

**Anti-Unfair Competition Law of the People's Republic of China (2019
Amendment)[Effective]**

中华人民共和国反不正当竞争法(2019 修正) [现行有效]

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Anti-Unfair Competition Law of the People's Republic of China
(Adopted at the 3rd Session of the Standing Committee of the Eighth National People's Congress of the People's Republic of China on September 2, 1993, revised at the 30th Session of the Standing Committee of the Twelfth National People's Congress on November 4, 2017, and amended in accordance with the the Decision to Amend Eight Laws Including the Construction Law of the People's Republic of China adopted at the 10th Session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China 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 businesses and consumers.

Article 2 Businesses shall, in their production and distribution activities, adhere to the free will, equality, fairness, and good faith principles, and abide by laws and business ethics.

For the purposes of this Law, "act of unfair competition" means that in its production or distribution activities, a business disrupts the order of market competition and causes damage to the lawful rights and interests of the other businesses or consumers, in violation of this Law.

For the purposes of this Law, "business" means a natural person, a legal person, or a non-legal person organization that engages in the production or distribution of commodities or the provision of services (commodities and services are hereinafter collectively referred to as "commodities").

Article 3 The people's governments at all levels shall take measures to prevent acts of unfair competition and create an environment and conditions favorable for fair competition.
The State Council shall establish a coordination mechanism of anti-unfair competition work to research and decide major anti-unfair competition policies and coordinate the handling of major issues on maintaining the order of market competition.

Article 4 The departments performing the functions of industry and commerce administration of the people's governments at and above the county level shall investigate and dispose of acts of unfair competition, unless a law or administrative regulation requires any other department to do so.

Article 5 The state encourages, supports, and protects public scrutiny, from all organizations and individuals, of acts of unfair competition.
State organs and their employees shall not support or harbor acts of unfair competition.
Industry organizations shall strengthen industry self-regulation, provide guidance and rules for their members to compete according to the law, and maintain the order of market competition.

Chapter II Acts of Unfair Competition

Article 6 A business shall not commit the following acts of confusion to mislead a person into believing that a commodity is one of another person or has a particular connection with another person:

- (1) Using without permission a label identical or similar to the name, packaging or decoration, among others, of another person's commodity with certain influence.
- (2) Using without permission another person's name with certain influence, such as the name (including abbreviations and trade names) of an enterprise, the name (including abbreviations) of a social organization, or the name (including pseudonyms, stage names and name translations) of an individual.
- (3) Using without permission the principal part of a domain name, the name of a website, or a web page with certain influence, among others, of another person.
- (4) Other acts of confusion sufficient to mislead a person into believing that a commodity is one of another person or has a particular connection with another person.

Article 7 A business shall not seek transaction opportunities or competitive edges by bribing the following entities or individuals with property or by any other means:

- (1) An employee of the other party to a transaction.
- (2) The entity or individual authorized by the other party to a transaction to handle relevant affairs.
- (3) An entity or an individual that uses power or influence to affect a transaction.

A business may, in a transaction, explicitly pay a discount to the other party to the transaction, or pay a commission to an intermediary. In either case, the business shall faithfully make an entry in its account book. The business receiving the discount or commission shall also faithfully enter it into its account book.

A bribery committed by an employee of a business is deemed to have been committed by the business, unless the business has evidence that the act of the employee is irrelevant to seeking a transaction opportunity or competitive edge for the business.

Article 8 A business shall not conduct any false or misleading commercial publicity in respect of the performance, functions, quality, sales, user reviews, and honors received of its commodities, in order to defraud or mislead consumers.

A business shall not help another business conduct any false or misleading commercial publicity by organizing false transactions or any other means.

Article 9 A business shall not commit the following acts of infringing upon trade secrets:

(1) Acquiring a trade secret from the right holder by theft, bribery, fraud, coercion, electronic intrusion, or any other illicit means.

(2) Disclosing, using, or allowing another person to use a trade secret acquired from the right holder by any means as specified in the preceding subparagraph.

(3) Disclosing, using, or allowing another person to use a trade secret in its possession, in violation of its confidentiality obligation or the requirements of the right holder for keeping the trade secret confidential.

(4) Abetting a person, or tempting, or aiding a person into or in acquiring, disclosing, using, or allowing another person to use the trade secret of the right holder in violation of his or her non-disclosure obligation or the requirements of the right holder for keeping the trade secret confidential.

An illegal act as set forth in the preceding paragraph committed by a natural person, legal person or unincorporated organization other than a business shall be treated as infringement of the trade secret.

Where a third party knows or should have known that an employee or a former employee of the right holder of a trade secret or any other entity or individual has committed an illegal act as specified in paragraph 1 of this Article but still acquires, discloses, uses, or allows another person to use the trade secret, the third party shall be deemed to have infringed upon the trade secret. For the purpose of this Law, "trade secret" means technical, operational or other commercial information unknown to the public and is of commercial value for which the right holder has taken corresponding confidentiality measures.

Article 10 A business's premium campaign shall not fall under the following circumstances:

(1) The information on the types of premiums, conditions for claiming premiums, amount of a prize, or premiums, among others, in the premium campaign is ambiguous, affecting a claim for a premium.

(2) A premium campaign is conducted by offering non-existent premiums or intentionally pre-determining premium winners.

(3) In the case of a lottery-based premium campaign, the amount of the top prize exceeds 50,000 yuan.

Article 11 A business shall not fabricate or disseminate false or misleading information to damage the goodwill or product reputation of a competitor.

Article 12 A business engaging in production or distribution activities online shall abide by the provisions of this Law.

No business may, by technical means to affect users' options, among others, commit the following

acts of interfering with or sabotaging the normal operation of online products or services legally provided by another business:

- (1) Inserting a link or forcing a URL redirection in an online product or service legally provided by another business without its consent.
- (2) Misleading, defrauding, or forcing users into altering, shutting down, or uninstalling an online product or service legally provided by another business.
- (3) Causing in bad faith incompatibility with an online product or service legally provided by another business.
- (4) Other acts of interfering with or sabotaging the normal operation of online products or services legally provided by another business.

Chapter III Investigation of Suspected Acts of Unfair Competition

Article 13 The supervisory inspection departments may take the following measures in investigating suspected acts of unfair competition:

- (1) Entering business premises suspected of acts of unfair competition for inspection.
- (2) Questioning businesses, interested persons, and other relevant entities and individuals under investigation, and requiring them to provide relevant explanations or other materials relating to the acts under investigation.
- (3) Consulting or duplicating agreements, account books, documents, files, records, business letters, and other materials relating to the suspected acts of unfair competition.
- (4) Seizing or impounding property relating to the suspected acts of unfair competition.
- (5) Inquiring about the bank accounts of businesses suspected of acts of unfair competition.

Before the measures in the preceding paragraph are taken, a written report shall be filed with the primary person in charge of the supervisory inspection department for an approval. Before the measures in subparagraphs (4) and (5) in the preceding paragraph are taken, a written report shall be filed with the primary person in charge of the supervisory inspection department of the people's government at or above the level of a districted city for an approval.

The supervisory inspection departments shall abide by the Administrative Compulsion Law of the People's Republic of China and other relevant laws and regulations in their investigations of suspected acts of unfair competition, and disclose the investigation and disposition results to the public in a timely manner.

Article 14 When the supervisory inspection departments investigate suspected acts of unfair competition, the businesses, interested persons, and other relevant entities and individuals under investigation shall faithfully provide relevant materials or information.

Article 15 The supervisory inspection departments and their employees shall have an obligation to keep the trade secrets known in their investigations confidential.

Article 16 Any entity or individual shall have the right to report a suspected act of unfair competition to the supervisory inspection department, which shall process the report in a timely manner as legally required after receiving it.

The supervisory inspection departments shall publish their telephone numbers, mailing boxes, or e-mail addresses for receiving reports, and keep informants confidential. In the case of a report

with the informant choosing not to withhold its identity and with relevant facts and evidence provided, the supervisory inspection department shall notify the informant of the disposition result.

Chapter IV Legal Liability

Article 17 A business causing any damage to another person in violation of this Law shall assume civil liability according to the law.

A business whose lawful rights and interests are damaged by any act of unfair competition may institute an action in a people's court.

The amount of compensation for the damage caused to a business by any act of unfair competition shall be determined as per the actual loss of the business incurred for the infringement or if it is difficult to calculate the actual loss, as per the benefits acquired by the tortfeasor from the infringement. If a business infringes upon a trade secret in bad faith with serious circumstances, the amount of compensation may be determined to be more than one time but not more than five times the amount determined by the aforesaid method. The amount of compensation shall also include reasonable disbursements made by the business to prevent the infringement.

Where a business violates Article 6 or Article 9 of this Law, and it is difficult to determine the actual loss suffered by the right holder due to the infringement or the benefits acquired by the tortfeasor from the infringement, a people's court may, based on the circumstances of the infringement, render a judgment to award compensation in the amount of not more than five million yuan to the right holder.

Article 18 Where a business commits any act of confusion in violation of Article 6 of this Law, the supervisory inspection department shall order it to cease the illegal act, and confiscate illegal commodities. If the amount of illegal operations is 50,000 yuan or more, it may also be fined not more than five times the amount of illegal operations; or if there is no amount of illegal operations or the amount of illegal operations is less than 50,000 yuan, it may also be fined not more than 250,000 yuan. If the circumstances are serious, its business license shall be revoked.

A business whose registered enterprise name is in violation of Article 6 of this Law shall, in a timely manner, undergo name modification registration; and before its name is modified, the original enterprise registration authority shall substitute its unified social credit code for its name.

Article 19 Where a business bribes another person in violation of Article 7 of this Law, the supervisory inspection department shall confiscate its illegal income, and impose a fine of not less than 100,000 yuan nor more than three million yuan on it. If the circumstances are serious, its business license shall be revoked.

Article 20 Where, in violation of Article 8 of this Law, a business conducts any false or misleading commercial publicity of its commodities or help another business conduct any false or misleading commercial publicity by organizing false transactions or any other means, the supervisory inspection department shall order it to cease the illegal act, and impose a fine of not less than 200,000 yuan nor more than one million yuan or if the circumstances are serious, a fine of not less than one million yuan nor more than two million yuan on it, and in the latter case, its business license may be revoked.

A business publishing any false advertisements in violation of Article 8 of this Law shall be punished in accordance with the Advertising Law of the People's Republic of China.

Article 21 Where a business or any other natural person, legal person or unincorporated organization infringes upon a trade secret in violation of Article 9 of this Law, the supervisory inspection department shall order the violator to cease the illegal act, shall confiscate any illegal income, and impose a fine of not less than 100,000 yuan nor more than 1 million yuan, or, if the circumstances are serious, a fine of not less than 500,000 yuan nor more than 5 million yuan.

Article 22 Where a business conducts a premium campaign in violation of Article 10 of this Law, the supervisory inspection department shall order it to cease the illegal act, and impose a fine of not less than 50,000 yuan nor more than 500,000 yuan on it.

Article 23 Where a business causes any damage to the goodwill or product reputation of a competitor in violation of Article 11 of this Law, the supervisory inspection department shall order it to cease the illegal act and eliminate adverse effects, and impose a fine of not less than 100,000 yuan nor more than 500,000 yuan or if the circumstances are serious, a fine of not less than 500,000 yuan nor more than three million yuan on it.

Article 24 Where a business interferes with or sabotages the normal operation of online products or services legally provided by another business in violation of Article 12 of this Law, the supervisory inspection department shall order it to cease the illegal act, and impose a fine of not less than 100,000 yuan nor more than 500,000 yuan or if the circumstances are serious, a fine of not less than 500,000 yuan nor more than three million yuan on it.

Article 25 Where a business engages in any unfair competition in violation of this Law, if 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 on it according to the law; or if the illegal act is minor and corrected in a timely manner without any harmful consequences, no administrative punishment shall be imposed on it.

Article 26 Where a business receives any administrative punishment for engaging in unfair competition in violation of this Law, the supervisory inspection department shall enter it into the credit record of the business, and publish it according to the provisions of the relevant laws and administrative regulations.

Article 27 Where the property of a business held civilly, administratively, and criminally liable for a violation of this Law is insufficient to cover all the liabilities, its property shall be first used for its assumption of civil liability.

Article 28 Where a supervisory inspection department's performance of duties under this Law is interfered with or its investigation is refused or impeded, the supervisory inspection department shall order the violator to take corrective action, and may impose a fine of not more than 5,000 yuan on the violator which is an individual or a fine of not more than 50,000 yuan on the violator which is an entity, and the public security authority may impose a public security administration punishment on the violator.

Article 29 A party may, according to the law, apply for administrative reconsideration or file an administrative lawsuit against a decision of the supervisory inspection department.

Article 30 Disciplinary action shall be taken according to the law against an employee of a supervisory inspection department who abuses power, commits dereliction of duties, makes falsehood for personal gains, or divulges any trade secret known in investigation.

Article 31 Where a violation of this Law is criminally punishable, the offender shall be held criminally liable according to the law.

Article 32 In the civil trial procedure for infringement of a trade secret, if the right holder of the trade secret provides prima facie evidence that it has taken confidentiality measures for the claimed trade secret and reasonably indicates that the trade secret has been infringed upon, the alleged tortfeasor shall prove that the trade secret claimed by the right holder is not a trade secret as described in this Law.

If the right holder of a trade secret provides prima facie evidence to reasonably indicate that the trade secret has been infringed upon, and provide any of the following evidence, the alleged tortfeasor shall prove the absence of such infringement:

- (1) Evidence that the alleged tortfeasor has a channel or an opportunity to access the trade secret and that the information it uses is substantially the same as the trade secret.
- (2) Evidence that the trade secret has been disclosed or used, or is at risk of disclosure or use, by the alleged tortfeasor.
- (3) Evidence that the trade secret is otherwise infringed upon by the alleged tortfeasor.

Chapter V Supplemental Provision

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