

**Anti-Unfair Competition Law of the
People's Republic of China**

(Adopted at the 3rd Meeting of the Standing Committee of the Eighth National People's Congress on September 2, 1993; revised at the 30th Meeting of the Standing Committee of the Twelfth National People's Congress on November 4, 2017; amended in accordance with the Decision on Revising the Construction Law of the People's Republic of China and Other Seven Laws at the 10th Meeting of the Standing Committee of the Thirteenth National People's Congress on April 23, 2019)

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Chapter I

General Provisions

Article 1 This Law is enacted for the purposes of promoting the sound development of the socialist market economy, encouraging and protecting fair competition, preventing acts of unfair competition, and safeguarding the lawful rights and interests of business entities and consumers.

Article 2 Business entities shall adhere to the principles of free will, equality, fairness and good faith, and comply with applicable laws and business ethics in their production and distribution activities.

For the purposes of this Law, “an act of unfair competition” means that in its production or distribution activity, a business entity disrupts the order of market competition and causes damage to the lawful rights and interests of other business entities or consumers, in violation of this Law.

For the purposes of this Law, a business entity refers to a natural person, a legal person or an unincorporated organization that is engaged in producing or distributing goods or providing service (such goods and services hereinafter are collectively referred to as goods).

Article 3 The people's governments at all levels shall take measures to prevent acts of unfair competition and create favorable environments and

conditions for fair competition.

The State Council shall establish a coordinative mechanism as regards anti-unfair competition work, study and decide on major anti-unfair competition policies, and coordinate the settlement of major issues in maintaining the order of market competition.

Article 4 The relevant departments of the people's governments at or above the county level that perform the duty of industrial and commercial administration shall be responsible for investigating and punishing acts of unfair competition, unless a law or administrative regulation requires any other department to do so.

Article 5 The state encourage and support organizations and individuals to engage in public supervision over unfair competition acts, and protect such organizations and individuals engaged in such supervision.

Governmental organs and their staff members shall not support or cover up acts of unfair competition.

Industry organizations shall strengthen self-regulation within the industry, provide guidelines and rules for their members to compete lawfully, and maintain the order of market competition.

Chapter II

Acts of Unfair Competition

Article 6 A business entity shall not commit any of the following acts which create confusion, misleading consumers into believing that its own goods is the goods of another business entity or has a certain connection with another entity:

(1) Using, without authorization, any mark identical or similar to the name, packaging or decoration, etc. of another business entity's goods which has certain reputation;

(2) Using, without authorization, another business entity's name (including short name and brand name), or a social organization's name (including short name), or a person's name (including pseudonym, stage name and name translation), in each case with certain reputation;

(3) Using, without authorization, the principal part of a domain name, the name of a website, or a web page, etc., in each case with certain reputation, of another entity; or

(4) Any other confusing act sufficient to mislead the consumers into believing that its goods is the goods of another business entity or has certain connection with another business entity.

Article 7 A business entity shall not seek a transaction opportunity or a competitive edge by bribing any of the following units or individuals with money or things of value or any other kinds of bribery:

(1) Any employee of the other party to a transaction;

(2) Any unit or individual authorized by the other party to a transaction to handle the relevant affairs; or

(3) Any other unit or individual that may use power or influence to affect a transaction.

A business entity may, in the course of doing business, expressly pay a discount to the other party to the transaction, or pay a commission to a broker, provided that, in either case, the business entity shall faithfully make an entry in its account book in respect of such a discount or commission. A business entity which receives such a discount or commission shall also faithfully enter it into its account book.

A bribery committed by an employee of a business entity shall be deemed to be committed by the business entity, unless the business entity has evidence that the activity of the employee is irrelevant to seeking a transaction opportunity or competitive edge for the business entity.

Article 8 A business entity shall not deceive or mislead consumers by engaging in any false or misleading commercial publicity in respect of the performance, functions, quality, sales conditions, user comments, and honors received of its goods.

A business entity shall not help another business entity engage in any false or misleading commercial publicity by organizing a false transaction or by any other means.

Article 9 A business entity shall not commit any of the following acts which infringe trade secrets of another:

(1) Obtaining a trade secret from its lawful holder by theft, bribery, fraud, coercion, hacking into the electronic information system or any other illicit means;

(2) Disclosing, using, or permitting another to use the trade secret obtained from its lawful holder by means as specified in the preceding paragraph;

(3) Disclosing, using, or permitting another to use any trade secret under its control in violation of a legal obligation, or the requirements of its lawful holder, for protecting the confidentiality of trade secrets;

(4) Aiding and abetting, or luring one to obtain, disclose, use or permit another to use any trade secret of its lawful holder by violating one's legal obligation, or the requirements of lawful holder, for protecting the confidentiality of trade secrets.

Any natural person, legal person or unincorporated organization shall be deemed to infringe the trade secret if they commit any unlawful acts set forth in the preceding paragraphs.

Where a third party knows or should have known that an employee or a former employee of the lawful holder of a trade secret or any other unit or individual has committed an illegal act as specified in the first paragraph of this Article, but still obtains, discloses, uses, or permits another to use the trade secret in question, the third party shall be deemed to infringe the

trade secret.

For the purposes of this Law, “a trade secret” means any commercial information unknown to the public, including but not limited to technology or business information, with commercial value and for which its lawful holder has taken proper confidentiality measures.

Article 10 The following circumstances shall be prohibited in the case of a business entity launching a premium sale activity:

(1) The information about the types of prizes, conditions for claiming prizes, the specific prizes or the sum of prizes, etc. in a premium sales activity is so ambiguous as to affect claiming prize;

(2) Making fake prize or intentionally letting inside persons to win the prize; or

(3) The sum of the top prize exceeding RMB 50,000 yuan in the case of a lottery-based premium sales.

Article 11 A business entity shall not fabricate or disseminate false or misleading information in order to damage the goodwill of competitors or

their goods.

Article 12 A business entity engaged in production or distribution via the internet shall abide by the provisions of this Law.

A business entity shall not, by using technical means to interfere with users' choice or otherwise, commit any of the following acts that affect or sabotage the normal operation of any online product or service lawfully provided by another business entity:

(1) Without consent of another entity, inserting a link or forcing a URL redirection in an internet product or service lawfully provided by the said other business entity;

(2) Misleading, tricking or forcing users to alter, shut down, or uninstall an internet product or service lawfully provided by another business entity;

(3) Causing, in bad faith, incompatibility with an internet product or service lawfully provided by another business entity; or

(4) Any other act that interferes with or sabotages the normal operation of

internet products or services lawfully provided by another business entity.

Chapter III

Investigation into Suspected Acts of Unfair Competition

Article 13 The regulatory department may take the following measures in investigating a suspected act of unfair competition:

(1) Entering and investigating a business premise suspected of being involved in an act of unfair competition;

(2) Enquiring the business entity under investigation, any interested person, and other relevant units and individuals, and requiring them to provide relevant information or other materials relating to the the suspected act of unfair competition;

(3) Checking and duplicating agreements, account books, documents, files, records, business letters, and other materials relating to the suspected act of unfair competition;

(4) Seizing or detaining money or things relating to the suspected act of unfair competition; and

(5) Checking bank accounts of a business entity suspected of engaging in an act of unfair competition.

Prior to taking measures prescribed in the preceding paragraph, a written report thereon shall be submitted to the principal responsible person of the regulatory department for approval. Prior to taking measures prescribed in Subparagraphs (4) and (5) of the preceding paragraph, a written report thereon shall be submitted for approval to the principal responsible person of the regulatory department of the people's government at or above the level of city divided into districts.

The regulatory department shall comply with the Administrative Compulsion Law of the People's Republic of China and other applicable laws and administrative regulations in investigating a suspected act of unfair competition, and publish in a timely manner to the public the results of the investigation and handling.

Article 14 When the regulatory department investigates a suspected act of unfair competition, the business entity under investigation, any interested person, and any other relevant unit and individual shall faithfully provide relevant materials and information.

Article 15 Regulatory departments and their employees shall keep confidential the trade secrets they came to know during investigation.

Article 16 Any entity or individual shall have the right to report a suspected act of unfair competition to the regulatory department which shall, upon receipt of such a report, deal with the matter according to law in a timely manner.

The regulatory departments shall publish their telephone numbers, mailing boxes, or e-mail addresses for receiving reports, and shall keep informants confidential. In the case of a true-name reporting with relevant facts and evidence provided, the relevant regulatory department shall notify the informant of the result of its investigation and handling.

Chapter IV

Legal Liability

Article 17 A business entity that causes damage to another person in violation of this Law shall bear civil liability according to law.

Any business entity whose lawful rights and interests are prejudiced by

an act of unfair competition may institute an action before a people's court of competent jurisdiction.

The amount of damages to a business entity caused by an act of unfair competition of another shall be determined based on its actual loss caused by the infringement by another or, if it is difficult to calculate the actual loss, based on the benefits obtained by the infringer from its infringement. If the business entity has maliciously infringed upon the trade secret with flagrant circumstances, the amount of damages shall be no less than one time but no more than five times of the amount determined by the aforementioned method. The amount of damages to a business entity shall include its reasonable costs for stopping the infringement.

Where any business entity violates Article 6 or 9 of this Law, and it is difficult to determine the actual loss of the right holder involved due to the infringement and the benefits obtained by the infringer from its infringement, a people's court of competent jurisdiction may, at its discretion, award damages not exceeding RMB five million yuan to the right holder based on the circumstances of the infringement.

Article 18 Where any business entity commits an act which creates confusion in violation of Article 6 of this Law, the regulatory authorities

shall order it to cease its such illegal activity and confiscate its illegal products. Additionally the infringer may also be punished by a fine not exceeding five times of the value of its illegal operations if the value of its illegal operations is RMB 50,000 yuan or more, or by a fine not exceeding RMB 250,000 yuan if the value of its illegal operations is zero or less than RMB 50,000 yuan. If its violation is serious, its business license shall be revoked.

Any business entity where its registered business name does not comply with Article 6 of this Law shall, in a timely manner, undergo name modification registration; and before its name is modified properly, the original enterprise registration authorities shall use its uniform social credit code instead of its name.

Article 19 Where any business entity bribes another person in violation of Article 7 of this Law, the regulatory authorities shall confiscate its illegal income and impose a fine of not less than RMB 100,000 yuan nor more than RMB three million yuan on it. If its violation is serious, its business license shall be revoked.

Article 20 Where any business entity conducts any false or misleading commercial publicity about its products or helps another business entity

conduct any false or misleading commercial publicity by fabricating transactions or by any other means in violation of Article 8 of this Law,, the regulatory authorities shall order it to cease its such illegal activity, and it shall be punished by a fine of not less than RMB 200,000 yuan but not more than RMB one million yuan, or if its violation is serious by a fine of not less than RMB one million yuan but not more than RMB two million yuan and its business license may be revoked.

Violation by any business entity of Article 8 of this Law that constitutes publishing false advertisement shall be punished pursuant to the Advertising Law of the People's Republic of China.

Article 21 Where any business entity, natural person, legal person or unincorporated organization infringes upon a trade secret of another in violation of Article 9 of this Law, the regulatory authorities shall order it to cease such illegal activity, confiscate any illegal gains, and impose a fine of no less than RMB 100,000 yuan but no more than RMB one million yuan, or a fine of no less than RMB 500,000 yuan but no more than RMB five million yuan if the circumstance is serious.

Article 22 Where any business entity conducts a premium sales activity in violation of Article 10 of this Law, the regulatory authorities shall order it

to cease its such illegal activity and impose on it a fine of not less than RMB 50,000 yuan but not more than RMB 500,000 yuan.

Article 23 Where any business entity causes any damage to the goodwill or the reputation of product of its competitor in violation of Article 11 of this Law, the regulatory authorities shall order it to cease its such illegal activity, to eliminate the adverse effects, and shall impose a fine not less than RMB 100,000 yuan but not more than RMB 500,000 yuan, or a fine of not less than RMB 500,000 yuan but not more than RMB three million yuan, if its violation is serious.

Article 24 Where any business entity interferes with or sabotages the normal operation of internet products or services lawfully provided by another business entity in violation of Article 12 of this Law, the regulatory authorities shall order it to cease its such illegal activity, and impose a fine not less than RMB 100,000 yuan but not more than RMB 500,000 yuan, or a fine of not less than RMB 500,000 yuan but not more than RMB three million yuan if its violation is serious.

Article 25 Where a business engages in any unfair competition in violation of this Law, and it voluntarily eliminates or mitigates the harmful consequences of its illegal act, among other statutory

circumstances, a lighter or mitigated administrative punishment may be imposed according to the laws; if the illegal act is minor and corrected in a timely manner without any harmful consequences, no administrative punishment shall be imposed.

Article 26 Where any business entity is subject to an administrative punishment for conducting acts of unfair competition in violation of this Law, the regulatory authorities shall enter such fact into the credit recording system against the business entity, and make relevant public announcements, according to applicable laws and administrative regulations.

Article 27 Any business entity shall bear civil, administrative, and criminal liability for its such violation of this Law. Where its property is not sufficient to cover all such liabilities, the civil liability shall be first covered.

Article 28 Where any business entity prevents the regulatory authorities from performing their functions pursuant to this Law, or refuses to cooperate or otherwise impedes an investigation by the regulatory authorities, the regulatory authorities shall order the business entity to take corrective actions, and may impose on individual a fine of not more

than RMB 5,000 yuan , or of not more than RMB50,000 yuan for units, and shall be given a public security administration punishment in by the public security authorities according to law.

Article 29 Where a party refuses to accept the decision of the regulatory authorities, may apply for administrative reconsideration or administrative lawsuit .

Article 30 Any official or employee of the regulatory authorities who abuses his/her power, commits dereliction of duties, makes falsehood for personal gains, or divulges any trade secret known in investigation shall be punished pursuant to applicable laws.

Article 31 Any violation of the provisions of this Law , which constitutes a criminal offence, shall be investigated for criminal responsibility according to law.

Article 32 In a civil proceeding on the infringement of trade secret, the lawful holder of the trade secret shall submit prima facie evidence to prove that it has taken confidentiality measures for the claimed trade secret, and to reasonably indicate that the trade secret has been infringed upon. The alleged infringer shall then prove that the trade secret claimed

by the lawful holder does not constitute a “trade secret” under this Law.

The alleged infringer shall prove the absence of the infringement, if the lawful holder of a trade secret submits prima facie evidence reasonably indicating that the trade secret has been infringed upon, and submits any of the following evidence:

(1) Evidence indicating that the alleged infringer has the method or opportunity to obtain the trade secret, and the information it used is substantially the same with such trade secret;

(2) Evidence indicating that the trade secret has been disclosed or used, or is at risk of disclosure or use, by the alleged infringer; or

(3) Other evidence indicating that the trade secret has been infringed upon by the alleged infringer.

Chapter V

Supplemental Provision

Article 33 This Law shall come into force on January 1, 2018.