

VAT-EXCLUSIVE ADVERTS ARE ILLEGAL: By Jonathan Hore

I often see a number of adverts in which the prices are marked as 'VAT-exclusive.' That is a questionable business strategy in that it gives the customer the impression that the prices are lower than what the supplier charges. So, is that not bait advertising, which is, per the new Consumer Protection Act of 2018, considered illegal? Imagine Yours Truly calls a shop and is told that a car costs P 140 000 and he runs around to gather the funds so he can purchase the car. When he arrives at the car-dealer, he tests the car and checks all the stuff that he wants and gets ready to get this new toy to hit the road. When he gets to the till, the cashier tells him that the P140 000 is not enough as there is VAT of 12% which is chargeable over and above the P 140 000.

Now, tell me how embarrassed Yours Truly will be before the cashier as well as any other person who may be in the queue. Yours Truly will feel betrayed, cheated and made to look so very disorganised.

Picture how his face will look like as he walks away from the cashier to his old car that coughs 5 times before it starts. He will be haunted to realise that the new toy he thought he already owned will not be his. Man!

VAT ACT IS AGAINST THIS

Let me make it clear that advertising or displaying goods or services without VAT and ending there is illegal; period. Because some of you are preparing to throw stones at me, I will refer you to the relevant piece of legislation so I can quench your doubts. Section 68 of the VAT Act CAP 50:03 states that, '(2) where a registered person advertises or quotes a price in respect of a taxable supply, the person shall include tax in the price advertised or quoted. (3) A registered person may advertise or quote a price in respect of a taxable supply as exclusive of tax where —

- (a) the advertisement or quotation also states the amount of tax charged on the supply and the price inclusive of tax; and
- (b) the price inclusive of tax and the price exclusive of tax shall be advertised or quoted with equal prominence or impact.'

Let us analyse this quote to bring out the pertinent issues, which are as follows:

- A person who is registered for VAT is in the first instance, required to advertise or provide quotations inclusive of VAT. In other words, this is the ideal situation. In the above example, the supplier should have told Yours Truly that the car sells at P 156 800 and not P 140 000. The VAT-inclusive price should have been quoted;
- In the event that a supplier intends to use the VAT-exclusive amount, the VAT Act requires that supplier to also state the VAT amount and the VAT-inclusive amount. In our example regarding the car, the supplier would have told the client that the VAT-exclusive amount is P 140 000, the VAT thereon is P 16 800 and the VAT-inclusive amount is P 156 800. In that way, Yours Truly would not have felt baited to go to a shop for something he can't afford;
- Lastly, in the event that the VAT-exclusive and VAT-inclusive amounts are displayed, advertised or quoted, they should both be given equal prominence. It shouldn't be that the VAT-exclusive amount is clearly shown whilst the VAT-inclusive amount is indicated in very small print. That is a classic example of an unfair business practice.

ENTER CONSUMER PROTECTION ACT

The newly enacted but yet to commence Consumer Protection Act 2018 prohibits what is called bait advertising. This is advertising which eventually misleads the consumer in one way or the other, such as what happened to Yours Truly above. The last-mentioned Act states that, 'a supplier shall not advertise any particular goods or services as being available at a specified price in a manner that may result in consumers being misled or deceived as to the actual availability of those goods or services from that supplier, at the advertised price.'

This section basically states that the advertised price of goods should not result in the consumer getting a shock and realising a difference between the advertised goods, services or price. Now tell me, did Yours Truly not get misled by the car dealer above? Ooh, yes; he was misled. Did he not get deceived by the pricing? That needs no answer; it's obvious. So, let me close by letting all traders know that advertising goods or services showing the VAT-exclusive amount goes against two Acts, the VAT Act as well as the Consumer Protection Act of 2018. Technically, it's illegal.

Well folks, I hope that was insightful. As Yours Truly says goodbye, remember to pay to Caesar what belongs to him.