

多層次傳銷管理法

中華民國103年1月29日華總一義字第10300013741號令制定公布全文41條

中華民國113年8月7日華總一義字第11300069621號令修正公布第13條條文

第一章 總則

第一條 (立法宗旨)

為健全多層次傳銷之交易秩序，保護傳銷商權益，特制定本法。

第二條 (主管機關)

本法所稱主管機關為公平交易委員會。

第三條 (多層次傳銷之定義)

本法所稱多層次傳銷，指透過傳銷商介紹他人參加，建立多層級組織以推廣、銷售商品或服務之行銷方式。

第四條 (多層次傳銷事業之定義)

本法所稱多層次傳銷事業，指統籌規劃或實施前條傳銷行為之公司、工商行號、團體或個人。

外國多層次傳銷事業之傳銷商或第三人，引進或實施該事業之多層次傳銷計畫或組織者，視為前項之多層次傳銷事業。

第五條 (傳銷商之定義)

本法所稱傳銷商，指參加多層次傳銷事業，推廣、銷售商品或服務，而獲得佣金、獎金或其他經濟利益，並得介紹他人參加及因被介紹之人為推廣、銷售商品或服務，或介紹他人參加，而獲得佣金、獎金或其他經濟利益者。

與多層次傳銷事業約定，於一定條件成就後，始取得推廣、銷售商品或服務，及介紹他人參加之資格者，自約定時起，視為前項之傳銷商。

第二章 多層次傳銷事業之報備

第六條 (開始實施傳銷行為之報備、退件及補正)

多層次傳銷事業於開始實施多層次傳銷行為前，應檢具載明下列事項之文件、資料，向主管機關報備：

- 一、多層次傳銷事業基本資料及營業所。
- 二、傳銷制度及傳銷商參加條件。
- 三、擬與傳銷商簽定之參加契約內容。
- 四、商品或服務之品項、價格及來源。
- 五、其他法規定有商品或服務之行銷方式或須經目的事業主管機關許可始得推廣或銷售之規定者，其行銷方式合於該法規或取得目的事業主管機關許可之證明。
- 六、多層次傳銷事業依第二十一條第三項後段或第二十四條規定扣除買回商品或服務之減損價值者，其計算方法、基準及理由。
- 七、其他經主管機關指定之事項。

多層次傳銷事業未依前項規定檢具文件、資料，主管機關得令其限期補正；屆期不補正者，視為自始未報備，主管機關得退回原件，令其備齊後重行報備。

第七條（變更報備、退件及補正）

多層次傳銷事業報備文件、資料所載內容有變更，除下列情形外，應事先報備：

- 一、前條第一項第一款事業基本資料，除事業名稱變更外，無須報備。
- 二、事業名稱應於變更生效後十五日內報備。

多層次傳銷事業未依前項規定變更報備，主管機關認有必要時，得令其限期補正；屆期不補正者，視為自始未變更報備，主管機關得退回原件，令其備齊後重行報備。

第八條（報備方式及格式之授權依據）

前二條報備之方式及格式，由主管機關定之。

第九條（停止實施傳銷行為之報備及公告）

多層次傳銷事業停止實施多層次傳銷行為者，應於停止前以書面向主管機關報備，並於其各營業所公告傳銷商得依參加契約向多層次傳銷事業主張退貨之權益。

第三章 多層次傳銷行為之實施

第十條（應告知傳銷商之事項）

多層次傳銷事業於傳銷商參加其傳銷計畫或組織前，應告知下列事項，不得有隱瞞、虛偽不實或引人錯誤之表示：

- 一、多層次傳銷事業之資本額及營業額。
- 二、傳銷制度及傳銷商參加條件。
- 三、多層次傳銷相關法令。
- 四、傳銷商應負之義務與負擔、退出計畫或組織之條件及因退出而生之權利義務。
- 五、商品或服務有關事項。
- 六、多層次傳銷事業依第二十一條第三項後段或第二十四條規定扣除買回商品或服務之減損價值者，其計算方法、基準及理由。
- 七、其他經主管機關指定之事項。

傳銷商介紹他人參加時，不得就前項事項為虛偽不實或引人錯誤之表示。

第十一條（明示從事傳銷行為之義務）

多層次傳銷事業或傳銷商以廣告或其他方法招募傳銷商時，應表明係從事多層次傳銷行為，並不得以招募員工或假借其他名義之方式為之。

第十二條（宣稱案例之說明義務）

多層次傳銷事業或傳銷商以成功案例之方式推廣、銷售商品或服務及介紹他人參加時，就該等案例進行期間、獲得利益及發展歷程等事實作示範者，不得有虛偽不實或引人錯誤之表示。

第十三條（參加契約之締結及交付）

多層次傳銷事業於傳銷商參加其傳銷計畫或組織時，應與傳銷商締結書面參加契約，並交付契約正本。

前項之書面，得以電子文件為之。

第十四條（參加契約應記載事項）

前條參加契約之內容，應包括下列事項：

- 一、第十條第一項第二款至第七款所定事項。
- 二、傳銷商違約事由及處理方式。
- 三、第二十條至第二十二條所定權利義務事項或更有利於傳銷商之約定。
- 四、解除或終止契約係因傳銷商違反營運規章或計畫、有第十五條第一項特定違約事由或其他可歸責於傳銷商之事由者，傳銷商提出退貨之處理方式。
- 五、契約如訂有參加期限者，其續約之條件及處理方式。

第十五條（特定違約事由及其處理）

多層次傳銷事業應將下列事項列為傳銷商違約事由，並訂定能有效制止之處理方式：

- 一、以欺罔或引人錯誤之方式推廣、銷售商品或服務及介紹他人參加傳銷組織。
- 二、假借多層次傳銷事業之名義向他人募集資金。
- 三、以違背公共秩序或善良風俗之方式從事傳銷活動。
- 四、以不當之直接訪問買賣影響消費者權益。
- 五、違反本法、刑法或其他法規之傳銷活動。

多層次傳銷事業應確實執行前項所定之處理方式。

第十六條（招募無行為能力人、限制行為能力人之禁止及限制）

多層次傳銷事業不得招募無行為能力人為傳銷商。

多層次傳銷事業招募限制行為能力人為傳銷商者，應事先取得該限制行為能力人之法定代理人書面允許，並附於參加契約。

前項之書面，不得以電子文件為之。

第十七條（財務報表之揭露）

多層次傳銷事業應於每年五月底前將上年度傳銷營運業務之資產負債表、損益表，備置於其主要營業所。

多層次傳銷事業資本額達公司法第二十條第二項所定數額或其上年度傳銷營運業務之營業額達主管機關所定數額以上者，前項財務報表應經會計師查核簽證。

傳銷商得向所屬之多層次傳銷事業查閱第一項財務報表。多層次傳銷事業非有正當理由，不得拒絕。

第十八條（變質多層次傳銷之禁止）

多層次傳銷事業，應使其傳銷商之收入來源以合理市價推廣、銷售商品或服務為主，不得以介紹他人參加為主要收入來源。

第十九條（禁止行為）

多層次傳銷事業不得為下列行為：

- 一、以訓練、講習、聯誼、開會、晉階或其他名義，要求傳銷商繳納與成本顯不相當之費用。
- 二、要求傳銷商繳納顯屬不當之保證金、違約金或其他費用。
- 三、促使傳銷商購買顯非一般人能於短期內售罄之商品數量。但約定於商品轉售後支付貨款者，不在此限。
- 四、以違背其傳銷計畫或組織之方式，對特定人給予優惠待遇，致減損其他傳銷商之利益。
- 五、不當促使傳銷商購買或使其擁有二個以上推廣多層級組織之權利。

六、其他要求傳銷商負擔顯失公平之義務。

傳銷商於其介紹參加之人，亦不得為前項第一款至第三款、第五款及第六款之行為。

第四章 解除契約及終止契約

第二十條（傳銷商猶豫期間內解除或終止契約及退貨規定）

傳銷商得自訂約日起算三十日內，以書面通知多層次傳銷事業解除或終止契約。

多層次傳銷事業應於契約解除或終止生效後三十日內，接受傳銷商退貨之申請、受領傳銷商送回之商品，並返還傳銷商購買退貨商品所付價金及其他給付多層次傳銷事業之款項。

多層次傳銷事業依前項規定返還傳銷商之款項，得扣除商品返還時因可歸責於傳銷商之事由致商品毀損滅失之價值，及因該進貨對該傳銷商給付之獎金或報酬。

由多層次傳銷事業取回退貨者，並得扣除取回該商品所需運費。

第二十一條（傳銷商猶豫期間後終止契約及退貨規定）

傳銷商於前條第一項期間經過後，仍得隨時以書面終止契約，退出多層次傳銷計畫或組織，並要求退貨。但其所持有商品自可提領之日起算已逾六個月者，不得要求退貨。

多層次傳銷事業應於契約終止生效後三十日內，接受傳銷商退貨之申請，並以傳銷商原購價格百分之九十買回傳銷商所持有之商品。

多層次傳銷事業依前項規定買回傳銷商所持有之商品時，得扣除因該項交易對該傳銷商給付之獎金或報酬。其取回商品之價值有減損者，亦得扣除減損之金額。

由多層次傳銷事業取回退貨者，並得扣除取回該商品所需運費。

第二十二條（多層次傳銷事業請求損害賠償或違約金之限制）

傳銷商依前二條規定行使解除權或終止權時，多層次傳銷事業不得向傳銷商請求因該契約解除或終止所受之損害賠償或違約金。

傳銷商品係由第三人提供者，傳銷商依前二條規定行使解除權或終止權時，多層次傳銷事業應依前二條規定辦理退貨及買回，並負擔傳銷商因該交易契約解除或終止所生之損害賠償或違約金。

第二十三條（不當阻撓退貨及扣發佣金、獎金之禁止）

多層次傳銷事業及傳銷商不得以不當方式阻撓傳銷商依本法規定辦理退貨。

多層次傳銷事業不得於傳銷商解除或終止契約時，不當扣發其應得之佣金、獎金或其他經濟利益。

第二十四條（服務準用之規定）

本章關於商品之規定，除第二十一條第一項但書外，於服務之情形準用之。

第五章 業務檢查及裁處程序

第二十五條（記載及備置傳銷經營資料）

多層次傳銷事業應按月記載其在中華民國境內之組織發展、商品或服務銷售、獎金發放及退貨處理等狀況，並將該資料備置於主要營業所供主管機關查核。

前項資料，保存期限為五年；停止多層次傳銷業務者，其資料之保存亦同。

第二十六條（接受檢查及提供資料之義務）

主管機關得隨時派員檢查或限期令多層次傳銷事業依主管機關所定之方式及內容，提供及填報營運發展狀況資料，多層次傳銷事業不得規避、妨礙或拒絕。

第二十七條（依檢舉或職權調查處理）

主管機關對於涉有違反本法規定者，得依檢舉或職權調查處理。

第二十八條 (調查之程序)

主管機關依本法調查，得依下列程序進行：

- 一、通知當事人及關係人到場陳述意見。
- 二、通知當事人及關係人提出帳冊、文件及其他必要之資料或證物。
- 三、派員前往當事人及關係人之事務所、營業所或其他場所為必要之調查。

依前項調查所得可為證據之物，主管機關得扣留之；其扣留範圍及期間，以供調查、檢驗、鑑定或其他為保全證據之目的所必要者為限。

受調查者對於主管機關依第一項規定所為之調查，無正當理由不得規避、妨礙或拒絕。

執行調查之人員依法執行公務時，應出示有關執行職務之證明文件；其未出示者，受調查者得拒絕之。

第六章 罰 則

第二十九條 (罰則一)

違反第十八條規定者，處行為人七年以下有期徒刑，得併科新臺幣一億元以下罰金。

法人之代表人、代理人、受僱人或其他從業人員，因執行業務違反第十八條規定者，除依前項規定處罰其行為人外，對該法人亦科處前項之罰金。

第三十條 (罰則二)

前條之處罰，其他法律有較重之規定者，從其規定。

第三十一條 (罰則三)

主管機關對於違反第十八條規定之多層次傳銷事業，得命令解散、勒令歇業或停止營業六個月以下。

第三十二條 (罰則四)

主管機關對於違反第六條第一項、第二十條第二項、第二十一條第二項、第二十二條或第二十三條規定者，得限期令停止、改正其行為或採取必要更正措施，並得處新臺幣十萬元以上五百萬元以下罰鍰；屆期仍不停止、改正其行為或未採取必要更正措施者，得繼續限期令停止、改正其行為或採取必要更正措施，並按次處新臺幣二十萬元以上一千萬元以下罰鍰，至停止、改正其行為或採取必要更正措施為止；其情節重大者，並得命令解散、勒令歇業或停止營業六個月以下。

前項規定，於違反依第二十四條準用第二十條第二項、第二十一條第二項、第二十二條或第二十三條規定者，亦適用之。

主管機關對於保護機構違反第三十八條第五項業務處理方式或監督管理事項者，依第一項規定處分。

第三十三條 (罰則五)

主管機關對於違反第十六條規定者，得限期令停止、改正其行為或採取必要更正措施，並得處新臺幣十萬元以上二百萬元以下罰鍰；屆期仍不停止、改正其行為或未採取必要更正措施者，得繼續限期令停止、改正其行為或採取必要更正措施，並按次處新臺幣二十萬元以上四百萬元以下罰鍰，至停止、改正其行為或採取必要更正措施為止。

第三十四條 (罰則六)

主管機關對於違反第七條第一項、第九條至第十二條、第十三條第一項、第十四條、第十五條、第十七條、第十九條、第二十五條第一項或第二十六條規定者，得限期令停止、改正其行為或採取必

要更正措施，並得處新臺幣五萬元以上一百萬元以下罰鍰；屆期仍不停止、改正其行為或未採取必要更正措施者，得繼續限期令停止、改正其行為或採取必要更正措施，並按次處新臺幣十萬元以上二百萬元以下罰鍰，至停止、改正其行為或採取必要更正措施為止。

第三十五條（罰則七）

主管機關依第二十八條規定進行調查時，受調查者違反第二十八條第三項規定，主管機關得處新臺幣五萬元以上五十萬元以下罰鍰；受調查者再經通知，無正當理由規避、妨礙或拒絕，主管機關得繼續通知調查，並按次處新臺幣十萬元以上一百萬元以下罰鍰，至接受調查、到場陳述意見或提出有關帳冊、文件等資料或證物為止。

第七章 附 則

第三十六條（本法施行前非屬公平交易法第八條所定多層次傳銷事業適用本法之補正規定）

非屬公平交易法第八條所定多層次傳銷事業，於本法施行前已從事多層次傳銷業務者，應於本法施行後三個月內依第六條規定向主管機關報備；屆期未報備者，以違反第六條第一項規定論處。

前項多層次傳銷事業應於本法施行後六個月內依第十三條第一項規定與本法施行前參加之傳銷商締結書面契約；屆期未完成者，以違反第十三條第一項規定論處。

本法施行前參加第一項多層次傳銷事業之傳銷商，得自本法施行之日起算至締結前項契約後三十日內，依第二十條、第二十二條、第二十四條之規定解除或終止契約，該期間經過後，亦得依第二十一條、第二十二條、第二十四條之規定終止契約。

前項傳銷商於本法施行後終止契約者，關於第二十一條第一項但書所定期間，自本法施行之日起算。

第三十七條（本法施行前已向主管機關報備之多層次傳銷事業應配合本法規定辦理事項之補正規定）

本法施行前已向主管機關報備之多層次傳銷事業之報備文件、資料所載內容應配合第六條第一項規定修正，並於本法施行後二個月內向主管機關補正其應報備之文件、資料；屆期未補正者，以違反第七條第一項規定論處。

本法施行前已向主管機關報備之多層次傳銷事業，應於本法施行後三個月內配合修正與原傳銷商締結之書面參加契約，以書面通知修改或增刪之處，並於其各營業所公告；屆期未以書面通知者，以違反第十三條第一項規定論處。

前項通知，傳銷商於一定期間未表示異議，視為同意。

第三十八條（保護機構之設置及授權依據）

主管機關應指定經報備之多層次傳銷事業，捐助一定財產，設立保護機構，辦理完成報備之多層次傳銷事業與傳銷商權益保障及爭議處理業務。其捐助數額得抵充第二項保護基金及年費。

保護機構為辦理前項業務，得向完成報備之多層次傳銷事業與傳銷商收取保護基金及年費，其收取方式及金額由主管機關定之。

完成報備之多層次傳銷事業未依前二項規定據實繳納者，以違反第三十二條第一項規定論處。

依主管機關規定繳納保護基金及年費者，始得請求保護機構保護。

保護機構之組織、任務、經費運用、業務處理方式及對其監督管理事項，由主管機關定之。

第三十九條（公平交易法有關傳銷之規定停止適用）

自本法施行之日起，公平交易法有關多層次傳銷之規定，不再適用之。

第 四十 條 (施行細則)

本法施行細則，由主管機關定之。

第四十一條 (施行日)

本法自公布日施行。

Multi-Level Marketing Supervision Act

Promulgated on January 29, 2014

CHAPTER ONE GENERAL PROVISIONS

Article 1

This Act is enacted for the purpose of assuring sound transaction order of the multi-level marketing, and protecting the rights and interest of participants.

Article 2

The term "competent authority" as used in this Act means the Fair Trade Commission.

Article 3

The term "multi-level marketing" as used in this Act means the marketing practice to establish multi-level organization by having participants introduce new participants into multi-level marketing enterprise, and promote and sale goods or services.

Article 4

The term "multi-level marketing enterprise" as used in this Act means the companies, sole proprietorships or partnerships, groups or individuals that conduct overall planning or the carrying out of multi-level marketing activities as referred to in the preceding article.

A participant of foreign multi-level marketing enterprise or a third party that introduces or carries out the multi-level marketing plans or organizations of such enterprise shall be deemed a "multi-level marketing enterprise" as referred to in the preceding paragraph.

Article 5

The term "participants" as used in this Act means persons who may earn commissions, bonuses and other economic benefits by taking part in the plans of a multi-level marketing enterprise and promoting or selling goods or services, and who may earn commissions, bonuses and other economic benefits by

introducing other persons to participate, to promote, sell goods or services or introduce more persons.

The persons who enter into contracts with multi-level marketing enterprises that after meeting specific conditions such persons may get the qualification to promote, sell goods or services, or introduce other persons to participate shall be deemed as participants from the time such contracts are entered into.

CHAPTER TWO

PROCEDURES FOR FILING REPORT BY MULTI-LEVEL MARKETING ENTERPRISES

Article 6

Prior to engaging in multi-level marketing operations, a multi-level marketing enterprise, should prepare a report containing the following items to the competent authority for its records:

1. the basic information and business places of the multi-level marketing enterprise;
2. the multi-level marketing system, and conditions of participation;
3. the content of contracts that will be signed with participants;
4. the itemized products or services, prices, and source;
5. the evidence of marketing practice in compliance with laws or regulations other than this Act, or having ex-ante approval issued by other authorities, where the compliance or the ex-ante approval is stipulated by such laws or regulations;
6. the calculation methods, criterion, and reasons, when multi-level marketing enterprises deduct the devaluation amount from the price in repurchasing the goods or services pursuant to the later sentence of Paragraph 3 of Article 21 or Article 24 of the Act;
7. such other matters as may be required by the competent authority.

When multi-level marketing enterprises fail to provide documents and materials according to the requirements of the preceding paragraph, the competent authority may order them to provide within specific deadlines such documents and materials. If multi-level marketing enterprises fail to provide within specific deadlines such documents and materials, it shall be deemed to not have filed the items at all, and the competent authority may return their report, and order them to resubmit a complete one for record.

Article 7

Except for the following situations, when there is any change in the content of submitted documents and materials, the multi-level marketing enterprise shall submit its report in advance:

1. for changes of enterprises' basic information as referred in Subparagraph 1, Paragraph 1 of preceding Article, a report is not required except for the change of enterprise's name;
2. for change of enterprise's name, it should be reported within 15 days after the change is in effect.

If multi-level marketing enterprises fail to report the change according to the preceding paragraph, when the competent authority considers it to be appropriate, it may order the enterprises to provide such amendments within specific deadlines. If multi-level marketing enterprises fail to provide such amendments within specific deadlines, it shall be deemed to not have reported the changes at all, and the competent authority may return their report, and order them to resubmit a complete one for record.

Article 8

The format and process of report referred in the preceding two Articles will be prescribed by the competent authority.

Article 9

Multi-level marketing enterprises which intend to cease their multi-level marketing operations, shall file a written report with the competent authority prior to cessation, and shall have announcement in each business place to notify participants about their rights and interests to return goods to multi-level marketing enterprises according to participation contracts.

CHAPTER THREE

THE PRACTICE OF MULTI-LEVEL MARKETING ACTIVITIES

Article 10

Before a participant takes part in the plan or organization of a multi-level marketing enterprise, the enterprise shall inform the participant of the following particulars, and shall make no concealment, false, or misleading representations:

1. paid-up capital and gross business volume of the multi-level marketing enterprise;
2. multi-level marketing system, and conditions of participation;

3. laws and regulations relevant to multi-level marketing;
4. obligations and responsibilities of a participant, and conditions of withdrawal by a participant from the organization or plan, and rights and obligations arising from the withdrawal;
5. matters relevant to the goods or services;
6. the calculation methods, criterion, and reasons, when multi-level marketing enterprises deduct the devaluation amount from the price in repurchasing the goods or services pursuant to the later sentence of Paragraph 3 of Article 21 or Article 24 of the Act;
7. such other matters as may be required by the competent authority.

When a participant introduces another person to participate in the organization or plan, such participant shall make no false or misleading representations on items listed in the preceding paragraph.

Article 11

When recruiting participants by advertising or other means, a multi-level marketing enterprise shall make it clearly known that it is engaged in multi-level marketing activities; neither may it recruit participants under the disguise of recruiting employees or on other pretense.

Article 12

When promoting or selling goods or services or recruiting participants by means of declared cases of success, a multi-level marketing enterprise or its participants shall concretely explain the time periods, benefits obtained, and course of development of such cases, and may not make false or misleading representations.

Article 13

A multi-level marketing enterprise shall enter into a participation contract in writing with that who intends to participate in the plan or organization, and the multi-level marketing enterprise shall give the participant an original participation contract. The writing referred to in the preceding paragraph may be in the form of an electronic document.

Article 14

The content of written contract in the preceding article shall include the following:

1. matters referred in Subparagraphs 2 to 7 of Paragraph 1 of Article 10;

2. breaches of contract by the participants and the measures to the breaches;
3. the rights and obligations as referred in Articles 20 to 22, or the provisions that are more beneficial for participants;
4. the method for handling a request by a participant to return goods, when the contract is terminated because of participants' violation of business rules or plans, or breaches as referred in Paragraph 1 of Article 15, or other reasons attributable to participants; and
5. the conditions for renewal of contracts and the method of handling, when the contracts stipulate specific term of participation.

Article 15

Multi-level marketing enterprises shall stipulate in contract that the following are breaches of the contract, and shall prescribe methods for handling such breaches in order to prevent such breaches:

1. promoting or selling goods or services, or recruiting participants to the multi-level marketing organization, by deceptive or misleading means;
2. raising funds from other persons in the guise of the multi-level marketing enterprise;
3. engaging in sales by means that run counter to public order or good morals;
4. affecting consumers' rights and interests by improper direct door-to-door sale;
5. engaging in sales that violate this Act, the Criminal Code or other laws or regulations governing industry and commerce.

Multi-level marketing enterprises shall enforce the handling methods referred in the preceding paragraph faithfully.

Article 16

Multi-level marketing enterprises may not recruit incapacitated persons to be participants.

A multi-level marketing enterprise recruiting a person with limited capacity to be a participant shall first obtain the written consent from the legal representative of such a person and also attach the said written consent to the contract.

The written consent referred to in the preceding paragraph may not be in the form of electronic document.

Article 17

A multi-level marketing enterprise shall prepare the balance sheet and income statement for its multi-level marketing operations in the previous accounting year before the end of May each year and keep them in its main office.

When the capital of a multi-level marketing enterprise reaches the amount specified in Paragraph 2 of Article 20 of the Company Act or the total multi-level marketing business volume in the previous accounting year exceeds the amount announced by competent authority, the multi-level marketing enterprise shall require auditing and certification by a certified public accountant for its financial statements.

Participants may request to inspect the aforesaid financial statements of the multi-level marketing enterprise to which they belong and the multi-level marketing enterprise shall not refuse such requests without justifications.

Article 18

Multi-level marketing enterprises shall have participants engaged in promoting and selling goods or services in reasonable market price as their major income, instead of earning mainly by introducing new participants.

Article 19

A multi-level marketing enterprise shall not engage in any of the following activities:

1. requiring a participant to pay any fee obviously incommensurate with the cost in the name of training, seminars, social activities, meetings, promotion or other like activities;
2. requiring a participant to pay any security deposit, breach penalty, or other fee, which is obviously unreasonable;
3. requiring a participant to purchase goods in a quantity that would obviously be impossible for an average person to sell out within a short period, unless it is agreed that the price shall be paid only after the goods are re-sold;
4. giving specific persons preferential treatment in a manner contrary to the multi-level marketing organization or plan and therefore damaging other participants' rights and interests;
5. unduly request a participant to buy or grant a participant permission in two or more multi-level marketing organizations;

6. requiring a participant to undertake obviously unfair obligations.

Participants shall not engage in the activities referred in Subparagraphs 1 through 3, 5 and 6 against the persons he or she introduce to participate.

CHAPTER FOUR RESCISSION AND TERMINATION OF CONTRACTS

Article 20

Any participant may rescind or terminate the participation contract by giving the multi-level enterprise a notice in writing within thirty days after entering into such contract.

Within a period of thirty days after rescission or termination of the contract takes effect, the multi-level marketing enterprise shall accept the application from the participant for returning of goods, collect or accept goods returned by the participant, and return to the participant all the payment for goods made upon purchase and any other fees paid to the multi-level enterprise.

In returning the payments according to the preceding paragraph, the multi-level marketing enterprise may deduct upon the time of returning of the goods the value decreased due to the damage or loss attributable to the participant, and any bonus or remuneration already paid to the participant for purchase of such goods.

If the returned goods are collected by the enterprise, the enterprise may deduct the shipping costs required for such collection.

Article 21

After the lapse of the period as referred to in the first paragraph of the preceding article, the participant at any time may still terminate the contract by writing and withdraw from the multi-level marketing plans or organizations, and request to return the goods. When six months lapse exceeds since the date that the products are deliverable, the participant may not request to return the goods.

Within thirty days from the termination of the contract taking effect, the multi-level marketing enterprise shall accept the application from the participant for returning of goods and buy back all goods possessed by the participant at ninety percent (90%) of the original purchase price.

When the multi-level marketing enterprise buy back all goods possessed by the participant in accordance with the preceding paragraph, they may deduct the

bonuses or remuneration paid to the participant for the purchase as well as the amount of the decreased value of the goods.

If the returned goods are collected by the enterprise, the enterprise may deduct the shipping costs required for such collection.

Article 22

When the participant exercises the right to rescind or terminate the contract in accordance with the two preceding Articles, the multi-level marketing enterprise shall not claim damages or levy penalties against the participant for such rescission or termination.

When the sold goods are supplied by third parties, and the participants exercise the right to rescind or terminate, the multi-level marketing enterprise shall handle the returning of goods and repurchase according to the preceding two Articles, and shall bear the costs of the damages or penalties third party suppliers charge the participants.

Article 23

Multi-level marketing enterprises and participants shall not improperly hinder a participant from returning goods according to provisions of this Act.

Multi-level marketing enterprises shall not unjustifiably withhold commissions, bonuses, or other economic benefit payable to a participant after rescission or termination of the contract.

Article 24

The regulations relevant to the goods in this Chapter, except Subparagraph 1 of Article 21, shall apply *mutatis mutandis* to services.

CHAPTER FIVE

PROCEDURE OF BUSINESS INSPECTIONS AND SANCTIONS

Article 25

A multi-level marketing enterprise shall record the organization development, sales of goods or services, payment of bonuses, and handling of goods returning within the territory of the Republic of China on a monthly basis and keep such records in its principal place of business for inspection by the competent authority.

The materials in the preceding paragraph shall be kept for five years; the same shall apply in the case of an enterprise that ceases multi-level marketing practice.

Article 26

The competent authority may at any time dispatch personnel to inspect, or order an enterprise to fill forms and provide materials about the operation and development within specific deadline in the methods and format required by competent authority, and the enterprise shall not evade, impede, or refuse.

Article 27

The competent authority may investigate and handle, upon complaints or ex officio, any violation of the provisions of the Act.

Article 28

In conducting investigations under the Act, the competent authority may proceed in accordance with the following procedures:

1. to notify the parties and any related third party to appear to make statements;
2. to notify the parties and any related third party to submit account books and records, documents, and any other necessary materials or exhibits; and
3. to dispatch personnel for any necessary on-site inspection of the office, place of business, or other locations of the parties and any related third party.

Things that may serve as evidence and are found during inspections referred above may be seized by competent authority, and the scope and duration of seizure shall be limited to an extent necessary for inspection, examination, verification or other purposes in connection with the preservation of evidence.

The person who is under investigation conducted according to Paragraph 1 may not evade, impede, or refuse without justifications.

An investigator carrying out its duties under this Act shall present the documents supporting its duties, and the person to be investigated may refuse the investigation where the investigator fails to present such documents.

CHAPTER SIX PUNISHMENT

Article 29

If any person violates the provisions of Article 18, the violator shall be punished by imprisonment for not more than seven years and at the same time may be fined not more than one hundred million New Taiwan Dollars.

Shall any representative, agent, employee or other staff of a juristic person be punished for the violation of Article 18 in conducting business, not only the violator shall be punished in accordance with the preceding paragraph, the juristic person shall also be fined as prescribed in the preceding paragraph.

Article 30

Where any other laws provide for more severe punishment than those prescribed in the preceding article, the provisions of such other laws shall apply.

Article 31

The competent authority may order the multi-level marketing enterprise violating the provisions of Article 18 to dissolve, suspense or terminate business operation not longer than six months.

Article 32

If any person violates the provisions of Paragraph 1 of Article 6, Paragraph 2 of Article 20, Paragraph 2 of Article 21, Article 22 or Article 23, the competent authority may order the violators to cease therefrom, rectify its conduct, or take necessary corrective action within the time prescribed in the order, and impose a fine of not less than 100,000 New Taiwan Dollars but not more than 5,000,000 New Taiwan Dollars, and after the lapse of such period, shall such enterprise fail to cease therefrom, rectify such conduct, or take any necessary corrective action, the competent authority may again order the violators to cease therefrom, rectify its conduct, or take necessary corrective action within the time prescribed in the order, and impose a fine of not less than 200,000 New Taiwan Dollars but not more than 10,000,000 New Taiwan Dollars each time until the violator ceases therefrom, rectifies such conduct, or takes necessary corrective action. If the situation is serious, the competent authority may order the violator to dissolve, suspense or terminate business operation not longer than six months.

The provisions of preceding paragraph shall apply to the violation of Paragraph 2 of

Article 20, of Paragraph 2 of Article 21, Article 22, or Article 23 when applied mutatis mutandis according to Article 24.

When the protection institution violates the regulations relevant to business operation methods or supervision and management prescribed in Paragraph 5 of Article 38, the competent authority may impose a sanction according to Paragraph 1 of this Article.

Article 33

If any person violates the provisions of Article 16, the competent authority may order the violators to cease therefrom, rectify its conduct, or take necessary corrective action within the time prescribed in the order, and impose a fine of not less than 100,000 New Taiwan Dollars but not more than 2,000,000 New Taiwan Dollars, and after the lapse of such period, shall such enterprise fail to cease therefrom, rectify such conduct, or take any necessary corrective action, the competent authority may again order the violators to cease therefrom, rectify its conduct, or take necessary corrective action within the time prescribed in the order, and impose a fine of not less than 200,000 New Taiwan Dollars but not more than 4,000,000 New Taiwan Dollars each time until the violator ceases therefrom, rectifies such conduct, or takes necessary corrective action.

Article 34

If any person violates Paragraph 1 of Article 7, Articles 9 to 12, Paragraph 1 of Article 13, Article 14, Article 15, Article 17, Article 19, Paragraph 1 of Article 25 or Article 26, the competent authority may order the violators to cease therefrom, rectify its conduct, or take necessary corrective action within the time prescribed in the order, and impose a fine of not less than 50,000 New Taiwan Dollars but not more than 1,000,000 New Taiwan Dollars, and after the lapse of such period, shall such enterprise fail to cease therefrom, rectify such conduct, or take any necessary corrective action, the competent authority may again order the violators to cease therefrom, rectify its conduct, or take necessary corrective action within the time prescribed in the order, and impose a fine of not less than 100,000 New Taiwan Dollars but not more than 2,000,000 New Taiwan Dollars each time until the violator ceases therefrom, rectifies such conduct, or takes necessary corrective action.

Article 35

When the competent authority conducts investigation according to Article 28, if the party under investigation violates Paragraph 3 of Article 28, the competent authority may impose a fine of not less than 50,000 New Taiwan Dollars but not more than 500,000 New Taiwan Dollars . If after notice again, the party under investigation evade, impede, or refuse without justifications, the competent authority may continue to issue notice for investigation, and impose a fine of not less than 100,000 New Taiwan Dollars but not more than 1,000,000 New Taiwan Dollars each time until the party accepts investigation, appears to respond, or renders relevant account books, documents, or exhibits.

CHAPTER SEVEN SUPPLEMENTARY PROVISIONS

Article 36

For the enterprises not meeting the definition of multi-level marketing enterprise prescribed in Article 8 of the Fair Trade Act, but actually engaged in multi-level marketing business prior to the implementation of this Act shall file report to the competent authority according to Article 6 within three months after this Act takes effect. Any enterprises that fail to apply shall be subject to punishment under Paragraph 1 of Article 6.

The multi-level marketing enterprises as referred in preceding paragraph shall enter into written contract with the participants having participated prior to the implementation of this Act according to Paragraph 1 of Article 13 within six months after this Act takes effect. Any enterprises that fail to enter into written contract shall be subject to punishment under Paragraph 1 of Article 13.

Participants participating in multi-level marketing enterprises prior to the implementation of this Act may rescind or terminate contract according to Articles 20, 22, and 24 since the day this Act takes effect through 30 days expires after the contract referred in preceding paragraph is entered. Even after such period, participants may still terminate contract according to Articles 21, 22, and 24. For the participants terminating contracts after this Act takes effect, the period prescribed in the exception clause of Paragraph 1 of Article 21 shall start from the day this Act takes effect.

Article 37

If any multi-level marketing enterprises have filed report prior to the implementation of this Act, they still shall revise the filing documents according to Paragraph 1 of Article 6, and provide competent authority within two months after this Act takes effect with supplemental amendments. If any multi-level marketing enterprises do not provide supplemental amendments, they will be deemed as in violation of Paragraph 1 of Article 7.

If any multi-level marketing enterprises have filed report prior to the implementation of this Act, they still shall revise the written contract entered into with participants, notify participants the revision content in written, and make announcements in business places. If any multi-level marketing enterprises do not notify participants the revision content in written, they will be deemed as in violation of Paragraph 1 of Article 13.

After receiving the notification referred in preceding paragraph, if participants do not object within a specific time period, it will be deemed to have accepted the revision.

Article 38

The competent authority shall designate the multi-level marketing enterprises having filed report to donate certain property in order to establish a protection institution in charge of protecting the rights and interests of multi-level marketing enterprises having filed report, and participants, and dispute resolution. The donation amount may be deducted from the protection fund and annual fee as prescribed in Paragraph 2.

The protection institution may collect protection fund and annual fee from the multi-level marketing enterprises having filed report and participants. The collection methods and specific amount shall be determined by the competent authority.

If the multi-level marketing enterprises having filed report fail to pay according the preceding two paragraphs, it will be deemed as in violation of Paragraph 1 of Article 32, and sanctioned accordingly.

The enterprises and participants may request the protection offered by the protection institution only after paying fund and annual fee according to the rules

issued by the competent authority.

The organizations, duties, fee appropriation, operation procedures, and its supervision and management of the protection institution shall be determined by the competent authority.

Article 39

After this Act takes effect, the provisions relevant to multi-level marketing in the Fair Trade Act shall not apply.

Article 40

The enforcement rules of this Act shall be prescribed and promulgated by the competent authority.

Article 41

This Act shall take effect upon promulgation.

事業提供贈品贈獎額度辦法

中華民國104年3月19日公法字第 10415602341號令訂定發布全文9條

第一條 本辦法依公平交易法（以下簡稱本法）第二十三條第二項規定訂定之。

第二條 本辦法所稱提供贈品、贈獎，定義如下：

- 一、贈品：指事業為爭取交易之機會，以附隨、無償之方式，所提供具市場價值之商品或服務。
- 二、贈獎：指事業為爭取交易之機會，於商品或服務之外，依抽籤或其他射倖之方式，所無償提供獎金或具市場價值之商品或服務。

第三條 下列各款情形不列入前條贈品、贈獎之適用範圍：

- 一、免費試吃、試用，及其他不以交易為要件之促銷行為。
- 二、同類商品或服務本身之價格折扣促銷行為。
- 三、同類商品或服務之數量折扣行為。
- 四、不同商品或服務組合銷售之套餐優惠促銷行為。

第四條 事業銷售商品或服務附送贈品，其贈品價值上限如下：

- 一、商品或服務價值在新臺幣一百元以上者，為商品或服務價值之二分之一。
- 二、商品或服務價值在新臺幣一百元以下者，為新臺幣五十元。

第五條 事業辦理贈獎，其全年贈獎總額之上限如下：

- 一、上一會計年度之銷售金額在新臺幣三十億元以上者，為新臺幣六億元。
- 二、上一會計年度之銷售金額超過新臺幣七億五千萬元，未滿新臺幣三十億元者，為銷售金額的五分之一。
- 三、上一會計年度之銷售金額在新臺幣七億五千萬元以下者，為新臺幣一億五千萬元。

第六條 事業辦理贈獎，其最大獎項之金額，不得超過新臺幣五百萬元。

第七條 本辦法之商品或服務價值、贈品價值及贈獎總額認定標準如下：

- 一、商品或服務價值：事業辦理贈品促銷行為時，交易相對人面臨之合理市價。
- 二、贈品價值，得依下列標準依序認定之：
 - （一）依辦理贈品促銷行為之事業所宣稱之贈品價值逕行認定。
 - （二）事業自製或以市場合理價格取得贈品者，該贈品價值以事業自製或取得該贈品之成本計算。
 - （三）事業以其他非價格交易條件取得贈品或無前目所述贈品取得成本者，其贈品價值以該項贈品之零售價格認定。
 - （四）其他合理認定標準。
- 三、贈獎總額，得依下列標準依序認定：
 - （一）依辦理贈獎促銷行為之事業所宣稱之贈獎總額逕行認定。
 - （二）事業自製或以市場合理價格取得贈獎（商品或服務）者，該贈獎總額以事業自製或取得該贈獎（商品或服務）之成本計算。
 - （三）事業以其他非價格交易條件取得贈獎（商品或服務）或無前目所述贈獎（商品或服務）取得

成本者，其贈獎總額以該項贈獎（商品或服務）之零售價格認定。

（四）其他合理認定標準。

第八條 本辦法所定贈品贈獎額度，得依經濟、社會之情況調整之。

第九條 本辦法自發布日施行

Article Content

Title : Regulations Governing the Amount of Gifts and Prizes Offered by Businesses

Announced 2015-03-19

Date :

Category : Fair Trade Commission (公平交易委員會)

Article 1

The Regulations are enacted pursuant to the provisions of Article 23 Paragraph 2 of the Fair Trade Act (hereinafter referred to as "the Act").

Article 2

The terms "gifts" and "prizes" as used in these Regulations are defined as follows :

1. Gifts: Any market-value good or service offered as an accompaniment and free-of-charge by businesses for gaining trading opportunities.
2. Prizes: Money, any market-value good, or service offered free-of-charge by businesses by means of lottery-drawing or other aleatory methods for gaining trading opportunities.

Article 3

The scope of gifts or prizes as mentioned in the previous article shall not apply to any of the following circumstances :

1. Free tasting, trial, or any other promotional act that does not require trade as part of the conditions.
2. Promotional acts of price discount on similar goods or services.
3. Promotional acts of volume discount on similar goods or services.
4. Promotional acts that package various goods or services to be sold as a bundle.

Article 4

The value of gifts given away by businesses promoting the sale of a product or service is limited as follows:

1. For products or services priced over NT \$ 100, the maximum value of the gift shall be 1/2 of the selling price of the product.
2. For products or services priced less than NT \$ 100, the maximum value of the gift shall be NT \$ 50.

Article 5

The total annual amount of prizes given at prize-giving activities conducted by a business is limited as follows:

1. For a business whose annual sales for the previous fiscal year exceeded NT\$3 billion, the maximum shall be NT\$600 million.
2. For a business whose annual sales for the previous fiscal year exceeded NT\$750 million but was less than NT\$3 billion, the maximum shall be 1/5 of such sales amount.
3. For a business whose annual sales for the previous fiscal year was less than NT\$750 million, the maximum shall be NT\$150 million.

Article 6

When a business conducts a prize-giving activity, the value of the highest prize shall not exceed NT\$ 5 million.

Article 7

The prices of products or services, value of gifts and total amount of prizes in these Regulations are determined according to the following standards:

1. Prices of products or services: The reasonable market prices that are given to trading counterparts at the time a business promotes sales with a gift-giving activity.
2. Value of gifts: The value may be determined in order according to the following standards:

(1)Directly from the business that promotes sales with a gift-giving activity.

(2)In the case where the gifts are produced by the business itself or acquired by the business from the market at a reasonable price, the value of the said gifts is determined by the business's costs of production or acquisition.

(3)In the case where the business has acquired the gifts based on trading terms other than price, or the aforementioned cost of acquisition is not available, then the value of the gifts is determined by their retail price.

(4)Other reasonable and approved standards.

- 3.Total amount of prizes: The value shall be determined in order according to the following standards:

(1)Directly from the business that promotes sales with a prize-giving activity.

(2)In the case where the prizes (either product or service) are produced by the business itself or acquired by the business from the market at a reasonable price, the total amount for the said prize (either product or service) is determined by the costs of production or acquisition.

(3)In the case where the business has acquired the prizes (either product or service) based on the trading terms other than price, or the aforementioned cost of acquisition for the

prizes (either product or service) is not available, then the value of prizes is determined by the retail price of the said prizes (either product or service).

(4) Other reasonable and approved standards.

Article 8

The amount of gifts and prizes governed by these Regulations may be amended in accordance with economic and social conditions.

Article 9

These Regulations take effect on the date of promulgation.