Provisions of the State Council on Prohibiting Regional Blockade in Market Economic Activities

Dan Young Business Consultancy — www.danyoungcpa.com

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

Promulgated by Decree No. 303 of the State Council of the People's Republic of China on April 21, 2001; amended in accordance with the Decision of the State Council on Repealing and Amending Certain Administrative Regulations on January 8, 2011.

Article 1 — These Provisions are formulated for the purpose of establishing and improving a nationwide, unified, fairly competitive, standardized and orderly market system, prohibiting acts of regional blockade in market economic activities, breaking down local protectionism, and maintaining the order of the socialist market economy.

Article 2 — People's governments at all levels and their subordinate departments bear the responsibility of eliminating regional blockade and protecting fair competition, and shall create a favorable environment and conditions for establishing and improving a nationwide, unified, fairly competitive, standardized and orderly market system.

Article 3 — All forms of regional blockade are prohibited.

No unit or individual may, in violation of laws, administrative regulations or the provisions of the State Council, obstruct or interfere in any manner with the entry of products produced elsewhere or of engineering-construction-related services (hereinafter referred to as "services") into the local market, or condone or shield acts of obstructing or interfering with the entry of products or services from elsewhere into the local market, thereby restricting fair competition.

Article 4 — Local people's governments at all levels and their subordinate departments (including organizations authorized or entrusted to exercise administrative power; the same below) shall not, in violation of laws, administrative regulations or the provisions of the State Council, commit any of the following acts of regional blockade:

(1) restricting or disguising the restriction, in any manner, of units or individuals to dealing in, purchasing or using only locally produced products, or to accepting only services provided by local enterprises, designated enterprises, other economic organizations or individuals;

(2) setting up checkpoints on roads, at stations, ports or airports, or at the boundaries of their respective administrative regions, so as to obstruct the entry of products from elsewhere or the transport out of locally produced products;

(3) setting discriminatory fee-collection items, prescribing discriminatory prices, or applying discriminatory fee-collection standards to products or services from elsewhere;

(4) applying technical requirements or inspection standards to products or services from elsewhere that differ from those applied to similar local products or services, or adopting discriminatory technical measures such as repeated inspection or repeated certification with respect to products or services from elsewhere, so as to restrict their entry into the local market;

(5) adopting means such as exclusive dealing, exclusive sales, examination and approval or licensing specifically targeted at products or services from elsewhere, thereby applying discriminatory treatment and restricting their entry into the local market;

Source: https://www.danyoungcpa.com/provisions-prohibiting-regional-blockade-market-economic-activities-china/

(6) restricting or excluding enterprises, other economic organizations or individuals from elsewhere from participating in local bidding activities by setting discriminatory qualification requirements or evaluation standards, or by failing to publish information in accordance with law;

(7) restricting or excluding enterprises, other economic organizations or individuals from elsewhere from investing or establishing branches in the locality by means such as applying treatment unequal to that applied to local enterprises, other economic organizations or individuals, or applying discriminatory treatment to their investments or established branches in the locality, thereby infringing upon their lawful rights and interests;

(8) committing other acts of regional blockade.

Article 5 — No locality may formulate provisions that implement regional blockade or contain regional-blockade contents, thereby hindering the establishment and improvement of a nationwide, unified, fairly competitive, standardized and orderly market system and damaging the environment of fair competition.

Article 6 — Where the provisions of a subordinate department of a local people's government at any level implement regional blockade or contain regional-blockade contents, they shall be altered or revoked by the people's government at the same level; where the people's government at the same level refuses to alter or revoke them, they shall be altered or revoked by the people's government at the next higher level.

Article 7 — Where the provisions of a local people's government below the level of province, autonomous region or municipality directly under the Central Government implement regional blockade or contain regional-blockade contents, they shall be altered or revoked by the people's government at the next higher level; where the people's government at the next higher level refuses to alter or revoke them, they shall be altered or revoked by the people's government of the province, autonomous region or municipality directly under the Central Government.

Article 8 — Where the provisions of the people's government of a province, autonomous region or municipality directly under the Central Government implement regional blockade or contain regional-blockade contents, they shall be altered or revoked by the State Council.

Article 9 — Where provisions of a local people's government or its subordinate departments that implement regional blockade or contain regional-blockade contents are based on improper provisions of a department under the State Council, the State Council shall alter or revoke the improper provisions of that department.

Article 10 — Where units or individuals are restricted or disguisingly restricted, in any manner, to dealing in, purchasing or using only locally produced products, or to accepting only services provided by local enterprises, designated enterprises, other economic organizations or individuals, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the economic and trade administration department and the industrial and commercial administration department to investigate and handle the matter and revoke the restrictive measures.

Article 11 — Where checkpoints are set up on roads, at stations, ports or airports, or at the boundaries of an administrative region, obstructing the entry of products from elsewhere or the transport out of local products, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the economic and trade administration department, the public security department and the transport department to investigate and handle the matter and remove the checkpoints.

Article 12 — Where discriminatory fee-collection items are set, discriminatory prices are prescribed, or discriminatory fee-collection standards are applied to products or services from elsewhere, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the finance department and the pricing department to investigate and handle the matter and revoke the discriminatory fee-collection items, prices or fee-collection standards.

Source: https://www.danyoungcpa.com/provisions-prohibiting-regional-blockade-market-economic-activities-china/

Article 13 — Where technical requirements or inspection standards differing from those applied to similar local products or services are applied to products or services from elsewhere, or discriminatory technical measures such as repeated inspection or repeated certification are adopted with respect to products or services from elsewhere, so as to restrict their entry into the local market, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the quality and technical supervision department to investigate and handle the matter and revoke the discriminatory technical measures.

Article 14 — Where means such as exclusive dealing, exclusive sales, examination and approval or licensing specifically targeted at products or services from elsewhere are adopted, thereby applying discriminatory treatment and restricting their entry into the local market, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the economic and trade administration department, the industrial and commercial administration department, the quality and technical supervision department and other relevant competent departments to investigate and handle the matter and revoke the discriminatory treatment.

Article 15 — Where enterprises, other economic organizations or individuals from elsewhere are restricted or excluded from participating in local bidding activities by setting discriminatory qualification requirements or evaluation standards, or by failing to publish information in accordance with law, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the relevant competent departments to investigate and handle the matter and eliminate the obstacles.

Article 16 — Where enterprises, other economic organizations or individuals from elsewhere are restricted or excluded from investing or establishing branches in the locality by means such as applying treatment unequal to that applied to local enterprises, other economic organizations or individuals, or where discriminatory treatment is applied to their investments or established branches in the locality, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the economic and trade administration department and the industrial and commercial administration department to investigate and handle the matter and eliminate the obstacles.

Article 17 — Where regional-blockade acts other than those listed in items (1) through (7) of Article 4 of these Provisions are committed, the people's government of the province, autonomous region or municipality directly under the Central Government shall organize the economic and trade administration department, the industrial and commercial administration department, the quality and technical supervision department and other relevant competent departments to investigate and handle the matter and eliminate the regional blockade.

Article 18 — The people's government of a province, autonomous region or municipality directly under the Central Government shall, in accordance with Articles 10 through 17 of these Provisions, organize its subordinate relevant departments to investigate and handle regional-blockade acts, and the handling decision shall be made by the people's government of the province, autonomous region or municipality directly under the Central Government; where necessary, the economic and trade administration department of the State Council, the industrial and commercial administration department of the State Council, the quality supervision, inspection and quarantine department of the State Council, or other relevant departments of the State Council may investigate and handle regional-blockade acts involving the people's government of a province, autonomous region or municipality directly under the Central Government.

Local people's governments at all levels and their subordinate departments shall not obstruct or interfere, under any name or in any manner, with the investigation and handling of regional-blockade acts in accordance with these Provisions.

Article 19 — Where a regional-blockade act is committed pursuant to provisions of a local people's government or its subordinate departments, in addition to investigating, handling and eliminating the regional

Source: https://www.danyoungcpa.com/provisions-prohibiting-regional-blockade-market-economic-activities-china/

blockade in accordance with Articles 10 through 17 of these Provisions, the relevant provisions shall be altered or revoked in accordance with Articles 6 through 9 of these Provisions.

Article 20 — Any unit or individual has the right to resist regional-blockade acts and to report them to the relevant people's government of a province, autonomous region or municipality directly under the Central Government or its economic and trade administration department, industrial and commercial administration department, quality and technical supervision department or other relevant departments, up to the economic and trade administration department of the State Council, the industrial and commercial administration department of the State Council, the quality supervision, inspection and quarantine department of the State Council or other relevant departments of the State Council.

After receiving a report, the relevant people's government of a province, autonomous region or municipality directly under the Central Government or its economic and trade administration department, industrial and commercial administration department, quality and technical supervision department or other relevant departments shall, within 5 working days from the date of receiving the report, have the people's government of the province, autonomous region or municipality directly under the Central Government instruct the relevant local people's government to complete the investigation and handling within 30 working days, or have the people's government of the province, autonomous region or municipality directly under the Central Government directly complete the investigation and handling within 30 working days in accordance with these Provisions; under special circumstances, the time for investigation and handling may be appropriately extended, but the extension shall not exceed 30 working days.

After receiving a report, the economic and trade administration department of the State Council, the industrial and commercial administration department of the State Council, the quality supervision, inspection and quarantine department of the State Council or other relevant departments of the State Council shall, within 5 working days, transfer the report materials to the relevant people's government of the province, autonomous region or municipality directly under the Central Government.

The government or department receiving a report shall keep the reporter confidential. Units and individuals that render meritorious service in reporting shall be rewarded.

Article 21 — Where a local people's government or its subordinate departments violate these Provisions by committing regional blockade, by condoning or shielding regional blockade, or by obstructing or interfering with the investigation and handling of regional blockade, the people's government of the province, autonomous region or municipality directly under the Central Government shall issue a public reprimand; where the people's government of a province, autonomous region or municipality directly under the Central Government violates these Provisions by committing regional blockade, by condoning or shielding regional blockade, or by obstructing or interfering with the investigation and handling of regional blockade, the State Council shall issue a public reprimand. The leading personnel bearing direct responsibility and other directly responsible persons shall, in accordance with statutory procedures and according to the seriousness of the circumstances, be given the administrative sanction of demotion or removal from office; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 22 — Where a local people's government or its subordinate departments violate these Provisions by formulating provisions that implement regional blockade or contain regional-blockade contents, in addition to altering or revoking the relevant provisions in accordance with Articles 6 through 9 of these Provisions, the principal person in charge of the local people's government or its subordinate departments and the person in charge who signed the provisions shall, in accordance with statutory procedures and according to the seriousness of the circumstances, be given the administrative sanction of demotion or removal from office.

Article 23 — Where a government or relevant department that has received a report of a regional-blockade act fails to conduct an investigation and handle the matter within the prescribed time limit, or discloses the circumstances of the reporter, the leading personnel bearing direct responsibility and other directly

Source: https://www.danyoungcpa.com/provisions-prohibiting-regional-blockade-market-economic-activities-china/

responsible persons shall, in accordance with statutory procedures and according to the seriousness of the circumstances, be given the administrative sanction of demotion, removal from office, or up to dismissal from public employment.

Article 24 — Where, by means of violence or threats, a person corners the market or forces transactions, thereby obstructing the entry of products or services from elsewhere into the local market, and the act constitutes a violation of public security administration, the public security organ shall impose punishment in accordance with the provisions of the Law of the People's Republic of China on Penalties for Public Security Administration; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Where a business unit commits the act in the preceding paragraph, the industrial and commercial administration department shall additionally impose punishment on the business unit in accordance with law, up to ordering it to suspend production or business, sealing it up and revoking its business license.

Article 25 — Fees and other improper income collected by a local people's government or its subordinate departments through abuse of administrative power in committing regional blockade shall be returned to the relevant enterprises, other economic organizations or individuals; where return is impossible, they shall be collected and turned over by the finance department of the people's government at the next higher level.

Article 26 — Where staff members of a local people's government or its subordinate departments retaliate against or frame units or individuals that have reported regional-blockade acts, they shall, in accordance with statutory procedures and according to the seriousness of the circumstances, be given the administrative sanction of demotion, removal from office, or up to dismissal from public employment; where the act constitutes a crime, criminal liability shall be pursued in accordance with law.

Article 27 — The supervisory authorities shall, in accordance with the provisions of the Administrative Supervision Law, exercise supervision over regional-blockade acts of administrative organs and their staff members.

Article 28 — These Provisions shall enter into force as of the date of promulgation.

From the date these Provisions enter into force, where provisions of local people's governments at all levels and their subordinate departments conflict in whole or in part with these Provisions, the conflicting parts or the whole shall automatically become invalid.

In accordance with the provisions of the Constitution and relevant laws that local regulations shall not conflict with the Constitution, laws and administrative regulations, from the date these Provisions enter into force, where local regulations conflict with these Provisions, these Provisions shall be implemented.

Disclaimer: This document is an unofficial English translation of the original Chinese instrument, provided for reference purposes only. While every effort has been made to ensure accuracy, the Chinese-language version is the sole authoritative text. This translation does not constitute legal advice, and no liability is accepted for any reliance placed upon it. For matters with legal implications, please consult the official Chinese source and seek qualified professional advice.

Source: https://www.danyoungcpa.com/provisions-prohibiting-regional-blockade-market-economic-activities-china/