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

adoption date: [1993-09-02]



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Chapter One General Provisions

Article 1 This law is drawn up in order to safeguard the healthy development of the socialist market economy, encourage and protect fair market competition, prohibit unfair competition, safeguard the legal rights and interests of managers.

Article 2 Managers shall abide by the principle of voluntariness, equality, impartiality, honesty and good faith, and also adhere to public commercial moral in their business transactions.

"Unfair competition", in this Law, means activities made by managers who damage the others' legal rights and interests, disturb the order of social economy and violate the provisions of this Law.

"Manager", in this Law, means the legal person, the other economic organisations and individuals who deal with commercial business or profitable service (commodities in this Law in hereafter as to commodity which includes service).

Article 3 The governments in all levels shall adopt methods to prohibit unfair competition and to create the sound environment and conditions for fair competition.

The Bureaus of Industrial and Commercial Management of the People's Government over the county level supervise unfair competition, except for the supervision made by the other organisations in accordance with the provisions of the other laws or regulations.

Article 4 The State shall encourage, support and safeguard all organisations and individuals to carry out social supervising for unfair competition.

Officials in the State organs should not support or shield unfair competition.

Chapter Two Activities of Unfair Competition

Article 5 Managers should not use the following unfair methods in their business transactions which can damage other competitors:

1. to feign the others' registered trade mark;
2. to use the specific name, package, decoration of the famous or noted commodities, or use a similar name, package, decoration of the famous or noted commodities, which may confuse consumers distinguishing the commodities to the famous or noted commodities;
3. to use the name of other enterprise or personal name and make people confuse this commodity to the other's commodity;
4. to feign or pretend to be the certificate of attestation, mark of fame and high qualification, to feign the certificate of originally produced place of the commodities, which make others to misunderstand the qualification of the commodities because of the false certificates.

Article 6 Public facility enterprises or the other enterprises which legally monopolized the special market in accordance with law shall not force the others to purchase the commodities pointed by the enterprises or prohibit the competition from the other companies.

Article 7 The government and its organ shall not abuse its authority to force the others to purchase the commodities from the pointed seller or prohibit the fair competition from the others. The government and its organ shall not abuse its authority to prohibit outside commodities from going into home market, or prohibit domestic commodities from going to outside market.

Article 8 Managers shall not use money or properties or the other methods to bribe to others in order to sell or purchase commodities. It shall be guilty of giving bribe if managers give a secret commission to the other organisations or individuals without the normal accounting records. It shall be guilty of taking bribe, if the organisations or individuals accept the secret discount without normal accounting records.

Managers may offer a discount to the others in public, or may pay commission to the middle man in selling or purchasing commodities. However, managers who give discount to the others or pay commission to the middle man, or the others who take the discount or commission shall make

accounting strictly according to the facts.

Article 9 Managers shall not use advertisement or the other methods to make a false propaganda for the quality, composition, function, usage, producer, time of efficacy and place of production of commodities.

Advertising company shall not be an agent of, or design, or make, or propagandize false advertisement, if it know or should know the truth.

Article 10 Managers shall not use the following methods to infringe upon business secrecy:

1. to steal, coerce, or use any other unfair method to obtain the other's business secrets;
2. to disclose, use or permit others to use the business secrets mentioned in Section 1 of this Article.
3. to violate the contract or the requirement to publish, use or permit others to use the business secrets, which were maintained as secrets by the legal owner of the business secrecy.

The third party who knows or should know the illegal activities as first mentioned, and who gains, uses or publishes the business secrecy shall be looked as activities of infringing upon the others' business secrecy.

"Business secrecy", in this Article, means the utilized technical information and business information which is unknown by the public, which may create business interests or profit for its legal owners, and also is maintained secrecy by its legal owners.

Article 11 Manager shall not sell commodity at the price lower than the commodity's cost in order to put the other competitors out of the competition.

Any of the following activities shall not be looked as unfair competition:

1. to sell fresh or live commodities;
2. to quickly sell commodities before their expiration or the other overstock commodities;
3. to cut prices or on sale in season;
4. to cut prices to sell commodity for cleaning debts, changing or suspending business.

Article 12 Manager shall not sell commodity attached with unreasonable condition or force the consumers to unwillingly purchase any additional commodity that come together with the product that the consumer buys.

Article 13 Manager shall not sell commodity with lottery ticket such as the following activities:

1. to sell commodity by the way of making fake award or arranging inside person to win the lottery;
2. to sell unqualified or high prices commodity by the way of awarding selling;
3. to sell commodity with lottery award which the top award is more than 5000 RMB yuan.

Article 14 Manager shall not fabricate, spread false facts to damage the business reputation or commodity fame of the other competitor.

Article 15 Bidder shall not act in collusion for bidding, not raise or reduce the price for bidding.

Bidder shall not collude with the company that is offering to bid in order to put the other bidders out of the competition.

Chapter Three Supervision

Article 16 The supervising authority over the county's administration may carry out the supervision to activities of unfair competition.

Article 17 The supervising authorities has following powers in the supervision:

1. Require manager, connected person, testified person in due process and require them to supply testified material or the other documents with regarding to activities of unfair competition.
2. Require, copy agreements, accounting books, vouchers, documents, records, business fax or letters and the other materials with regarding to the activities of unfair competition;

3. Check commodities or properties with regarding to the activities of unfair competition under the provision of the Article 5 of this Law, and also if necessary, require manager to explain the originated source and sum of the commodities, to suspend selling, to wait for checking, prohibit to move, hide or eliminate the commodities or the properties.

Article 18 Supervisor shall show the certificate of supervision when he carries out the supervision to activities of unfair competition.

Article 19 Under the supervision of the activities of unfair competition, manager, connected person and testified person shall supply the related materials or information strictly according to the facts.

Chapter Four Legal Responsibility

Article 20 Manager shall bear the responsibility for compensating to the damage made by damager to the damaged party under the violation of the provision of this Law. Amount of the compensation shall be equivalent to the profit made by the damager during its damaging, if it is difficult to measure the amount of damage; And it also shall compensate the reasonable cost to the damaged party who has paid the cost to investigate the activities of unfair competition made by damager.

The damaged party may bring law suit to the People's Court when its legal interests and rights are damaged.

Article 21 Manager shall be punished in accordance with the Law of Trade Mark of the People's Republic of China and the Law of Supervision on Product Qualification of the People's Republic of China, if he imitates the other's registered trade mark, uses the other enterprise's name or personal name without permitting, forges or fake the mark of certificate, the mark of famous or high quality products, fake the original produce place, make a fake or misunderstanding description for quality of the products.

The supervisor shall order to stop the illegal activities, confiscate the illegal income, and also fine amount from one to three times of the illegal income; may revoked the business licence as the facts is serious, if the manager uses the special name, package, decoration of the famous or noted commodities or uses the similar name, package, decoration to that of the famous or noted commodities and make the commodities confusing to the famous or noted commodities. If manager sells false or bad commodities and violates the Criminal Law, he shall be investigated in accordance

with the Criminal Law.

Article 22 Manager bribe by giving money or properties or using any other method in order to sell or purchase the commodities and violate the Criminal Law, shall be investigated in accordance with the Criminal Law; if the acts as first mentioned do not violate the Criminal Law, the supervisor may fine an amount from more than 10,000 to less than 200,000 RMB yuan in according to the facts, and confiscate the illegal income.

Article 23 Manager of public facility enterprise or the other enterprises with a legal monopoly position force others to purchase the commodities which the manager manages, or put the other managers out of competition, the supervisor in the provincial or city with directions administration shall order to stop illegal activities, and may fine amount from more than 50,000 to less than 200,000 RMB yuan in accordance with the facts.

The supervisor may confiscate illegal income, and may fine amount from one to three times of illegal income, if the pointed manager take an advance to sell the unqualified and high price commodities or abuse of power to charge unreasonable fee.

Article 24 The supervisor shall order to stop the illegal activities, clear up the bad influence, may fine amount from more than 10,000 to less than 200,000 RMB yuan in accordance with the fact, if the manager uses advertisement or the other method to make a fake or misunderstanding description for its commodities.

Supervisor shall order to stop the illegal activities, confiscate illegal income and fine in accordance with the law, if the manager in advertisement agent, design, make or publish a fake advertisement as it knows the true situation.

Article 25 Supervisor shall order to stop the illegal activities, may fine amount from more than 10,000 to less than 200,000 RMB yuan, if manager violates the Article 10 to infringe upon the business secrecy.

Article 26 Supervisor shall order to stop illegal activities, and may fine amount from more than 10,000 to less than 100,000 RMB yuan, if manager violate the Article 13 in regarding to sell with lottery.

Article 27 If bidders act in collusion, raise or reduce the price of the bid; and bidder and invite tender ganged up in order to put the others out of the fair competition, its bid shall be invalid and the supervisor may fine amount from more than 10,000 to less than 200,000 RMB yuan in accordance with the facts.

Article 28 If the manager violate this Law regarding to the order to stop selling, moving, hiding, eliminating the commodities related to unfair competition, the supervisor may fine amount from more than one to less than three times of price of commodities regarding to selling, moving, hiding or eliminating as first mentioned.

Article 29 If the party refuses to accept the fine decision made by supervisor may apply the senior supervisor to reexamine the case within 15 days from the date when the fine decision was received; If the party who refuses to accept the decision of reexamine made by the senior supervisor may bring a law suit to the People's Court within 15 days after the reexamined decision received; or the party may bring a law suit to the People's Court directly.

Article 30 If the government or its departments violate Article 7 of this Law to force the others to purchase the commodities from the pointed manager, limit the others make a fair competition, or limit commodities to transfer between regions, the senior government shall order to correct these mistakes; If the fact is serious, the same level government organ or the senior government organ shall administratively punish the person who bear the direct responsibility. The pointed manager take advance to sell commodities with unqualified and high price, the supervisor shall confiscate the illegal income, and may fine amount from more than one to less than three times of illegal income.

Article 31 Official of the supervisor of unfair competition who abuse of power, negligence, commit on criminal guilty shall be punished by the Criminal Law; If not guilty, it shall be punished in accordance with administrative regulations.

Article 32 Official of the supervisor for unfair competition shall be punished by the Criminal Law, if he is fraudulent, or illegally shields the manager from the legal punishment eventhough he knows he fact of the manager's crime.

Chapter Five Supplementary Articles

Article 33 This law shall become effective on December 1, 1993.