



The amended Anti-Unfair Competitive Law of People's Republic of China(Amended AUCL)

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Introduction

On November 4, 2017, the Standing Committee of the National People's Congress adopted the amended Anti-Unfair Competitive Law of People's Republic of China (Amended AUCL) and announced it would go to effect on January 1, 2018. In this regard, the AUCL comes into a new stage since it is the first time of amendment after two decades of formation in 1993. This is because of the less-developed legal regulations, which is in contract to the emergence of new business models and systems due to the development of the market economy. There also shows overlaps with other laws like the Trademark Law and the Antimonopoly law, etc. In general, the amended AUCL worth attention among all business entities given its important role in regulating and managing market competition and disorder.

Main amendments

The amended AUCL was made up of five chapters: General Provisions, Acts of Unfair Competition, Investigations upon Engaging in Unfair Competition, Legal Responsibilities and Supplementary Provisions. This newsletter is centred on 8 important amendments and is expected to give some implications to either business entities and individuals.

Chapter One: General Provisions

1. Redefine unfair competition and extend to unincorporated associations

The unfair competition was redefined as “a business operator's acts, in the production and operation activities (used to be in the market transactions), violating the provisions of AUCL, disturbing the socio-economic order and infringing upon the lawful rights and interests of another business operator or customers (used to be no customers)”.

In addition, the amended AUCL extends the applicable business operator from “a legal person or any other economic organization or individual” to “a natural person, a legal person and unincorporated associations”. Unincorporated associations are between legal persons and natural persons, mainly

referring to social organizations unregistered by a legal person. In this regard, unincorporated associations lack legal personality, and they are not civil subject with no civil right. This means they can neither sign nor perform, and they do not have legal capacity to sue or be sued. In face of this amendment, operators of unincorporated associations, such as subordinates to legal persons, cooperatives, societies, foundations, schools or research centers, should be alert of the new policy and take action if possible.

For full amendments and comparison of Chapter One between the 1993 Version and the 2018 Version please refer to the figure below.

Chapter One: General Provisions

	1993 Version		2018 Version	
Chapter One: General Provisions	Article 1	This Law is formulated with a view to safeguard the healthy development of socialist market economy, encouraging and protecting fair competition, repressing unfair competition acts, and protecting the lawful rights and interests of business operators and consumers.	Article 1	This Law is formulated with a view to improve the healthy development of socialist market economy, encouraging and protecting fair competition, repressing unfair competition acts, and protecting the lawful rights and interests of business operators and consumers.
	Article 2	A business operator shall, in the market transactions , follow the principles of voluntariness, equality, fairness, honesty and credibility, and observe the generally recognized business ethics.	Article 2	A business operator shall, in the production and operation activities , follow the principles of voluntariness, equality, fairness, honesty and credibility, and observe generally-recognized business ethics. "Unfair competition"

	<p>"Unfair competition" mentioned in this Law refers to a business operator's acts violating the provisions of this Law, infringing upon the lawful rights and interests of another business operator and disturbing the socio-economic order.</p> <p>"A business operator" mentioned in this law refers to a legal person or any other economic organization or individual engaged in commodities marketing or profit-making services ("commodities" referred to hereinafter includes such services).</p>		<p>mentioned in this Law refers to a business operator's acts, in the production and operation activities, violating the provisions of this Law, disturbing the socio-economic order and infringing upon the lawful rights and interests of another business operator or customers.</p> <p>"A business operator" mentioned in this law refers to a natural person, a legal person and unincorporated associations, engaged in commodities producing, marketing or providing services ("commodities" referred to hereinafter includes services).</p>
Article 3	<p>People's governments at all levels shall take measures to repress unfair competition acts and create favorable environment and conditions for fair competition.</p> <p>Not found.</p>	Article 3	<p>Remains the same.</p> <p>The State Council established the competition coordination mechanism, adjudicating</p>

				unfair competition and handling issues of market competition order.
		Administrative departments for industry and commerce of the people's governments at or above the county level shall exercise supervision over and inspection of unfair competition acts; for laws, administrative rules and regulations that exercise the supervision and inspection by other departments, those provisions would apply.	Article 4	Remains the same.
	Article 4	The State shall encourage, support and protect all organizations and individuals in the exercise of social supervision over unfair competition acts. No State functionary may support or cover up unfair competition acts. Not found.	Article 5	Remains the same. Organizations are expected to be self-disciplined, guided and regulated towards fair competition and good market order.

Chapter Two: Acts of Unfair Competition

2. The Act of Confusion

In chapter two, the amended AUCL introduces one new type of the unfair competitive act that amounts to confusion, misleading people to associate one product with other products or people. For example, a business operator uses the same or similar influential identifications such as commodity names, package, and decoration without authorization. Also, it can be confusing and further unfair, if a business operator uses influential corporate names (including abbreviation and word number), social organizations (including abbreviation) and individuals (including pen names, stage names and translated names) without authorization. Besides, the unauthorized use of influential main domain names, website names and webpages would be seen as confusion as well.

3. Discard regulations regarding public utility enterprises and the government

In the old version, a public utility enterprise or any other business operator occupying monopoly status by law shall not restrict people to purchasing commodities from the business operators designated by him, thereby precluding other business operators from fair competition.

Also, governments and their subordinate departments shall not abuse administrative power to restrict people to purchasing commodities from the business operators designated by them and impose limitations on the rightful operation activities of other business operators. Governments and their subordinate departments shall not abuse administrative power to restrict commodities originated in other places from entering the local markets or the local commodities from flowing into markets of other places.

*Case Study 1: Public Utility Enterprise, Qingyuan Water Ltd., Restricts Competition

Qingyuan Water Ltd. (Qingyuan), is a Lian Yungang-based public utility enterprise that provides water service for the Ganyu district. For those who applied for water service, or fire-fighting equipments and fire service meters, they are have to pay Qingyuan 3000 to 5000 RMB cash deposit in the name of protecting the fire deamnd from misuse. Otherwise, Qingyuan would not provide them with the water service and fire-fighting facilities. Consequently, Qingyuan received in toal 407,000 RMB from 75 users including bureaus, schools, corporations, public institutions and individuals.

The decision of cash deposit is based mererly on the oral permission of several in-charging persons without documentary and written record, the permission of which thus is not legal evidence and

belongs to unfair conditions. In this regard, the act to charge cash deposit is in breach of the sixth provision of Anti-Unfair competition law as restricting the competition. Hence, the supervision and inspection departments ordered Qingyuan to stop the illegal act and imposed a fine of 120,000 RMB.

Notably, the amended AUCL has discarded regulations upon public utility enterprises and the government, which means the new version would not be applicable any more for those public institutions' misconduct in the production and operation activities. However, this does not mean the regulations has been relaxed. On the contrary, the purpose of removal is to better and more strictly regulate those misconducts in the Antimonopoly Law, because the penalty in AUCL is way lighter than that of the Antimonopoly Law. Therefore, the public utility enterprises and the government should be mindful of this policy change and pay more attention to their activities.

4. Define bribery recipients and impose vicarious liability

The amended AUCL defines that a business operator shall not resort to bribery for exchanging business opportunities or a competitive edge to three levels of entities or individuals. Firstly, a recipient can be employees of the transaction counterparty. Secondly, a recipient involves entities or individuals entrusted by the transaction counterparty to handle relevant affairs. Thirdly, entities or individuals that use authority to influence a transaction. Notably, the amended AUCL seeks responsibility upon business operators whose staff engages in bribery unless there are evidence shows that the conduct of their staff has nothing to do with business opportunities or a competitive edge.

5. Extension to false or misleading product publicity

The false or misleading product information is not limited to performance, function and quality, added aspects including sales, user comments and prizes are also expected to be free from misleading or deceptive business publicity. Meanwhile, the business operator is not allowed to help other operators to make false or misleading publicity by organizing false transactions.

6. Regulations about unfair competition of Internet production and operation

The amended AUCL begins to lay attention to the unfair competition in the Internet industry. In this regard, Internet business operators shall not impede and damage the valid Internet products of other operators by influencing the customers' options with technological approaches. The first example is to insert links for target jumping in the products or services they provide to other operators without their permission. Second, to mislead, deceive or force users to change, close or uninstall other operators' valid products or services. Third, to make other operators' valid products or services incompatible maliciously. Fourth, to engage in other conducts that impede or destroy other operators' valid products

and services.

The new focus on Internet is reasonable when considering the rapid development and wide coverage of the Internet. This also implies that there is no tolerance for unfair competition in the Internet production and operation. In other words, the business competition should be regulated by law based on the value of fairness and inviolability of others' rights, though it is a showcase of technology freedom.

*Case study 2: Sohu's appeal against Meizu

The People's Court of Beijing Haidian Division announced on December 11, 2017, about receiving the appeal from Feihu Information Technology (Tianjin) Ltd. (Feihu) and Sohu, Inc. (Sohu) against Meizu Technology Co., Ltd. and Meizu Telecom Co., Ltd. (Meizu).

Feihu and Sohu are operators of a Chinese online video platform, by which the main source of revenue comes from advertisements. But for the users, advertisements are annoying and would destroy their watching experiences. Based on this, Meizu produced a router that are able to block ads, and promoted the ad-blocking function as the main selling point, which attracted a lot of customers. In responding, Feihu and Sohu brought proceedings against Meizu, alleging that Meizu engaged in unfair competition by producing the ad-blocking router and claimed for 2.1-million RMB compensation. Till now, the case is still under processing.

Glancing at the Chinese online video platforms, launching advertisements seems reasonable and valid, because the platforms have paid a large amount of money for the video copyright and thus make videos available to customers. If Meizu blocks the advertisements, while the video views might be surged in a short term, less videos are available since less video copyright are affordable by the video platforms without the investment from advertisers. In other words, the proceedings against Meizu might be approved when considering article 12 of the amended AUCL. The article regulates that business operators who conduct production and operation activities on the Internet should not impede and damage the valid internet products of other operators by influencing the customers' options with technological approaches by making other operators' valid products or services incompatible maliciously or engaging in other conducts that impede or destroy other operators' valid products and services.

For full amendments and comparison of Chapter Two between the 1993 Version and the 2018 Version

please refer to the figure below.

	1993 Version		2018 Version	
Chapter Two: Acts of Unfair Competition	Article 5	<p>A business operator shall not harm competitors in market transactions by resorting to any of the following unfair means:</p> <p>(1) counterfeiting a registered trademark of another person;</p> <p>(2) using for a commodity without authorization a unique name, package, or decoration of another's famous commodity, or using a name, package or decoration similar to that of another's famous commodity, thereby confusing the commodity with that famous commodity and leading the purchasers to mistake the former for the latter;</p> <p>(3) using without authorization the name of another enterprise or person, thereby leading people to mistake their commodities for those of the said enterprise or person; and</p> <p>(4) forging or counterfeiting authentication marks, famous-and-excellent-product marks or other product quality marks on their commodities, forging the origin of their</p>	Article 6	<p>A business operator shall not engage in conduct that amounts to confusion and misleads people to associate one product with other products or people. (1)</p> <p>Unauthorized use of the same or similar influential commodity names, package, decoration identifications. (2)</p> <p>Unauthorized use of influential corporate names (including abbreviation and word number), social organizations (including abbreviation) and individuals (including pen names, stage names and translated names). (3)</p> <p>Unauthorized use of influential main domain names, website names and webpages.</p>

		products or making false and misleading indications as to the quality of their commodities.		
	Article 6	A public utility enterprise or any other business operator occupying monopoly status by law shall not restrict people to purchasing commodities from the business operators designated by him, thereby precluding other business operators from fair competition.	N/A	Deleted.
	Article 7	Governments and their subordinate departments shall not abuse administrative powers to restrict people to purchasing commodities from the business operators designated by them and impose limitations on the rightful operation activities of other business operators. Governments and their subordinate departments shall not abuse administrative powers to restrict commodities originated in other places from entering the local markets or the local commodities from flowing into markets of other places.	N/A	Deleted.

		*There is a short case study above (Qingyuan Water Ltd.).		
	Article 8	<p>A business operator shall not resort to bribery, by offering money or goods or by any other means, in selling or purchasing commodities. A business operator who offers off-the-book rebate in secret to the other party, an entity or an individual, shall be deemed and punished as offering bribes; and any entity or individual that accepts off-the-book rebate in secret shall be deemed and punished as taking bribes.</p> <p>A business operator may, in selling or purchasing commodities, expressly allow a discount to the other party and pay a commission to the middleman. The business operator who gives discount to the other party and pays commission to the middleman must truthfully enter them in the account. The business operator who accepts the discount or the commission must also truthfully enter it in</p>	Article 7	<p>A business operator shall not resort to bribery for exchanging business opportunities or a competitive edge, by offering money or goods or any other means to the following entities or individuals: (1) employees of the transaction counterparty; (2) entities or individuals entrusted by the transaction counterparty to handle relevant affairs; (3) entities or individuals that use authority to influence a transaction.</p> <p>Remains the same.</p>

	the account. Not found.		The amended AUCL seeks responsibility upon business operators when their staffs engages in bribery unless there are evidence show that the conduct of their staff has nothing to do with business opportunities or a competitive edge.
Article 9	A business operator may not, by advertisement or any other means, make false or misleading publicity of their commodities as to their quality, ingredients, functions, usage, producers, duration of validity or origin. An advertisement agent may not act as agent for, or design, produce or release, a false advertisement while he clearly knows or ought to know its falsehood.	Article 8	A business operator may not make false or misleading publicity of product performance, function, quality, sales, user comments and prizes. The operator is not allowed to help other operators to make false or misleading publicity by organizing false transactions.
Article 10	A business operator shall not use any of the following means to infringe upon trade secrets: (1) obtaining an obligee's trade secrets by stealing, luring, intimidation or any other unfair means; (2) disclosing, using or allowing	Article 9	A business operator shall not use any of the following means to infringe upon trade secrets: (1) obtaining an obligee's trade secrets by stealing, bribing, fraud , or any other unfair means; (2) disclosing, using or allowing

	<p>another person to use the trade secrets obtained from the obligee by the means mentioned in the preceding paragraph; or (3) in violation of the agreement or against the obligee's demand for keeping trade secrets, disclosing, using or allowing another person to use the trade secrets he possesses.</p> <p>Obtaining, using or disclosing another's trade secrets by a third party who clearly knows or ought to know that the case falls under the unlawful acts listed in the preceding paragraph shall be deemed as infringement upon trade secrets.</p> <p>"Trade secrets" mentioned in this Article refers to any technology information or business operation information which is unknown to the public, can bring about economic</p>	<p>another person to use the trade secrets obtained from the obligee by the means mentioned in the preceding paragraph; or (3) in violation of the agreement or against the obligee's demand for keeping trade secrets, disclosing, using or allowing another person to use the trade secrets he possesses.</p> <p>Obtaining, using, disclosing or allowing other people use trade secrets by a third party who clearly knows or ought to know that the case falls under the unlawful acts listed in the preceding paragraph conducted by staffs, former staffs, or other entities and individuals shall be deemed as infringement upon trade secrets.</p> <p>"Trade secrets" mentioned in this Article refers to any technology information or business operation information which is unknown to the public with business utility, and about</p>
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		benefits to the obligee, has practical utility and about which the obligee has adopted secret-keeping measures.		which the obligee has adopted secret-keeping measures.
	Article 11	A business operator shall not, for the purpose of pushing out their competitors, sell their commodities at prices lower than costs. Any of the following shall not be deemed as an unfair competition act: (1) selling perishables or live commodities; (2) disposing of commodities near expiration of their validity duration or those kept too long in stock; (3) seasonal sales; or (4) selling commodities at a reduced price for the purpose of clearing off debts, change of business or suspension of operation.		Deleted.
	Article 12	A business operator may not, against the will of purchasers, conduct tie-in sale of commodities or attach any other unreasonable conditions to the sale of their commodities.		Deleted.

	Article 13	A business operator shall not engage in any of the following lottery-attached sale activities: (1) lottery-attached sale conducted by deceptive means as falsely declaring to have prize or intentionally making a designated insider win the prize; (2) lottery-attached sale employed as a means to sell goods of low quality at a high price; or (3) lottery-attached sale in form of lottery-drawing with the highest prize exceeding 5,000 RMB.	Article 10	A business operator shall not engage in any of the following lottery-attached sale activities: (1) unclear prize categories, claim requirements, bonus or award influence to claim the prize; (2) lottery-attached sale conducted by deceptive means as falsely declaring to have prize or intentionally making a designated insider win the prize; (3) lottery-attached sale in form of lottery-drawing with the highest prize exceeding 50,000 RMB.
	Article 14	A business operator shall not fabricate or spread false information to injure the competitors' commercial credit or the reputation of the competitors' commodities.	Article 11	Remains the same.
	N/A		Article 12	Business operators who conduct production and operation activities on the Internet shall follow the provisions of this law. They shall not impede and damage the valid internet products of other operators by influencing

				<p>the customers' options with technological approaches as follows:</p> <p>(1) insert links and force target jumping in the products or services they provide to other operators without their permission;</p> <p>(2) mislead, deceive or force users to change, close or uninstall other operators' valid products or services;</p> <p>(3) make other operators' valid products or services incompatible maliciously;</p> <p>(4) engage in other conducts that impede or destroy other operators' valid products and services.</p> <p>*There is a short case study above (Sohu's appeal against Meizu).</p>
	Article 15	Bidders shall not act in collusion with each other so as to force up or down the bidding prices. Bidders and tender-inviter shall not collude with each other so as to push out their competitors from fair competition.	N/A	Deleted.

Chapter Three: Investigations upon Engaging in Unfair Competition

7. Broaden investigation measures and strengthen regulation upon supervision and inspection departments

In this chapter, two main amendments are found important. One is the broadened investigation measures that the amended AUCL extends the scope of investigation from mere documents to operation sites, bank accounts and further the right to seal financial assets. Another amendment is that the regulation upon supervision and inspection departments are strengthened and become stricter. For example, functionaries, from 2018 on, have to prepare a written report to the main supervisor for seeking approval of investigation. The amended AUCL also adds a provision that enforce to publish the supervision and inspection result. In comparison, the 1993 Version has only one provision says that functionaries of supervision and inspection shall produce their certificates when supervising and inspecting unfair competition acts.

For full amendments and comparison of Chapter Three between the 1993 Version and the 2018 Version please refer to the figure below.

	1993 Version		2018 Version	
Chapter Three: Investigations upon Engaging in Unfair Competition	Article 16	Supervision and inspection departments at or above the county level may carry out supervision over and inspection of unfair competition acts.	N/A	Deleted.
	Article 17	Supervision and inspection departments shall, in supervising and inspecting unfair competition acts, have the right to exercise the following functions and powers: (1) to interrogate the business	Article 13	Supervision and inspection departments shall, in supervising and inspecting unfair competition acts, have the right to take the following measures: (1) to inspect operation sites involving unfair competition

	<p>operators under inspection, interested persons, or witnesses in accordance with the prescribed procedures, and require them to provide testimonial materials or other materials relating to the unfair competition acts;</p> <p>(2) to inquire about and duplicate the agreements, account books, invoices, documents, records, business letters and telegrams or other materials relating to the unfair competition acts; and</p> <p>(3) to inspect the property involved in the unfair competition acts under Article 5 of this Law; and, when necessary, to order the business operators under inspection to explain the source and quantity of the commodities, suspend the sale and await the inspection thereof, and the property involved shall not be transferred, concealed or destroyed.</p> <p>Not found.</p>	<p>acts;</p> <p>(2) to interrogate the business operators under inspection, interested persons, or witnesses in accordance with the prescribed procedures, and require them to provide testimonial materials or other materials relating to the unfair competition acts;</p> <p>(3) to inquire about and duplicate the agreements, account books, invoices, documents, records, business letters and telegrams or other materials relating to the unfair competition acts;</p> <p>(4) to seal and detain financial assets relevant to unfair competition acts; and</p> <p>(5) to inquiry about the bank account of unfair competition actors.</p>
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				<p>To take the above measures, functionaries of supervision and inspection departments shall write a report to the main supervisor and seek approval.</p> <p>To take the above fourth or fifth measure, functionaries shall write a report to the main in-charge person of supervision and inspection departments above the city level and seek his or her approval.</p> <p>Supervision and inspection departments shall, in investigating unfair competition acts, abide by the Administrative Coercion Law of the People’s Republic of China and other relevant laws or administrative rules and regulations, and disclose investigation results to the public in time.</p>
	Article 18	Functionaries of supervision and inspection departments shall, when supervising and inspecting unfair competition acts, produce their inspection certificates.	N/A	Deleted.
	Article 19	Business operators under inspection, interested persons	Article 14	Remains the same.

		and witnesses shall truthfully provide relevant materials or particulars when the supervision and inspection departments supervise and inspect unfair competition acts.		
	N/A		Article 15	Functionaries of supervision and inspection departments shall keep confidential to trade secrets known during investigations.
	N/A		Article 16	Any entities or individuals have rights to report to supervision and inspection departments about involvement of unfair competition acts. Supervision and inspection departments shall publish phone, mailbox or email address for reporting and keep confidential for reporters. For real-name reporting with facts and evidence provided, supervision and inspection departments shall inform the reporter of the reporting result.
	<ul style="list-style-type: none"> • Chapter three of the 1993 Version was named as “Supervision and Inspection”. 			

Chapter Four: Legal Responsibility

8. Strengthen penalty for breaching AUCL

On the one hand, the strengthened penalty can be seen from the surge of the fine for breaching AUCL. For example, operators who engage in bribery might pay fines ranging from 100 thousand to 3 million RMB, which used to be 10 to 200 thousand. This is also true in the case of business secrets infringement. The fine was 10 thousand to 200 thousand RMB, compared with 200 thousand to 1 million RMB now. On the other hand, seeking penalty case by case is also a showcase of the strengthened penalty. For instance, operators, involving in publishing or helping others publish false or misleading product information for business purposes, have to pay 200 thousand to 1 million RMB fines, but the fine can be up to 2 million RMB when it comes to severe circumstances. Take the withdrawal of licenses as another example. The application of this penalty has been widened that it is now applicable in misconducts of confusion, bribery and false or misleading publicity, however, it was only functioning upon misconduct of confusion.

For full amendments and comparison of Chapter Four between the 1993 Version and the 2018 Version please refer to the figure below.

	1993 Version		2018 Version	
Chapter Four: Legal Responsibility	Article 20	A business operator who violates the provisions of this Law and thus causes damage to the infringed business operators, shall bear the liability of compensation for the damage. If the losses of the infringed business operator are difficult to estimate, the damages shall be the profits derived from the infringement by the infringer during the period of	Article 17	Remains the same.

		<p>infringement. And the infringer shall also bear the reasonable expense paid by the infringed business operator for investigating the infringer's unfair competition acts violating the lawful rights and interests. A business operator whose lawful rights and interests are infringed upon by unfair competition acts may bring a suit in a people's court.</p> <p>Not found.</p> <p>Not found.</p>		<p>The compensation for the damages by unfair competitive acts shall be decided by the real losses of infringement.</p> <p>The People's Court judges and gives compensation within three million RMB in light of circumstances if a business operator violates the sixth and ninth provision and it is hard to decide the losses caused by the infringer and the real losses of the obligee.</p>
	Article 21	A business operator who counterfeits another's	N/A	Deleted.

	<p>registered trademark, uses without authorization the name of another enterprise or person, forges or counterfeits authentication marks, famous-and-excellent-product marks or other product quality marks, forges origin of the products or makes false and misleading indications regarding the product quality shall be punished in accordance with the provisions of the Trademark Law of the People's Republic of China and the Law of the People's Republic of China on Product Quality. In case a business operator uses for a commodity without authorization the name, package or decoration of a famous commodity or the name, package or decoration similar to that of a famous commodity and thereby confuses the commodity with another's famous commodity and leads the purchasers to mistake the former for the latter, the supervision and</p>		
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		inspection department shall order the business operator to stop the illegal act and confiscate the illegal earnings and may, in light of the circumstances, impose a fine of not less than one time but not more than three times the illegal earnings; if the circumstances are serious, the business license may be revoked; and if the commodities sold are fake and inferior, and the case constitutes a crime, he shall be investigated for criminal responsibility according to law.		
	N/A		Article 18	If a business operator engages in acts of confusion that amounts to violation of the sixth provision, supervision and inspection departments would order the business operator to stop the illegal act, confiscate the illegal commodities and impose a fine. For illegal earnings more than 50,000 RMB, the fine is imposed less than five times of the illegal earning; for illegal earnings less than 50,000 or no illegal

				<p>earnings, the fine is not less than 250,000 RMB; if the circumstances are serious, the business license may be revoked.</p> <p>If the corporate name registered by the business operator violates the sixth provision, the business operator shall change the name immediately; prior to the settlement of name change, the origin corporate use the social credit code as a substitute to the origin name.</p>
	Article 22	<p>A business operator, who resorts to bribery by offering money or goods or by any other means in selling or purchasing commodities and if the case constitutes a crime, shall be investigated for criminal responsibility according to law; if the case does not constitute a crime, the supervision and inspection department may impose a fine of not less than 10,000 RMB but not more than 200,000 RMB in light of the circumstances and</p>	Article 19	<p>If a business operator resorts to bribery that amounts to violation of the seventh provision, the inspection and supervision departments confiscate the illegal earnings and may impose a fine of not less than 100,000 thousand RMB but not more than 3 million RMB. If the circumstances are serious, the business license may be revoked.</p>

		confiscate the illegal earnings, if any.		
	Article 23	In case a public utility enterprise or any other business operator occupying monopoly status according to law restricts people to purchasing commodities from a designated business operator in order to push out other business operators from fair competition, the supervision and inspection departments at the provincial level or of cities divided into districts shall order the ceasing of the illegal acts and may impose a fine of not less than 50,000 RMB but not more than 200,000 RMB in light of the circumstances. If such designated business operator takes advantage of the monopoly status to sell goods of low quality at high prices or indiscriminately collects fees, the inspection and supervision department shall confiscate the illegal earnings and may impose a fine of not less than one time but not more than three	N/A	Deleted.

		times the illegal earnings in light of the circumstances.		
	Article 24	In case a business operator makes false and misleading publicity of the commodities by advertisement or any other means, the supervision and inspection department shall order the said business operator to stop the illegal acts and eliminate the bad effects, and may impose a fine of not less than 10,000 RMB but not more than 200,000 RMB in light of the circumstances. In case an advertisement agent acts as agent for, or designs, produces or releases, a false advertisement though the agent clearly knows or ought to know the falsehood, the supervision and inspection department shall order the ceasing of the illegal acts, confiscate the illegal earnings, and impose a fine according to law.	Article 20	If a business operator makes false or misleading publicity, or helps other operators to make false or misleading publicity by organizing false transactions that amounts to violation of the eighth provision, supervision and inspection departments would order the business operator to stop the illegal act, confiscate the illegal commodities and impose a fine of not less than 200,000 RMB but not more than 1,000,000 RMB; if the circumstances are serious, the business license may be revoked. Business operators who breach the eighth provision, publishing fake advertisements, would be punished according to the Advertisements Law of the People's Republic of China.
	Article 25	In case a business operator violates the provisions of Article 10 of this Law and infringes upon trade secrets,	Article 21	If a business operator infringes upon trade secrets that amounts to violation of the ninth provision, supervision and

		the supervision and inspection department shall order the ceasing of the illegal acts and may impose a fine of not less than 10,000 RMB but not more than 200,000 RMB in light of the circumstances.		inspection departments would order the business operator to stop the illegal act and impose a fine of not less than 100,000 RMB but not more than 500,000 RMB; if the circumstances are serious, they would impose a fine of not less than 500,000 RMB but not more than 3 million RMB.
	Article 26	In case a business operator engages in lottery-attached sale in violation of the provisions of Article 13 of this Law, the supervision and inspection department shall order the ceasing of the illegal acts and may impose a fine of not less than 10,000 RMB but not more than 100,000 RMB in light of the circumstances.	Article 22	If a business operator engages in lottery-attached sale activities that amounts to violation of the tenth provision, supervision and inspection departments would order the business operator to stop the illegal act and impose a fine of not less than 50,000 RMB but not more than 500,000 RMB.
	N/A		Article 23	If a business operator fabricates or spreads false information to injure the competitors' commercial credit or the reputation of the competitors' commodities that amounts to violation of the eleventh provision, supervision and inspection departments would order the business operator to

				stop the illegal act, eliminate impacts and impose a fine of not less than 100,000 RMB but not more than 500,000 RMB; if the circumstances are serious, they would impose a fine of not less than 500,000 RMB but not more than 3 million RMB.
	N/A		Article 24	If a business operator impedes and damages the operation of other operators' valid internet products or services that amounts to violation of the twelfth provision, supervision and inspection departments would order the business operator to stop the illegal act and impose a fine of not less than 100,000 RMB but not more than 500,000 RMB; if the circumstances are serious, they would impose a fine of not less than 500,000 RMB but not more than 3 million RMB.
	Article 27	Where bidders act in collusion with each other to force up or down the bidding price, or a bidder colludes with a tender-inviter for the purpose of pushing out their competitors, the successful bid shall be invalid, and the	N/A	Deleted.

		supervision and inspection department may impose a fine of not less than 10,000 RMB but not more than 200,000 RMB in light of the circumstances.		
	Article 28	In case a business operator acts in violation of the order of stopping the sale or forbidding the transfer, concealment or destruction of the property involved in the unfair competition acts, the supervision and inspection department may impose a fine of not less than one time but not more than three times the price of the property sold, transferred, concealed or destroyed.	N/A	Deleted.
	N/A		Article 26	When business operators are given administrative penalty due to engagement in unfair competition acts and thus breach this law, the supervision and inspection departments would write down into the credit record, and publish the record according to relevant law and administrative regulations.
	N/A		Article	Business operators who breach

			27	this law shall bear civil, administrative and criminal responsibilities. Priority to civil responsibility will be considered when the financial assets of the business operator are not enough to pay the penalties.
	N/A		Article 28	People who impede the supervision and inspection departments upon execution of duty, refusing and hindering investigation, would be required to rectify and reform by the supervision and inspection departments. A fine might be imposed below 5000 RMB for individuals and below 50,000 RMB for entities. Publish security punishment might also be granted by the Public Security Bureau for impediment.
	Article 29	In case a party is not satisfied with the punishment decision made by the supervision and inspection department, it may apply for reconsideration to the competent department at the next higher level within 15 days from receipt of the decision; and if the party is	Article 29	In case a party is not satisfied with the punishment decision made by the supervision and inspection department, it may apply for administrative reconsideration or file an administrative suit.

		still not satisfied with the reconsideration decision, it may bring a suit in a people's court within 15 days from receipt of the decision; and the party may also directly file a suit in a people's court.		
	Article 30	Where a government or its subordinate departments, in violation of the provisions of Article 7 of this Law, restrict people to purchasing commodities from a designated business operator or impose limits on other business operator's rightful operation activities or the normal circulation of commodities between different areas, the supervision and inspection department at higher levels shall order them to make corrections; and if the circumstances are serious, the persons held directly responsible shall be given administrative sanctions by the relevant department at the same or higher levels; if the designated business operator takes advantage of	N/A	

		his status to sell goods of low quality at high prices or indiscriminately collects fees, the supervision and inspection department shall confiscate the illegal earnings and may impose a fine of not less than one time but not more than three times the illegal earnings in light of the circumstances.		
	Article 31	Where a State functionary engaged in supervision over and inspection of unfair competition acts abuses his power or neglects his duty, and if the case constitutes a crime, he shall be investigated for criminal responsibility according to law; if the case does not constitute a crime, he shall be given an administrative sanction.	Article 30	When functionaries of supervision and inspection departments abuse power, neglect duty, practice favoritism and intentionally harbors a business operator whom one clearly knows to be guilty of a crime, or leak trade secrets know during investigation, they would be given a sanction.
	Article 32	Where a State functionary engaged in supervision over and inspection of unfair competition acts practices favoritism or irregularities and intentionally harbors a business operator whom he clearly knows to be guilty of a	Article 31	In breach of this law, and constituting a crime, one might be investigated for criminal responsibility according to law.

		crime by violating the provisions of this Law and attempts to shield him from prosecution, he shall be investigated for criminal responsibility according to law.		
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Chapter Five: Supplementary Provisions

	1993 Version		2018 Version	
Chapter Five: Supplementary Provisions	Article 33	This Law goes into effect on December 1, 1993.	Article 32	This Law goes into effect on January 1, 2018.



About Us

Founded in 2001, LehmanBrown is a China-focused accounting, taxation and business advisory firm, operating in Beijing, Shanghai, Hong Kong, Macau, Shenzhen, Guangzhou and Tianjin. Our firm also manages an extensive affiliate network, providing service throughout China and reach across the globe.

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