

Measures on the Administration of Direct Selling of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Conditions for Direct Selling Enterprises	2
Chapter III — Direct Sellers	2
Chapter IV — Direct Selling Activities	3
Chapter V — Legal Liability	3
Chapter VI — Supplementary Provisions	3

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Conditions for Direct Selling Enterprises
- Chapter III — Direct Sellers
- Chapter IV — Direct Selling Activities
- Chapter V — Legal Liability
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Measures are formulated for the purposes of regulating direct selling activities, strengthening supervision and administration, preventing fraud, protecting the lawful rights and interests of consumers and the public, and promoting the sound development of the direct selling industry.

Article 2 — All entities and individuals engaged in direct selling activities within the territory of the People's Republic of China shall abide by these Measures.

For the purposes of these Measures, “direct selling” means the distribution method whereby a direct selling enterprise recruits direct sellers, who, outside a fixed business location, directly market products to final consumers (hereinafter referred to as “consumers”).

Article 3 — The State Council shall implement a licensing system for the direct selling industry. No entity or individual may engage in direct selling activities without approval.

Article 4 — The commerce authority under the State Council shall be responsible for the supervision and administration of direct selling activities throughout the country. The administrative department for industry and commerce under the State Council shall be responsible for the supervision and investigation of direct selling activities throughout the country.

Chapter II — Conditions for Direct Selling Enterprises

Article 5 — An applicant for engaging in direct selling shall meet the following conditions:

- (1) The investor shall have a good business reputation and have not committed any material illegal act in the preceding five years. Where the investor is a foreign investor, the investor shall have at least three years of experience in direct selling activities outside China;
- (2) The paid-in registered capital shall not be less than RMB 80 million;
- (3) A deposit in the amount not less than the prescribed amount shall be paid into a designated bank account;
- (4) An information reporting and disclosure system has been established in accordance with the relevant provisions; and
- (5) Other conditions as prescribed by the state.

Article 6 — An applicant for engaging in direct selling shall submit the following application documents and materials:

- (1) An application for engaging in direct selling;
- (2) The relevant certification documents of the investor;
- (3) The articles of association of the enterprise;
- (4) Specimen of the direct selling contract to be entered into with the direct sellers;
- (5) Specimen of the product sales contract;
- (6) The product catalogue to be marketed;
- (7) The proposed plan for the direct selling remuneration system; and
- (8) Other documents required by the approval authority.

Article 7 — The commerce authority under the State Council shall, within 90 days from the date of receipt of the complete application documents, make a decision on approval or disapproval. Where the application is approved, a direct selling business license shall be issued.

Chapter III — Direct Sellers

Article 8 — A direct seller shall be a natural person who meets the following conditions:

- (1) Having full civil capacity;
- (2) Having no record of any criminal penalty or material administrative penalty; and
- (3) Not being a person who is prohibited from engaging in direct selling activities under laws and administrative regulations.

Article 9 — A direct selling enterprise shall enter into a direct selling contract with the direct seller. The contract shall specify the rights and obligations of both parties, the method of calculating remuneration, the product return mechanism, and the procedures for terminating the contract.

Article 10 — A direct selling enterprise may not recruit the following persons as direct sellers:

- (1) Persons under the age of 18;
- (2) Full-time students;
- (3) Teachers, medical personnel, civil servants, and active-duty military personnel;
- (4) Foreigners who are not legally employed within China; or
- (5) Other persons restricted by laws and administrative regulations.

Chapter IV — Direct Selling Activities

Article 11 — A direct selling enterprise shall ensure that the products it markets are within the approved scope and shall not market products beyond the scope without authorization.

Article 12 — A direct seller shall present the direct seller identification card and shall not force or induce consumers to purchase products through fraud, misrepresentation, or other improper means.

Article 13 — A direct selling enterprise shall establish and implement a return and refund system. Consumers shall have the right to return products and receive a full refund within 30 days from the date of purchase. Direct sellers shall have the right to return unsold products and receive a refund within 60 days from the date of purchase.

Article 14 — The total amount of remuneration paid by a direct selling enterprise to a direct seller shall not exceed 30% of the direct seller's sales revenue.

Article 15 — A direct selling enterprise shall establish an information disclosure system, publish relevant information to the public at least once a year, and accept supervision by the commerce authority and the administrative department for industry and commerce.

Chapter V — Legal Liability

Article 16 — Where an entity or individual engages in direct selling activities without authorization, the administrative department for industry and commerce shall order it to cease the illegal activities, confiscate the illegal income, and impose a fine. Where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 17 — Where a direct selling enterprise commits any act in violation of these Measures, the commerce authority and the administrative department for industry and commerce may impose penalties such as ordering corrections, fines, and revocation of the direct selling business license in accordance with the law, depending on the seriousness of the circumstances.

Chapter VI — Supplementary Provisions

Article 18 — The commerce authority under the State Council and the administrative department for industry and commerce under the State Council shall be responsible for the interpretation of these Measures.

Article 19 — These Measures shall enter into force on December 1, 2005.

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