de Precios Justos* - "LOPJ").
  - **Maximum Price of Sale of Producers or Importers (*Precio Máximo de Venta del Productor o Importador* - PMVPI):** It is the highest price, expressed in bolivars, that the regulated entity/individual that produces or imports the good may assign to a specific good or service.
  - **Maximum Price of Sale to the Public (*Precio Máximo de Venta al Público* (PMVP):** It is the highest price at which a good or service may be retailed to the end user.

The Ruling indicates that if a regulated entity/individual carries out all or at least more than one of the functions corresponding to the links established in the same, in any combination, the maximum profit may not exceed the final price of the good or service imported, produced, distributed, and commercialized. In any of the combinations actually applied.

- **Fair Price (*Precio Justo*):** It is the price determined and fixed by the SUNDDE, to which said entity expressly assigns the designation "Fair Price" (*Precio Justo*).
- **Intermediation Margin (*Margen de Intermediación* - MI):** It is the percentage ratio between the PMVP and the PMVPI, as expressed in the following formula:

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

The maximum intermediation margin will be calculated for the entire commercialization chain of each good, regardless of the number of intermediaries intervening in the same.

3. For purposes of the determination of the prices, the Ruling establishes the categories of prices regulated by it. Said categories are to be obligatorily adopted by the regulated entities/individuals. They are:

- **Maximum Price of Sale of the Producer or Importer (*Precio Máximo de Venta del Productor o Importador* - PMVPI):** It is determined and fixed by the regulated entity/individual that produces or imports the good with the purpose of commercializing the same among other regulated entities/individuals that will sell it to the end user. The producer or importer may not sell goods or services at prices in excess of the PMVPI to the regulated entities/individuals that acquire them for their commercialization to the end user.
- **Maximum Price of Sale to the Public (*Precio Máximo de Venta al Público* - PMVP):** Its determination and fixing corresponds to the provider of the service or the producer or importer of the good. It will be the result of the sum of the Price of Sale of the Producer or Importer plus the intermediation margin corresponding to the rest of the links of the commercialization chain, with the restrictions referred to the Maximum Profit Margin and the Maximum Intermediation Margin established in the Ruling. The end seller may make offers or discounts on said price, but under no circumstance may the good or service be commercialized at a price in excess of said price. As a control instrument, the PMVP is an objective element of determination of the charging of excessive prices, when a specific good or service is commercialized at a price exceeding said maximum price.
- **Fair Price (*Precio Justo*):** It is the price determined and fixed for a good or service by the SUNDDE. The determination and fixing of the Fair Price (*Precio Justo*) may only be made by the SUNDDE on the basis of the regulations prescribed in the Organic Law of Fair Prices and of those developed by the SUNDDE in this matter.

The Fair Price (*Precio Justo*) and the PMVP are prices of commercialization to the end user of the goods and services in all of the national territory.

The PMVPI and the PMVP may be revised or fixed by the SUNDDE, upon its own initiative, adjusting them to the provisions of the Ruling or as per opportune economic and social criteria, allowing the regulated entity/individual to express its arguments. The prices determined and fixed by the SUNDDE may not be increased without the SUNDDE's prior authorization.

4. For purposes of the determination and fixing of prices the categories of which are regulated by the Ruling, the SUNDDE or the regulated entity/individual, where appropriate, will take into account the cost structure of the good or service, the PMVPI, the maximum profit margin permitted for each regulated entity/individual, the maximum intermediation margin for all of the distribution chain, and the strategic nature of the good.

5. In the calculation and determination of any of the categories of prices regulated by the Ruling, the maximum profit margin permitted for each regulated entity/individual will abide by the provision of article 37 of the LOPJ, with the following limits:

- The maximum profit margin permitted for the importers of goods is up to twenty percent (20 %).
- The maximum profit margin permitted for service providers and national producers is thirty percent (30 %).

When the price determined as per the categories established in the Ruling exceeds the maximum profit margin referred to in the Ruling, the SUNDDE may make the corresponding adjustment and will notify the regulated entity/individual of the new price fixed.

6. The Ruling establishes that the Maximum Intermediation Margin (*Margen Máximo de Intermediación* - MMI) permitted for all the distribution or commercialization chain, regardless of the number of intermediaries intervening in the same, is up to sixty percent (60 %).

7. The impact of the maximum profit margins of the distributor and the retailer on the maximum intermediation margin must be adjusted to the usage in the commercialization of the good or service concerned.

In no case may the maximum intermediation margin of the distributor, per unit of product, exceed the maximum intermediation margin of the retailer.

8. The SUNDDE will establish the prices for some products when it so decides and such prices will be published through its web page.

The regulated entities/individuals are prohibited from marking prices of any product with the designation Fair Price ( "Precio Justo") if such price has not been fixed by the SUNDDE.

9. The marking of the PMVP and of the Fair Price ("Precio Justo") is mandatory for all regulated entities/individuals in relation to all the products, goods and services commercialized in the national territory, according to the conditions expressed in the Ruling.

No good or service may be commercially offered without its PMVP or its Fair Price ("Precio Justo"), as appropriate, having been fixed and highlighted and being visible and opportune for it to be known to the possible acquirers.

10. The marking of the PMVP or of the Fair Price ("Precio Justo") will be made through one of the following methods, according to the nature of the good or service, in the order of priority or preference indicated below:

- Writing in the body of the good.
- Stamping with a self-adhesive label.
- Printed list.

The election of the marking method is not optional. The writing in the body of the good must be implemented as the preferential method, except if such writing is not possible because of the physical characteristics, presentation or usual commercialization conditions of the good. In such case, the method to

be applied will be the stamping with a self-adhesive label. The printed list may only be used in the cases of provision of services or commercialization of goods the physical characteristics, presentation, or usual commercialization conditions of which are such that render impossible the implementation of any of the foregoing methods. The SUNDDE may publish in its web page lists of categories of goods or services for which a specific marking method is to be used.

11. The SUNDDE, upon its own initiative, may order the regulated entities/individuals to change the method of marking or writing when it considers that the nature of the product allows another method.
12. The marking of the PMVP or the Fair Price (*Precio Justo*) will contain the following information in the order indicated below:
  - The acronym “PMVP” or the expression PRECIO JUSTO (Fair Price), according to the form of price concerned.
  - The currency denomination “Bs.”, followed by the amount corresponding to the PMVP or to the *Precio Justo* (Fair Price).
  - The expression “IVA” (“VAT”), followed by the percentage corresponding to the applicable VAT rate, followed by the % sign.
  - The expression “Bs”, followed by the absolute value corresponding to the VAT.
  - The expression “TOTAL A PAGAR” (“Total to be paid”), followed by the currency denomination “Bs” and then the absolute value resulting from the sum of Maximum Price of Sale (*Precio Máximo de Venta*) plus VAT.
  - The date of the marking, indicating month and year in numbers (mm/yy).
13. Double marking and amendments are prohibited.
14. Violations of the Ruling by the regulated entities/individuals will be penalized in accordance with the LOPJ.
15. All provisions that conflict with the Ruling are repealed. The denominations established in rulings issued prior to the Ruling relating to the price fixed and the marking of goods and services intended for the end user must be adapted to the provisions of the Ruling.

The Ruling became effective upon its publication in the Official Gazette.

In order to access the Ruling, please click [here](#).

Caracas, November 10, 2015.



**NOTE:** THIS MEMORANDUM SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER, AND ITS CONTENTS ARE INTENDED AS A MANAGEMENT ALERT AS TO CURRENT DEVELOPMENTS IN VENEZUELA. ANY SPECIFIC LEGAL QUESTIONS REGARDING THE POSSIBLE APPLICATION OF NEW OR PROPOSED LEGISLATION TO PARTICULAR SITUATIONS SHOULD BE ADDRESSED TO TRAVIESO EVANS ARRIA RENGEL & PAZ.