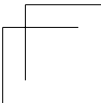
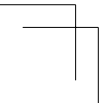
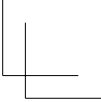
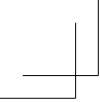


消費者法規翻譯叢書之二十

# 外國消費者保護法

(第二十輯)

行政院消費者保護處 編印  
中華民國102年10月



## 序言

美國總統甘乃迪於1962年揭示消費者享有一講求安全、知道真相、選擇及表達意見四大權利；1963年國際消費者組織聯盟（IOCU）再加入基本需求、請求賠償、消費教育及健康環境四大權利，宣示消費者應享有八大權利，並負五大義務—認知、行動、關懷、環保、團結義務；聯合國繼於1985年通過「保護消費者指導方針」。從以上之宣示，消費者保護事務已成為世界各國政府的共通關注之議題。

我國為更有效保護消費者權益，並順應世界潮流，於歷經個別立法保護時期及消費者保護方案時期後，終於民國(下同)83年1月11日經總統公布施行消費者保護法，使我國正式進入消費者保護法時期，為我國消費者保護法制展開新紀元，嗣後並於92年、94年修訂部分條文。

值此保障消費者之思想已蔚為世界潮流之際，為健全並周延我國有關消費者保護法制及充實消費者保護之新知，原行政院消費者保護委員會於84年起，即著手編印外國消費者保護法規選輯，自84年6月出版外國消費者保護法第1輯，而行政院消保處自101年1月1日改制後，仍承繼原行政院消費者保護委員會編印出版之初衷，賡續編印出版，截至101年止，共計出版19輯。選輯內容，則包括派員出國考察或開會時所蒐集，及經由國外政府機關、國際組織網站下載之消費者保護相關法規，並將之譯介，彙編成書，以供作該會及各界瞭解各國消費者保護相關法規及比較研究之參考。

本書為本處譯介外國消費者保護法第20輯，內容包括歐盟電子商務指令(DIRECTIVE 2011/83/EU)、韓國2007年電子商務消費者保護法暨其2008年施行細則及韓國2007年訪問買賣等法暨其2008年施行細則，本書採用中文翻譯及英文左右對照方式印刷，俾供讀者閱讀之便利。

本選輯中譯文部分，係由資策會科技法律研究所許法律研究員慧瑩負責翻譯；謹此敘明，並表謝忱。

行政院消費者保護處 謹識

中華民國102年10月

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## 歐盟2011/83/EU指令 2011年10月25日

針對消費者之權利，本指令修正93/13/EEC以及1999/44/EC指令，並廢除85/577/EEC以及97/7/EC指令。

歐盟依據歐盟條約第114條，

歐盟理事會的建議，  
歐盟經濟與社會委員會之意見，

區域委員會的意見，  
依據通常的立法程序

鑑於：

- (1) 1985年12月20日的有關於理事會保護消費者與營業場所協商之契約指令（85/577/EEC）和1997年5月20日歐洲議會和歐盟理事會對遠距契約所涉及之消費者契約的保護指令（97/7/EC）。

**DIRECTIVE 2011/83/EU  
OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL  
of 25 October 2011**

on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council

and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council  
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

**Whereas:**

(1) Council Directive 85/577/EEC of 20 December 1985 to protect the

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1 OJ C 317, 23.12.2009, p. 54.

2 OJ C 200, 25.8.2009, p. 76.

3 Position of the European Parliament of 23 June 2011 (not yet published in the Official Journal) and decision of the Council of 10 October 2011.

- (2) 這些指令根據經驗，以簡化和更新的適用規則進行審查，消除矛盾和減少不必要的差距。這次檢討將以本指令取代前述兩個指令。因此，本指令就遠距以及營業場所外契約，設立共同的標準規則方面，移出前述指令中最低一致要件，但仍允許會員國在特定部分採取或維持其法規範要求。
  
- (3) 根據歐盟運作條約 (Treaty on the Functioning of the European Union, TFEU) 第114條的規定，TFEU第169條第1項以及第169條第2項 (a) 點之條約內容有助於採取高標準的措施以保護消費者權益。
  
- (4) 依TFEU第26條第2項之規定，內部市場包括區域沒有邊界地自由流動和自由建立的商品和服務。為了促進消費者取得一個真正的內部市場權利，平衡高級別的消費者保護和企業的競爭力，同時確保遵守輔助性原則，消費者的遠距及營業場所外契約，在某些方面的調和是必要的。
  
- (5) 遠距銷售應該是內部市場的主要成果之一，但其跨境的潛力尚未被充分利用。相較於過去幾年顯著增長的國內遠距銷售，跨境遠距銷售的成長受到相當之限制。這種差異在

consumer in respect of contracts negotiated away from business premises<sup>1</sup> and Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts<sup>2</sup> lay down a number of contractual rights for consumers.

- (2) Those Directives have been reviewed in the light of experience with a view to simplifying and updating the applicable rules, removing inconsistencies and closing unwanted gaps in the rules. That review has shown that it is appropriate to replace those two Directives by a single Directive. This Directive should therefore lay down standard rules for the common aspects of distance and off-premises contracts, moving away from the minimum harmonisation approach in the former Directives whilst allowing Member States to maintain or adopt national rules in relation to certain aspects.
- (3) Article 169(1) and point (a) of Article 169(2) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through the measures adopted pursuant to Article 114 thereof.
- (4) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services and freedom of establishment are ensured. The harmonisation of certain aspects of consumer distance and off-premises contracts is necessary for the promotion of a real consumer internal market striking the right balance between a high level of consumer protection and the competitiveness of enterprises, while ensuring respect for the principle of subsidiarity.
- (5) The cross-border potential of distance selling, which should be

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1 OJ L 372, 31.12.1985, p. 31.

2 OJ L 144, 4.6.1997, p. 19.

網路銷售特別明顯。不談營業場所(直銷)，跨境潛在銷售契約受制於多項因素，包括各會員國在產業上不同的消費者保護法規。而相較於過去幾年國內直銷之成長，尤其在服務業，消費者透過網路為跨境訂購之情況並無顯著成長。由於許多會員國商業機會增加，小型與中小企業(包括個別經營者)或直銷代理公司更傾向在其他會員國尋求商機。因此，一致化消費者資訊與遠距和營業場所外契約解除權之規定，將更有助於高層次的消費者保護，同時促進企業對消費者內部市場之運作。

- (6) 各會員國不同的規範造成顯著的內部市場障礙，因而影響經營者與消費者。這些差異增加了經營者希望從事跨境商品買賣或服務提供的成本，不相稱的異化同時也影響消費者對於內部市場的信心。
- (7) 重要規範面之統一調和可增加消費者與經營者間之法律確定性。消費者和經營者都應能夠遵循一歐盟境內皆可適用而明確定義企業與消費者契約中特定法律概念之單一規範架構。統一調和可減少各會員國間法規不同所形成的障

one of the main tangible results of the internal market, is not fully exploited. Compared with the significant growth of domestic distance sales over the last few years, the growth in cross-border distance sales has been limited. This discrepancy is particularly significant for Internet sales for which the potential for further growth is high. The cross-border potential of contracts negotiated away from business premises (direct selling) is constrained by a number of factors including the different national consumer protection rules imposed upon the industry. Compared with the growth of domestic direct selling over the last few years, in particular in the services sector, for instance utilities, the number of consumers using this channel for cross-border purchases has remained flat. Responding to increased business opportunities in many Member States, small and medium-sized enterprises (including individual traders) or agents of direct selling companies should be more inclined to seek business opportunities in other Member States, in particular in border regions. Therefore the full harmonisation of consumer information and the right of withdrawal in distance and off-premises contracts will contribute to a high level of consumer protection and a better functioning of the business-to-consumer internal market.

- (6) Certain disparities create significant internal market barriers affecting traders and consumers. Those disparities increase compliance costs to traders wishing to engage in the cross-border sale of goods or provision of services. Disproportionate fragmentation also undermines consumer confidence in the internal market.
- (7) Full harmonisation of some key regulatory aspects should considerably increase legal certainty for both consumers and traders. Both consumers and traders should be able to rely on a single regulatory framework based on clearly defined legal

礙，並使得歐盟內部市場更為完善，這些障礙只能透過制訂歐盟層級的規範來消弭。此外消費者在歐盟境內應享有一般高層次的保護。

- (8) 由歐盟統一規範之部分應僅限於經營者與消費者所簽訂之契約，因此，本指令不應影響會員國對於僱傭、繼承權、家事法相關契約，以及公司或合夥相關契約之國內法規範。
- (9) 本指令規定遠距契約、營業場所外契約及遠距及營業場所外契約以外之契約所應提供之資訊。本指令亦規定遠距和營業場所外契約之解除權，並一致化經營者與消費者間契約履行之特定規範。
- (10) 本指令不影響2008年6月17日歐洲議會和歐盟理事會(EC) 593/2008關於契約義務之規範。
- (11) 有關人類用醫藥品、醫療器材、隱私及電子通訊設備、跨境醫療之病患隱私權、食品標籤，與電力及天然氣歐盟境內市場等特定項目之歐盟法規，應不受本指令影響。
- (12) 本指令所規定之資訊要求，應符合2006年12月12日歐洲議會與歐盟理事會2006/123/EC服務業境內市場指令與2000

concepts regulating certain aspects of business-to-consumer contracts across the Union. The effect of such harmonisation should be to eliminate the barriers stemming from the fragmentation of the rules and to complete the internal market in this area. Those barriers can only be eliminated by establishing uniform rules at Union level. Furthermore consumers should enjoy a high common level of protection across the Union.

- (8) The regulatory aspects to be harmonised should only concern contracts concluded between traders and consumers. Therefore, this Directive should not affect national law in the area of contracts relating to employment, contracts relating to succession rights, contracts relating to family law and contracts relating to the incorporation and organisation of companies or partnership agreements.
- (9) This Directive establishes rules on information to be provided for distance contracts, off-premises contracts and contracts other than distance and off-premises contracts. This Directive also regulates the right of withdrawal for distance and off-premises contracts and harmonises certain provisions dealing with the performance and some other aspects of business-to-consumer contracts.
- (10) This Directive should be without prejudice to Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)<sup>1</sup>.
- (11) This Directive should be without prejudice to Union provisions relating to specific sectors, such as medicinal products for human use, medical devices, privacy and electronic communications, patients' rights in cross-border healthcare, food labelling and the internal market for electricity and natural gas.
- (12) The information requirements provided for in this Directive

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<sup>1</sup> OJ L 177, 4.7.2008, p. 6.

年6月8日歐洲議會與歐盟理事會2000/31/EC電子商務指令之資訊要求。會員國應保留加諸適用於其國內服務提供者額外資訊要求之可能性。

- (13) 在本指令不適用之範圍內，會員國應依據歐盟法規訂立國內規範，因此，會員國得維持或採取本指令之規定或部分規定，將不屬於本指令範圍規範之契約納入其國內法規範圍。例如，會員國得決定將本指令規定之適用範圍擴大到非本指令所定義之消費者之法人或自然人，如非政府組織、小型和中小企業。會員國亦得將非屬本指令定義之遠距契約納入規範，例如在契約非以有系統的遠距買賣或服務提供方案之方式締結的情況。此外，針對本指令未具體規定之議題，會員國亦得維持或制定國內規範，例如對於買賣契約之額外規定，包括契約中運送商品或資訊提供等規定。

should complete the information requirements of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>1</sup> and Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')<sup>2</sup>. Member States should retain the possibility to impose additional information requirements applicable to service providers established in their territory.

- (13) Member States should remain competent, in accordance with Union law, to apply the provisions of this Directive to areas not falling within its scope. Member States may therefore maintain or introduce national legislation corresponding to the provisions of this Directive, or certain of its provisions, in relation to contracts that fall outside the scope of this Directive. For instance, Member States may decide to extend the application of the rules of this Directive to legal persons or to natural persons who are not consumers within the meaning of this Directive, such as non-governmental organisations, start-ups or small and medium-sized enterprises. Similarly, Member States may apply the provisions of this Directive to contracts that are not distance contracts within the meaning of this Directive, for example because they are not concluded under an organised distance sales or service-provision scheme. Moreover, Member States may also maintain or introduce national provisions on issues not specifically addressed in this Directive, such as additional rules concerning sales contracts, including in relation to the delivery of goods, or requirements for the provision of information during the existence of a contract.

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1 OJ L 376, 27.12.2006, p. 36.

2 OJ L 178, 17.7.2000, p. 1.

- (14) 本指令不應影響各會員國不適用本指令之國內契約法內容。因此本指令應不影響會員國國內對於締結契約有效性（例如在未經同意的情況下）之規定。同樣地，本指令亦不應影響各會員國對於一般契約法救濟、公共經濟秩序等之規定，例如對於不合理價格以及法律上不道德交易之規範。
- (15) 本指令不應一致化對於消費者契約的文字要求。因此各會員國在本國法律中得維持或制定有關契約資訊及條款之文字要求。
- (16) 本指令不影響各會員國國內法律對於法律代表之規定，例如代理人或受託人之規定，會員國應以國內法規之。本指令適用於所有經營者，無論是公共或私人性質。
- (17) 本指令所定義之消費者應包含在其交易、商業、工藝或專業領域以外為消費行為之自然人。但在有雙重目的之契約中，若締結契約有部份是，部分不是為了該自然人之交易，而該交易之目的並未構成整體契約背景之主要部分，則該自然人也應被視為消費者。
- (18) 在符合歐盟法規之前提下，本指令不影響會員國自行定義何謂一般經濟利益之服務、如何組織和資助該種服務並符合國內法規，以及該種服務應負之具體義務。

- (14) This Directive should not affect national law in the area of contract law for contract law aspects that are not regulated by this Directive. Therefore, this Directive should be without prejudice to national law regulating for instance the conclusion or the validity of a contract (for instance in the case of lack of consent). Similarly, this Directive should not affect national law in relation to the general contractual legal remedies, the rules on public economic order, for instance rules on excessive or extortionate prices, and the rules on unethical legal transactions.
- (15) This Directive should not harmonise language requirements applicable to consumer contracts. Therefore, Member States may maintain or introduce in their national law language requirements regarding contractual information and contractual terms.
- (16) This Directive should not affect national laws on legal representation such as the rules relating to the person who is acting in the name of the trader or on his behalf (such as an agent or a trustee). Member States should remain competent in this area. This Directive should apply to all traders, whether public or private.
- (17) The definition of consumer should cover natural persons who are acting outside their trade, business, craft or profession. However, in the case of dual purpose contracts, where the contract is concluded for purposes partly within and partly outside the person's trade and the trade purpose is so limited as not to be predominant in the overall context of the contract, that person should also be considered as a consumer.
- (18) This Directive does not affect the freedom of Member States to define, in conformity with Union law, what they consider to be services of general economic interest, how those services should be organised and financed, in compliance with State aid rules, and which specific obligations they should be subject to.

- (19) 數位內容是指所產生的數據是以數位形式提供，例如電腦程式、應用程式、遊戲、音樂、影片或文字，無論是否透過下載、串流，經由有形媒介或任何其他方式取得。提供數位內容之契約應屬於本指令所規範之範圍。若數位內容以有形媒介提供（例如CD或DVD），則應被視為本指令所定義之商品。相似於水、電及瓦斯的供應契約，以特定數量或整組販售，或區域供熱，非以實體媒介提供的數位內容契約於本指令目的下應單獨分類，而非銷售契約或服務契約。在此類契約中，消費者擁有解除權，除非於解除權期間其明確同意開始履行契約義務，並明瞭其將因此喪失契約解除權。除一般資訊要求外，經營者應告知消費者數位內容的功能和相關的相容性。功能的概念是指數位內容可被使用之方式，例如用於追蹤消費者行為；同時也應指是否有任何技術限制，例如透過數位版權管理或地區編碼保護。而相關的相容性則是在說明與數位內容相容的標準硬體與軟體環境，例如操作系統、必要版本和特定硬體功能。執委會應檢視是否有進一步統一數位內容相關規範之必要，及必要時提交相關立法建議以解決此問題。

(19) Digital content means data which are produced and supplied in digital form, such as computer programs, applications, games, music, videos or texts, irrespective of whether they are accessed through downloading or streaming, from a tangible medium or through any other means. Contracts for the supply of digital content should fall within the scope of this Directive. If digital content is supplied on a tangible medium, such as a CD or a DVD, it should be considered as goods within the meaning of this Directive. Similarly to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, contracts for digital content which is not supplied on a tangible medium should be classified, for the purpose of this Directive, neither as sales contracts nor as service contracts. For such contracts, the consumer should have a right of withdrawal unless he has consented to the beginning of the performance of the contract during the withdrawal period and has acknowledged that he will consequently lose the right to withdraw from the contract. In addition to the general information requirements, the trader should inform the consumer about the functionality and the relevant interoperability of digital content. The notion of functionality should refer to the ways in which digital content can be used, for instance for the tracking of consumer behaviour; it should also refer to the absence or presence of any technical restrictions such as protection via Digital Rights Management or region coding. The notion of relevant interoperability is meant to describe the information regarding the standard hardware and software environment with which the digital content is compatible, for instance the operating system, the necessary version and certain hardware features. The Commission should examine the need for further harmonisation of provisions in respect of digital content and submit, if necessary,

- (20) 遠距契約之定義應包含所有消費者與經營者，以有系統之遠距銷售或服務提供系統之方式締結之契約，且僅以一種或多種遠程通訊工具（如郵購、網路、電話或傳真）完成。此定義也應包括消費者只是為了蒐集商品或服務資訊而造訪營業場所，隨後以遠距之方式協商與締結契約之情形。相反地，若在經營者的營業場所協商契約，最後以遠距通訊工具方式締結，則不應被視為遠距契約。而若契約始於遠距通訊工具方式，但最後於經營者的營業場所締結，也不應視為遠距契約。同樣地，遠距契約的概念不包括消費者透過遠距通訊之方式預約專業服務，例如消費者打電話到髮廊預約剪髮。有系統的遠距銷售或服務提供系統，應包括由經營者以外之第三方提供，但為經營者所使用之系統，例如網路平台，但不包括僅提供經營者聯絡方式、商品與/或服務等相關資訊之網站。
- (21) 營業場所外契約為經營者與消費者在締結契約時，同時出現在非經營者營業場所之處所締結之契約，例如在消費者家中或工作場所。在營業場所外之交易，無論消費者是否邀約經營者來訪，消費者均可能受到潛在的心理壓力，或有意料外情形發生。營業場所外契約應包括消費者親自在

- a legislative proposal for addressing this matter.
- (20) The definition of distance contract should cover all cases where a contract is concluded between the trader and the consumer under an organised distance sales or service-provision scheme, with the exclusive use of one or more means of distance communication (such as mail order, Internet, telephone or fax) up to and including the time at which the contract is concluded. That definition should also cover situations where the consumer visits the business premises merely for the purpose of gathering information about the goods or services and subsequently negotiates and concludes the contract at a distance. By contrast, a contract which is negotiated at the business premises of the trader and finally concluded by means of distance communication should not be considered a distance contract. Neither should a contract initiated by means of distance communication, but finally concluded at the business premises of the trader be considered a distance contract. Similarly, the concept of distance contract should not include reservations made by a consumer through a means of distance communications to request the provision of a service from a professional, such as in the case of a consumer phoning to request an appointment with a hairdresser. The notion of an organised distance sales or service-provision scheme should include those schemes offered by a third party other than the trader but used by the trader, such as an online platform. It should not, however, cover cases where websites merely offer information on the trader, his goods and/or services and his contact details.
- (21) An off-premises contract should be defined as a contract concluded with the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader, for example at the consumer's home or workplace. In an off-premises context, the consumer may be under potential

營業場所外提出邀約，而後在經營者的營業場所或透過遠距通訊之方式締結契約之情形。營業場所外契約不包括經營者至消費者住居所，審視、評估（交易之可能）並未獲得消費者之任何承諾，而後基於經營者該評估，在稍後於經營者營業場所或透過遠距通訊方式而締結之契約。於此類案件中，若消費者在契約締結前有時間反應企業所為之評估，該契約不應被認為經營者拜訪消費者後立即訂立之契約。消費者在經營者於商品促銷期間所規劃之商品展中與企業訂立之契約應被視為營業場所外契約。

- (22) 營業場所包括經營者以任何形式的場所（如商店、攤位或貨車）作為其永久或通常之營業地點。若符合以上要件，市場攤位與展覽臺也應被視為營業場所。季節性營業的零售業營業地點，例如在旅遊旺季開放的滑雪或海邊度假勝地，也應被視為營業場所。至於住家、工作場所，以及企業在特殊情況下在公眾開放的空間進行商業活動，例如街道、商場、海灘、運動設施及大眾交通運輸工具等，不應被視為營業場所。經營者之代理人的營業場所，在本指令下也應被視為營業場所。

psychological pressure or may be confronted with an element of surprise, irrespective of whether or not the consumer has solicited the trader's visit. The definition of an off-premises contract should also include situations where the consumer is personally and individually addressed in an off-premises context but the contract is concluded immediately afterwards on the business premises of the trader or through a means of distance communication. The definition of an off-premises contract should not cover situations in which the trader first comes to the consumer's home strictly with a view to taking measurements or giving an estimate without any commitment of the consumer and where the contract is then concluded only at a later point in time on the business premises of the trader or via means of distance communication on the basis of the trader's estimate. In those cases, the contract is not to be considered as having been concluded immediately after the trader has addressed the consumer if the consumer has had time to reflect upon the estimate of the trader before concluding the contract. Purchases made during an excursion organised by the trader during which the products acquired are promoted and offered for sale should be considered as off-premises contracts.

- (22) Business premises should include premises in whatever form (such as shops, stalls or lorries) which serve as a permanent or usual place of business for the trader. Market stalls and fair stands should be treated as business premises if they fulfil this condition. Retail premises where the trader carries out his activity on a seasonal basis, for instance during the tourist season at a ski or beach resort, should be considered as business premises as the trader carries out his activity in those premises on a usual basis. Spaces accessible to the public, such as streets, shopping malls, beaches, sports facilities and public transport, which the trader uses on an exceptional basis for his business activities as well as

- (23) 可靠媒介應使消費者能長久保存與經營者的相關訊息，以保護其自身利益。此類媒介應包括特定紙張、隨身碟、CD、DVD、記憶卡、或其他電腦硬碟以及電子郵件。
- (24) 公開拍賣意味著經營者與消費者有參加或親自出席拍賣會的可能性。經營者之商品或服務透過部分會員國合法授權的拍賣程序，公開銷售予消費者，而得標者必需購買該商品或服務。網路平台以拍賣為目的，而消費者及經營者可處置之情形，不應被視為本指令所定義之公開拍賣。
- (25) 區域供熱契約相似於水、電或瓦斯供應契約，應受本指令規範。區域供熱是指從中央產生，以熱水或蒸氣之形式，傳輸分配至數棟建築之暖氣供應。
- (26) 不動產移轉、不動產權利移轉、不動產權取得相關契約、新建或舊屋改建相關契約，以及住宅租賃相關契約皆已受特定國內法規範，例如不動產買賣以及分期付款，應排除本指令之適用。舊屋改建是指相當於建設新建築（新建）之情況，例如僅保留舊建築的外牆，不適用本指令。但修

- private homes or workplaces should not be regarded as business premises. The business premises of a person acting in the name or on behalf of the trader as defined in this Directive should be considered as business premises within the meaning of this Directive.
- (23) Durable media should enable the consumer to store the information for as long as it is necessary for him to protect his interests stemming from his relationship with the trader. Such media should include in particular paper, USB sticks, CD-ROMs, DVDs, memory cards or the hard disks of computers as well as e-mails.
- (24) A public auction implies that traders and consumers attend or are given the possibility to attend the auction in person. The goods or services are offered by the trader to the consumer through a bidding procedure authorised by law in some Member States, to offer goods or services at public sale. The successful bidder is bound to purchase the goods or services. The use of online platforms for auction purposes which are at the disposal of consumers and traders should not be considered as a public auction within the meaning of this Directive.
- (25) Contracts related to district heating should be covered by this Directive, similarly to the contracts for the supply of water, gas or electricity. District heating refers to the supply of heat, inter alia in the form of steam or hot water, from a central source of production through a transmission and distribution system to multiple buildings, for the purpose of heating.
- (26) Contracts related to the transfer of immovable property or of rights in immovable property or to the creation or acquisition of such immovable property or rights, contracts for the construction of new buildings or the substantial conversion of existing buildings as well as contracts for the rental of accommodation for

建建築物附屬物（例如車庫或陽台）之服務契約，以及維修翻新建築物之服務契約，應屬本指令規範之範圍。房地產代理服務相關契約與非住宅房屋租賃相關契約亦適用本指令之規定。

- (27) 運送服務包括旅客運送與商品運送。由於歐盟已有相關法規，各會員國對於公共運輸和計程車也有國內法規，因此旅客運送應排除本指令之適用。但本指令保護消費者避免因支付方式而被收取過高的費用或隱性成本之規定，也應適用於旅客運送契約。商品運送與汽車租賃等服務之消費者應受益於本指令所提供之保護，但無解除權之適用。
- (28) 為避免加諸行政負擔於經營者，若價值較低的商品或服務，在營業場所外出售，會員國得決定不適用本指令。價值的門檻應設定在充分低的標準，意義在排除小額交易。會員國應被允許在國內法中設定該價值之門檻，但不得超過50歐元。若消費者同時締結兩個或兩個以上交易客體相關之契約，總成本應考慮價值門檻之適用目的。

residential purposes are already subject to a number of specific requirements in national legislation. Those contracts include for instance sales of immovable property still to be developed and hire-purchase. The provisions of this Directive are not appropriate to those contracts, which should be therefore excluded from its scope. A substantial conversion is a conversion comparable to the construction of a new building, for example where only the façade of an old building is retained. Service contracts in particular those related to the construction of annexes to buildings (for example a garage or a veranda) and those related to repair and renovation of buildings other than substantial conversion, should be included in the scope of this Directive, as well as contracts related to the services of a real estate agent and those related to the rental of accommodation for non-residential purposes.

- (27) Transport services cover passenger transport and transport of goods. Passenger transport should be excluded from the scope of this Directive as it is already subject to other Union legislation or, in the case of public transport and taxis, to regulation at national level. However, the provisions of this Directive protecting consumers against excessive fees for the use of means of payment or against hidden costs should apply also to passenger transport contracts. In relation to transport of goods and car rental which are services, consumers should benefit from the protection afforded by this Directive, with the exception of the right of withdrawal.
- (28) In order to avoid administrative burden being placed on traders, Member States may decide not to apply this Directive where goods or services of a minor value are sold off-premises. The monetary threshold should be established at a sufficiently low level as to exclude only purchases of small significance. Member States should be allowed to define this value in their national

(29) 社會服務之特性反映在歐盟與各會員國所訂立之特別法中。社會服務一方面包括弱勢族群或低收入戶為個人和家庭所需的援助進行例行的日常任務，另一方面也包括為處於特定人生階段而需要幫助、支助、保護或鼓勵者所提供之服務。社會服務包括兒童和青少年服務，家庭、單親家庭和老年人協助服務以及移民服務。社會服務也包括短期和長期護理服務，例如家居照護服務或提供生活輔助設施與住居所（養老院）。社會服務不僅包括由國家或國家承認的慈善機構所提供之服務，也包括由私營機構所提供之服務。本指令應排除社會服務之適用。

(30) 由於醫療保健本質上係屬大眾服務，並涉及複雜的技術與眾多公共資金，因此需要特別規定。歐洲議會和歐盟理事會於2011年3月9日的跨境醫療保健病患權利指令（2011/24/EU）中將醫療保健定義為「由醫療專業人員所提供，評估、維持或恢復病患健康狀況之服務，包括處方、配藥以及提供醫藥品與醫療設備」。而醫療專業人員則為指令2005/36/EC中所指開立處方籤之醫師、負責一般

- legislation provided that it does not exceed EUR 50. Where two or more contracts with related subjects are concluded at the same time by the consumer, the total cost thereof should be taken into account for the purpose of applying this threshold.
- (29) Social services have fundamentally distinct features that are reflected in sector-specific legislation, partially at Union level and partially at national level. Social services include, on the one hand, services for particularly disadvantaged or low income persons as well as services for persons and families in need of assistance in carrying out routine, everyday tasks and, on the other hand, services for all people who have a special need for assistance, support, protection or encouragement in a specific life phase. Social services cover, inter alia, services for children and youth, assistance services for families, single parents and older persons, and services for migrants. Social services cover both short-term and long-term care services, for instance services provided by home care services or provided in assisted living facilities and residential homes or housing ('nursing homes'). Social services include not only those provided by the State at a national, regional or local level by providers mandated by the State or by charities recognised by the State but also those provided by private operators. The provisions of this Directive are not appropriate to social services which should be therefore excluded from its scope.
- (30) Healthcare requires special regulations because of its technical complexity, its importance as a service of general interest as well as its extensive public funding. Healthcare is defined in Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare<sup>1</sup> as 'health services provided by health

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1 OJ L 88, 4.4.2011, p. 45.

護理的護士、執業牙醫師、助產士或藥劑師，依會員國法規定義之醫療專業人員亦屬之。本指令應排除醫療保健服務之適用。

- (31) 賭博應被排除在本指令適用範圍。賭博活動乃涉及金錢價值的投機遊戲，包括樂透彩、賭場賭博與其他博彩交易。會員國對此應能採取其他甚至是更嚴格的消費者保護措施。
  
- (32) 現有的歐盟法規中，尤其在消費者金融服務、套裝旅遊和分時度假部分，有許多消費者保護之規範，因此本指令應不適用於上述領域之契約。在金融服務方面，應鼓勵會員國參考現有歐盟相關法規，在特定領域尚缺乏歐盟層級規範之情況下，制定國內規範，確保金融服務市場之公平性並保障消費者權益。

professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices'. Health professional is defined in that Directive as a doctor of medicine, a nurse responsible for general care, a dental practitioner, a midwife or a pharmacist within the meaning of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications<sup>1</sup> or another professional exercising activities in the healthcare sector which are restricted to a regulated profession as defined in point (a) of Article 3(1) of Directive 2005/36/EC, or a person considered to be a health professional according to the legislation of the Member State of treatment. The provisions of this Directive are not appropriate to healthcare which should be therefore excluded from its scope.

- (31) Gambling should be excluded from the scope of this Directive. Gambling activities are those which involve wagering at stake with pecuniary value in games of chance, including lotteries, gambling in casinos and betting transactions. Member States should be able to adopt other, including more stringent, consumer protection measures in relation to such activities.
- (32) The existing Union legislation *inter alia* relating to consumer financial services, package travel and timeshare contains numerous rules on consumer protection. For this reason, this Directive should not apply to contracts in those areas. With regard to financial services, Member States should be encouraged to draw inspiration from existing Union legislation in that area when legislating in areas not regulated at Union level, in such a way that a level playing field for all consumers and all contracts relating to financial services is ensured.

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<sup>1</sup> OJ L 255, 30.9.2005, p. 22.

- (33) 經營者負有義務告知消費者，有關任何約定使消費者須支付定金給經營者，包括當消費者信用卡或金融卡遭拒絕交易情況下的約定。
- (34) 在消費者受遠距契約、營業場所外契約、或其他遠距與營業場所外契約以外之契約約束前，企業應給予消費者清楚且易於理解之資訊。在提供這些資訊時，若經營者可合理預見消費者因其年齡或其他因素而有生心理不健全之情況，則應考量該弱勢消費者之具體需求，惟對於消費者具體需求之考量不應造成不同層次的消費者保護。
- (35) 由經營者提供給消費者的訊息應為強制性質，且不應被修改。但締約雙方應能明示同意變更已締結之契約內容，例如商品運送之安排。
- (36) 在遠距契約的情況下，對於應提供資訊之要求應考量特定媒體的技術限制，例如行動電話螢幕可顯示的字數限制，或電視銷售的時間限制。在這種情況下，經營者仍應遵循最低資訊要求，並提供消費者其他取得資訊之管道，例如提供免付費專線或可直接連線至經營者網站之連結。若因商品性質無法以郵寄方式退回，應要求經營者告知消費者相關費用。例如，若經營者指定運送方式與退回商品之費用，即符合前述之告知要件。若退回商品之費用無法預先合理計算，例如因經營者未提供退回商品之安排時，經營者應提出聲明表示該費用為可支付的，且此費用可能較高，另外經營者也應附上該費用，本於運送到消費者費用計算的合理最大預估值。

- (33) The trader should be obliged to inform the consumer in advance of any arrangement resulting in the consumer paying a deposit to the trader, including an arrangement whereby an amount is blocked on the consumer's credit or debit card.
- (34) The trader should give the consumer clear and comprehensible information before the consumer is bound by a distance or off-premises contract, a contract other than a distance or an off-premises contract, or any corresponding offer. In providing that information, the trader should take into account the specific needs of consumers who are particularly vulnerable because of their mental, physical or psychological infirmity, age or credulity in a way which the trader could reasonably be expected to foresee. However, taking into account such specific needs should not lead to different levels of consumer protection.
- (35) The information to be provided by the trader to the consumer should be mandatory and should not be altered. Nevertheless, the contracting parties should be able to expressly agree to change the content of the contract subsequently concluded, for instance the arrangements for delivery.
- (36) In the case of distance contracts, the information requirements should be adapted to take into account the technical constraints of certain media, such as the restrictions on the number of characters on certain mobile telephone screens or the time constraint on television sales spots. In such cases the trader should comply with a minimum set of information requirements and refer the consumer to another source of information, for instance by providing a toll free telephone number or a hypertext link to a webpage of the trader where the relevant information is directly available and easily accessible. As to the requirement to inform the consumer of the cost of returning goods which by their nature cannot normally be returned by post, it will be considered to

- (37) 由於在遠距買賣的情況下消費者無法在締結契約前檢視商品，因此消費者應有解除權。基於同樣的原因，消費者應被允許在必要範圍內測試和檢查其購買之商品，以確認商品之性質、特點與功能。而由於營業場所外契約可能有意料外情形與/或心理壓力，消費者也應有解除權。契約之解除將終止締約雙方履行契約的義務。
- (38) 交易網站應以清楚而易懂之方式說明是否有任何交付限制，以及接受哪些付款方式，最遲應於訂購程序開始前為之。
- (39) 在透過網站締結之遠距契約中，確保消費者在訂購前能夠仔細閱讀並理解契約的主要內容是相當重要的。因此本指令應規定網頁在確認訂購時應列出契約之主要內容。在這種情況下，確保消費者能夠判斷其應承擔付款給經營者的義務也同樣重要。因此，應透過明確而制式之規定使消費者知悉在下訂單之後即產生付款的義務。

- have been met, for example, if the trader specifies one carrier (for instance the one he assigned for the delivery of the good) and one price concerning the cost of returning the goods. Where the cost of returning the goods cannot reasonably be calculated in advance by the trader, for example because the trader does not offer to arrange for the return of the goods himself, the trader should provide a statement that such a cost will be payable, and that this cost may be high, along with a reasonable estimation of the maximum cost, which could be based on the cost of delivery to the consumer.
- (37) Since in the case of distance sales, the consumer is not able to see the goods before concluding the contract, he should have a right of withdrawal. For the same reason, the consumer should be allowed to test and inspect the goods he has bought to the extent necessary to establish the nature, characteristics and the functioning of the goods. Concerning off-premises contracts, the consumer should have the right of withdrawal because of the potential surprise element and/or psychological pressure. Withdrawal from the contract should terminate the obligation of the contracting parties to perform the contract.
- (38) Trading websites should indicate clearly and legibly at the latest at the beginning of the ordering process whether any delivery restrictions apply and which means of payment are accepted.
- (39) It is important to ensure for distance contracts concluded through websites that the consumer is able to fully read and understand the main elements of the contract before placing his order. To that end, provision should be made in this Directive for those elements to be displayed in the close vicinity of the confirmation requested for placing the order. It is also important to ensure that, in such situations, the consumer is able to determine the moment at which he assumes the obligation to pay the trader. Therefore,

- (40) 各會員國對於遠距與營業場所外契約之解除權期間，現行規定長短不盡相同，造成法律的不確定性及法規遵循成本。所有遠距與營業場外契約應適用同樣的解除權期間規定。在服務契約的情形，契約解除期間應為契約締結後之14天。在銷售契約的情形，則為消費者本人或運送人以外之第三人，實質持有商品之日起14天。此外消費者得在實質持有商品前行使解除權。在消費者訂購數項商品但乃分別運送之情況下，解除期間應為消費者實質持有最後一項商品之日起14天。若商品分多次或部分運送，解除期間則為消費者取得最後一次或部分的商品實體之日起14天。
- (41) 為維持法律確定性，理事會法規1971年6月3日第1182/71號關於確定適用期間、日期和時間限制之規定，應適用於本指令中期間之計算。因此，本指令所包含的期間皆應以日曆天來理解。以日定期間者，從事件發生或行為生效的那一刻起計算，但事件發生或行為生效當日不應算入爭議期間。

- the consumer's attention should specifically be drawn, through an unambiguous formulation, to the fact that placing the order entails the obligation to pay the trader.
- (40) The current varying lengths of the withdrawal periods both between the Member States and for distance and off-premises contracts cause legal uncertainty and compliance costs. The same withdrawal period should apply to all distance and off-premises contracts. In the case of service contracts, the withdrawal period should expire after 14 days from the conclusion of the contract. In the case of sales contracts, the withdrawal period should expire after 14 days from the day on which the consumer or a third party other than the carrier and indicated by the consumer, acquires physical possession of the goods. In addition the consumer should be able to exercise the right to withdraw before acquiring physical possession of the goods. Where multiple goods are ordered by the consumer in one order but are delivered separately, the withdrawal period should expire after 14 days from the day on which the consumer acquires physical possession of the last good. Where goods are delivered in multiple lots or pieces, the withdrawal period should expire after 14 days from the day on which the consumer acquires the physical possession of the last lot or piece.
- (41) In order to ensure legal certainty, it is appropriate that Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits<sup>1</sup> should apply to the calculation of the periods contained in this Directive. Therefore, all periods contained in this Directive should be understood to be expressed in calendar days. Where a period expressed in days is to be calculated from the moment at which an event occurs or an action takes place, the day during

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1 OJ L 124, 8.6.1971, p. 1.

- (42) 解除權之相關規定應不影響會員國關於契約終止或無法執行、或消費者在契約時間確定前履行契約義務之可能性之法規。
- (43) 若在遠距或營業場所外契約締結前，經營者尚未充分告知消費者，解除權期間應適當延長。惟為維護法律確定性，最長應以12個月為限。
- (44) 各會員國法規關於行使解除權之差異造成了跨境交易成本的增加。供消費者使用的一致化解除模式應簡化解除程序，並增加法律確定性。因此各會員國在泛歐盟模式裡應避免任何表象的要求，例如字體大小。只要消費者明確向經營者表達其解除契約之決定，消費者應可以其文字行使解除權。一封信、一通電話或附上明確說明的商品退貨皆符合要求，但消費者應舉證其解除權之行使符合本指令之限制期間。因此，消費者使用可靠媒介與經營者聯繫對其較為有利。
- (45) 根據以往許多經驗顯示，許多消費者和經營者更喜歡透過經營者的網站聯繫，應該是由於經營者可能提供消費者在網站上填寫解除申請之選項。在這種情況下，經營者應無

- which that event occurs or that action takes place should not be considered as falling within the period in question.
- (42) The provisions relating to the right of withdrawal should be without prejudice to the Member States' laws and regulations governing the termination or unenforceability of a contract or the possibility for the consumer to fulfil his contractual obligations before the time determined in the contract.
- (43) If the trader has not adequately informed the consumer prior to the conclusion of a distance or off-premises contract, the withdrawal period should be extended. However, in order to ensure legal certainty as regards the length of the withdrawal period, a 12-month limitation period should be introduced.
- (44) Differences in the ways in which the right of withdrawal is exercised in the Member States have caused costs for traders selling cross-border. The introduction of a harmonised model withdrawal form that the consumer may use should simplify the withdrawal process and bring legal certainty. For these reasons, Member States should refrain from adding any presentational requirements to the Union-wide model form relating for example to the font size. However, the consumer should remain free to withdraw in his own words, provided that his statement setting out his decision to withdraw from the contract to the trader is unequivocal. A letter, a telephone call or returning the goods with a clear statement could meet this requirement, but the burden of proof of having withdrawn within the time limits fixed in the Directive should be on the consumer. For this reason, it is in the interest of the consumer to make use of a durable medium when communicating his withdrawal to the trader.
- (45) As experience shows that many consumers and traders prefer to communicate via the trader's website, there should be a possibility for the trader to give the consumer the option of filling in a web-

延遲的提供可立即確認收到申請單之管道，例如e-mail。

- (46) 在消費者解除契約之情況，經營者應退回所有向消費者收取之款項，包括由經營者將商品交付給消費者所承擔之費用。退款不得以優惠券為之，除非消費者在交易之初即使用優惠券，或明確表達接受優惠券。若經營者提供普遍而運輸成本較低廉之運送方式，而消費者明確選擇特定類型運送方式（例如24小時快遞），應由消費者承擔兩種運送方式成本之差額。
- (47) 部分消費者在使用商品，超過確認商品性質、特點與功能之必要程度後，行使其解除權。消費者於此情形不會喪失解除權，但應賠償商品因此所減少之任何價值。為確認商品的性質、特點與功能，消費者應以在實體商店所被允許之方式檢視商品。例如消費者只應試穿衣服，而不允許將衣服穿出門。因此消費者在解除期間內，檢視商品時應盡相當之注意。消費者行使解除權之相關義務，不應妨礙其解除權之行使。
- (48) 消費者應於通知經營者其解除契約之決定後，14天內返還商品。在經營者或消費者未完成行使解除權相關義務之情形，亦適用符合本指令之國內法罰則規定與契約法規定。

- based withdrawal form. In this case the trader should provide an acknowledgement of receipt for instance by e-mail without delay.
- (46) In the event that the consumer withdraws from the contract, the trader should reimburse all payments received from the consumer, including those covering the expenses borne by the trader to deliver goods to the consumer. The reimbursement should not be made by voucher unless the consumer has used vouchers for the initial transaction or has expressly accepted them. If the consumer expressly chooses a certain type of delivery (for instance 24-hour express delivery), although the trader had offered a common and generally acceptable type of delivery which would have incurred lower delivery costs, the consumer should bear the difference in costs between these two types of delivery.
- (47) Some consumers exercise their right of withdrawal after having used the goods to an extent more than necessary to establish the nature, characteristics and the functioning of the goods. In this case the consumer should not lose the right to withdraw but should be liable for any diminished value of the goods. In order to establish the nature, characteristics and functioning of the goods, the consumer should only handle and inspect them in the same manner as he would be allowed to do in a shop. For example, the consumer should only try on a garment and should not be allowed to wear it. Consequently, the consumer should handle and inspect the goods with due care during the withdrawal period. The obligations of the consumer in the event of withdrawal should not discourage the consumer from exercising his right of withdrawal.
- (48) The consumer should be required to send back the goods not later than 14 days after having informed the trader about his decision to withdraw from the contract. In situations where the trader or the consumer does not fulfil the obligations relating to the exercise of the right of withdrawal, penalties provided for by national

(49) 賦予消費者於遠距及營業場所外契約具有撤銷權，應有例外排除規定。就某些商品或服務的性質而言，具解除權並不適當。以標的商品價值會隨著市場波動而變動的契約為例，例如締結在未來一段時間後才提供酒類商品的契約（預購酒）。此外，解除權亦不適用於針對消費者需求客製化的商品，例如定制的窗簾。解除權也不適用於燃料，例如商品交付給消費者後即因其性質而將與其他物體混合的情形。就特定服務契約亦不適宜賦予解除權，例如契約締結後即意味著服務提供者將喪失提供服務予他人的空間，比方說旅館業或渡假別墅，在特定文化或運動活動舉辦期日提供客房訂房的情形。

(50) 一方面來說，即便消費者在解除權期間屆滿前要求提供服務，消費者仍保持得行使解除權的狀態。但另一方面來說，若消費者行使其解除權，經營者應確保能取得其已提出服務的對價。在此情況之下，對價應依契約總價等比例調整，除非消費者能證明契約總價並不合理，此時對價應依服務提供時期市價計算。所謂市價應與其他經營者於同時期提供相同服務契約價格比較而定。因此消費者應於得行使解除權期間屆滿前，明確提出要求服務的要約，且在營業場所外契約的情形，應透過可靠媒介提出。同樣地，經營者應透過可靠媒介通知消費者應支付已給付服務比例之對價。就同時提供商品及服務的契約，應分別適用本指

- legislation in accordance with this Directive should apply as well as contract law provisions.
- (49) Certain exceptions from the right of withdrawal should exist, both for distance and off-premises contracts. A right of withdrawal could be inappropriate for example given the nature of particular goods or services. That is the case for example with wine supplied a long time after the conclusion of a contract of a speculative nature where the value is dependent on fluctuations in the market ('vin en primeur'). The right of withdrawal should neither apply to goods made to the consumer's specifications or which are clearly personalised such as tailor-made curtains, nor to the supply of fuel, for example, which is a good, by nature inseparably mixed with other items after delivery. The granting of a right of withdrawal to the consumer could also be inappropriate in the case of certain services where the conclusion of the contract implies the setting aside of capacity which, if a right of withdrawal were exercised, the trader may find difficult to fill. This would for example be the case where reservations are made at hotels or concerning holiday cottages or cultural or sporting events.
- (50) On the one hand, the consumer should benefit from his right of withdrawal even in case he has asked for the provision of services before the end of the withdrawal period. On the other hand, if the consumer exercises his right of withdrawal, the trader should be assured to be adequately paid for the service he has provided. The calculation of the proportionate amount should be based on the price agreed in the contract unless the consumer demonstrates that that total price is itself disproportionate, in which case the amount to be paid shall be calculated on the basis of the market value of the service provided. The market value should be defined by comparing the price of an equivalent service performed by other

令關於商品返還及服務提供補償機制的規範。

- (51) 商品的運送是消費者遇到的最主要問題，且為消費者與經營者間產生糾紛的主要原因之一，包括商品遺失、運送過程毀損、遲到或是不完全給付。因此釐清並調和各國有關商品運送的法規有其必要。運送地方、方式以及有關決定商品所有權移轉條件、時點，仍應依各國內法相關規範，不受本指令影響。本指令有關商品交付方式規定，應涵蓋消費者指定第三人以其名義取得商品實質持有或控制的情形。當消費者如所有權人般使用該商品或是已可轉售該商品(例如取得鑰匙或是持有所有權文件)，應視為消費者或其指定之第三人已控制商品。
- (52) 就銷售契約而言，商品的交付方式有許多種，有締約後立即交付也有稍後期日交付。如果契約未特定交付日，經營者應盡早交付，但最遲不應晚於締約後30日。無重大損失

traders at the time of the conclusion of the contract. Therefore the consumer should request the performance of services before the end of the withdrawal period by making this request expressly and, in the case of off-premises contracts, on a durable medium. Similarly, the trader should inform the consumer on a durable medium of any obligation to pay the proportionate costs for the services already provided. For contracts having as their object both goods and services, the rules provided for in this Directive on the return of goods should apply to the goods aspects and the compensation regime for services should apply to the services aspects.

- (51) The main difficulties encountered by consumers and one of the main sources of disputes with traders concern delivery of goods, including goods getting lost or damaged during transport and late or partial delivery. Therefore it is appropriate to clarify and harmonise the national rules as to when delivery should occur. The place and modalities of delivery and the rules concerning the determination of the conditions for the transfer of the ownership of the goods and the moment at which such transfer takes place, should remain subject to national law and therefore should not be affected by this Directive. The rules on delivery laid down in this Directive should include the possibility for the consumer to allow a third party to acquire on his behalf the physical possession or control of the goods. The consumer should be considered to have control of the goods where he or a third party indicated by the consumer has access to the goods to use them as an owner, or the ability to resell the goods (for example, when he has received the keys or possession of the ownership documents).
- (52) In the context of sales contracts, the delivery of goods can take place in various ways, either immediately or at a later date. If the parties have not agreed on a specific delivery date, the trader

下，給付遲延規範應同時考慮客製化商品無法由經營者再利用的情形。因此本指令針對特殊情形，應賦予經營者額外合理的交付商品期限。倘若經營者無法於與消費者約定之期日內交付商品，在消費者終止契約前，應先訂合理期間催告經營者，倘經營者於該期間仍無法交付商品，即得終止契約。但此催告規定並不適用於經營者已明確告知拒絕交付商品之情形。也不適用於約定交付日有實質重大意義之情形，比方說婚紗應於婚禮前交付，以及消費者已經明確告知經營者，交付特定日有實質重大意義之情形。基於此目的，消費者得使用本指令所規定經營者契約細節。以上不適用催告之情形，若經營者未及時交付商品，消費者有權於約定期日到期時立即終止契約。本指令並不影響各國關於消費者應通知經營者終止契約之相關規定。

- (53) 除終止契約的權利外，當經營者違反本指令規定關於交付商品義務時，消費者亦可依各國內法，請求其他救濟，包括另訂期間催告經營者交付、強制經營者履行契約、暫緩付款或是請求損害賠償。

- should deliver the goods as soon as possible, but in any event not later than 30 days from the day of the conclusion of the contract. The rules regarding late delivery should also take into account goods to be manufactured or acquired specially for the consumer which cannot be reused by the trader without considerable loss. Therefore, a rule which grants an additional reasonable period of time to the trader in certain circumstances should be provided for in this Directive. When the trader has failed to deliver the goods within the period of time agreed with the consumer, before the consumer can terminate the contract, the consumer should call upon the trader to make the delivery within a reasonable additional period of time and be entitled to terminate the contract if the trader fails to deliver the goods even within that additional period of time. However, this rule should not apply when the trader has refused to deliver the goods in an unequivocal statement. Neither should it apply in certain circumstances where the delivery period is essential such as, for example, in the case of a wedding dress which should be delivered before the wedding. Nor should it apply in circumstances where the consumer informs the trader that delivery on a specified date is essential. For this purpose, the consumer may use the trader's contact details given in accordance with this Directive. In these specific cases, if the trader fails to deliver the goods on time, the consumer should be entitled to terminate the contract immediately after the expiry of the delivery period initially agreed. This Directive should be without prejudice to national provisions on the way the consumer should notify the trader of his will to terminate the contract.
- (53) In addition to the consumer's right to terminate the contract where the trader has failed to fulfil his obligations to deliver the goods in accordance with this Directive, the consumer may, in accordance with the applicable national law, have recourse to other remedies,

- (54) 依2007年11月13日歐洲議會及理事會2007/64/EC指令第52條第3項，有關於國內市場支付費服務規定。會員國基於需要鼓勵競爭及促進有效率的支付工具，得禁止或限制經營者要求消費者支付手續費。在任何情形下，禁止經營者要求消費者支付超出其提供特定支付工具的成本費用。
- (55) 於經營者送出商品給消費者時，即可能出現爭議，而有損失或損害的情況，那一刻發生風險的移轉。因此本指令規定消費者於取得商品實質持有前，保護其免受商品的損失或損害發生之風險。於經營者安排運送或自行運送期間，消費者權益應受保護，即使消費者自行選擇了經營商所提供的特定運送方法。然而該規定不適用於消費者自行或安排人員拿取商品的契約。有關風險移轉的時點，應為消費者收到並實質持有商品的時刻。
- (56) 自然人或組織依據國內法，契約之消費者權利應受保護，得以進行爭訟程序。不論是向法院或向主管機關申訴，有權決定提出的投訴或啟動適當地法律程序。

- such as granting the trader an additional period of time for delivery, enforcing the performance of the contract, withholding payment, and seeking damages.
- (54) In accordance with Article 52(3) of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market<sup>1</sup>, Member States should be able to prohibit or limit traders' right to request charges from consumers taking into account the need to encourage competition and promote the use of efficient payment instruments. In any event, traders should be prohibited from charging consumers fees that exceed the cost borne by the trader for the use of a certain means of payment.
- (55) Where the goods are dispatched by the trader to the consumer, disputes may arise, in the event of loss or damage, as to the moment at which the transfer of risk takes place. Therefore this Directive should provide that the consumer be protected against any risk of loss of or damage to the goods occurring before he has acquired the physical possession of the goods. The consumer should be protected during a transport arranged or carried out by the trader, even where the consumer has chosen a particular delivery method from a range of options offered by the trader. However, that provision should not apply to contracts where it is up to the consumer to take delivery of the goods himself or to ask a carrier to take delivery. Regarding the moment of the transfer of the risk, a consumer should be considered to have acquired the physical possession of the goods when he has received them.
- (56) Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court or before an administrative authority which is competent

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1 OJ L 319, 5.12.2007, p. 1.

- (57) 違反本指令規定之行為，會員國應該制定相關罰則，並確認其有效執行。相關罰則應該有效、適當並且具勸誡效果。
- (58) 消費者不應被剝奪本指令所賦予的權利保護。當契約適用第三國之法律時，應參考法規(EC)第593號/2008規則，以確定消費者是否保有本指令所賦予之保護。
- (59) 執委會與會員國及利害關係者磋商後，應尋找最合適方式確保所有的消費者都知道自身於買賣事宜之權利。
- (60) 依2005年5月11日歐洲議會及理事會之2005/29/EC指令，有關在歐盟內部市場企業對消費者不公平的商業慣例(“不公平商業行為指令”)，所禁止的慣性銷售，包括未經請求而提供給消費者的商品或服務，但於該指令所無的契約上之救濟，因此有必要制定本指令之契約上的救濟，免除消費者於不請自來的供應或服務行為中負有任何代價的義務。
- (61) 2002年7月12日歐洲議會及理事會之2002/58/EC指令，公布關於電子通訊中個人資料處理與隱私保護指令(隱私及電子通訊指令)部分，已經規範不請自來的通訊，並且提供一個保護程度高的消費者權利保護。97/7/EC指令就同一議題之相關條款即不再需要。

- to decide upon complaints or to initiate appropriate legal proceedings.
- (57) It is necessary that Member States lay down penalties for infringements of this Directive and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.
- (58) The consumer should not be deprived of the protection granted by this Directive. Where the law applicable to the contract is that of a third country, Regulation (EC) No 593/2008 should apply, in order to determine whether the consumer retains the protection granted by this Directive.
- (59) The Commission, following consultation with the Member States and stakeholders, should look into the most appropriate way to ensure that all consumers are made aware of their rights at the point of sale.
- (60) Since inertia selling, which consists of unsolicited supply of goods or provision of services to consumers, is prohibited by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market ('Unfair Commercial Practices Directive')<sup>1</sup> but no contractual remedy is provided therein, it is necessary to introduce in this Directive the contractual remedy of exempting the consumer from the obligation to provide any consideration for such unsolicited supply or provision.
- (61) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)<sup>2</sup> already regulates unsolicited communications and provides for a high level of consumer protection. The

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1 OJ L 149, 11.6.2005, p. 22.

2 OJ L 201, 31.7.2002, p. 37.

- (62) 如確認有對歐盟內部市場的障礙，執委會審查本指令乃適當的。審查時，執委會應特別注意授權讓會員國維持或採取的特定國內法規範，包含1993年4月5日93/13/EEC理事會指令有關不公平消費契約條款，以及有關銷售消費者商品及擔保行為的1999年5月25日1999/44/EC歐洲議會及理事會指令。此審查得使執委會建議提案修改本指令；提案內容可能包括其他消費者保護立法的修訂，反映執委會的消費者政策戰略之政策內容，以達到一個高標準保護消費者權益之程度。
- (63) 應修訂93/13/EEC及1999/44/EC指令，以要求會員國於特定領域國內法制定具體的規範時，應通知執委會。
- (64) 85/577/EEC及97/7/EC指令應廢止。
- (65) 本指令的目標，即欲透過建立高標準的保護消費者權益，並促進內部市場的正常運作，難以由會員國實現，因此在歐盟層級較能達成此目的。依據歐盟條約第5條所載之輔助原則，聯盟可採取措施。依該條文所設適當性原則，本指令規定不得為實現此一目標超越所需手段。

- corresponding provisions on the same issue contained in Directive 97/7/EC are therefore not needed.
- (62) It is appropriate for the Commission to review this Directive if some barriers to the internal market are identified. In its review, the Commission should pay particular attention to the possibilities granted to Member States to maintain or introduce specific national provisions including in certain areas of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts<sup>1</sup> and Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees<sup>2</sup>. That review could lead to a Commission proposal to amend this Directive; that proposal may include amendments to other consumer protection legislation reflecting the Commission's Consumer Policy Strategy commitment to review the Union acquis in order to achieve a high, common level of consumer protection.
- (63) Directives 93/13/EEC and 1999/44/EC should be amended to require Member States to inform the Commission about the adoption of specific national provisions in certain areas.
- (64) Directives 85/577/EEC and 97/7/EC should be repealed.
- (65) Since the objective of this Directive, namely, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

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1 OJ L 95, 21.4.1993, p. 29.

2 OJ L 171, 7.7.1999, p. 12.

- (66) 本指令尊重基本權，並奉行歐洲聯盟基本權利憲章中關於基本權利之論述。
- (67) 依據關於優化立法的機構間協定第34點，鼓勵會員國為本國及聯盟利益制定法律，同時盡可能地建立其與本指令之對照與轉換措施，並向公眾發布，

已通過本指令：

## 第一章 主旨、定義及範圍

### 第1條 主旨

本指令目的在於藉達成更高層次的消費者保護，使各會員國中有關消費者與經營者締結契約的法律、條例、法規命令在某些層面趨於一致，以利（歐盟）內部市場適當地運作。

### 第2條 定義

本指令用詞定義如下：

- (1) 消費者：指任何自然人，在本指令所涵蓋的契約中，其所為目的非為自身貿易、商業、工作或職業。
- (2) 經營者：指任何自然人或法人，不分私有或公有，包括以其名義行事的其他人，在本指令所涵蓋的契約中，所為目的係關於其自身貿易、商業、工作或職業。

- (66) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (67) In accordance with point 34 of the Interinstitutional agreement on better law-making<sup>1</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables, which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

## **CHAPTER I SUBJECT MATTER, DEFINITIONS AND SCOPE**

### **Article 1 Subject matter**

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by approximating certain aspects of the laws, regulations and administrative provisions of the Member States concerning contracts concluded between consumers and traders.

### **Article 2 Definitions**

For the purpose of this Directive, the following definitions shall apply:

- (1) ‘consumer’ means any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession;
- (2) ‘trader’ means any natural person or any legal person, irrespective

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.

- (3) 商品：指任何有形動產，遭強制執行或依據法律授權販賣除外；水、瓦斯、電力以有限的容量或以整組數量販售時，在本指令目的下應視為商品。
- (4) 消費者規格製商品：指以消費者個人選擇或決定為基礎，而製的非預製商品。
- (5) 銷售契約：指經營者移轉或承諾移轉商品的所有權給消費者，且消費者支付或承諾支付其價金的任何契約，包括兼有商品與服務的契約。
- (6) 服務契約：指經營者提供或承諾提供消費者服務，且消費者支付或承諾支付其價金之銷售契約以外的任何契約。
- (7) 遠距契約：指經營者與消費者在組織化的遠距銷售或服務提供方案下無實體接觸，包括締約當時，透過一個或多個遠距通訊工具締結契約。
- (8) 營業場所外契約：指以下經營者與消費者間的任何契約，
  - (a) 經營者與消費者在經營者的營業場所以外的處所，有實體接觸而締結契約。

of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Directive;

- (3) ‘goods’ means any tangible movable items, with the exception of items sold by way of execution or otherwise by authority of law; water, gas and electricity shall be considered as goods within the meaning of this Directive where they are put up for sale in a limited volume or a set quantity;
- (4) ‘goods made to the consumer’s specifications’ means non-prefabricated goods made on the basis of an individual choice of or decision by the consumer;
- (5) ‘sales contract’ means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;
- (6) ‘service contract’ means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;
- (7) ‘distance contract’ means any contract concluded between the trader and the consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded;
- (8) ‘off-premises contract’ means any contract between the trader and the consumer:
  - (a) concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;

- (b) 在(a)點情形，由消費者提出要約者亦同。
  - (c) 在經營者的營業場所外的處所，與消費者直接且個別地實體接觸交涉後，立即與消費者在經營者的營業場所或透過遠距通訊工具締結契約。
  - (d) 由經營者籌辦的遊覽，目的在推廣或促進銷售商品或服務給消費者，於此期間所締結的契約。
- (9) 營業場所：指
- (a) 經營者以從事永久活動為基礎的任何固定零售場所。
  - (b) 經營者以從事通常活動為基礎的任何移動式零售場所。
- (10) 可靠(耐久儲存)媒介：使消費者或經營者得以儲存其直接處理的訊息的任何設備，並於一定期間內可供將來查閱且可完整重現所儲存資料者。
- (11) 數位內容：指資料以數位形式顯示及提供。
- (12) 金融服務：指任何銀行業務、信貸、保險、個人年金、投資或支付性質的服務。
- (13) 公開拍賣：指經營者提供商品或服務給消費者，消費者參加或可得參加該拍賣，而由拍賣商透過透明、競標程序運行，得標者必須購買商品或服務的一種銷售方法。
- (14) 商業保證：指由經營者或製造商(擔保人)向消費者所

- (b) for which an offer was made by the consumer in the same circumstances as referred to in point (a);
  - (c) concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually addressed in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer; or
  - (d) concluded during an excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer;
- (9) ‘business premises’ means:
- (a) any immovable retail premises where the trader carries out his activity on a permanent basis; or
  - (b) any movable retail premises where the trader carries out his activity on a usual basis;
- (10) ‘durable medium’ means any instrument which enables the consumer or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (11) ‘digital content’ means data which are produced and supplied in digital form;
- (12) ‘financial service’ means any service of a banking, credit, insurance, personal pension, investment or payment nature;
- (13) ‘public auction’ means a method of sale where goods or services are offered by the trader to consumers, who attend or are given the possibility to attend the auction in person, through a transparent, competitive bidding procedure run by an auctioneer and where the successful bidder is bound to purchase the goods or services;
- (14) ‘commercial guarantee’ means any undertaking by the trader or a

為，除擔保符合有關法律義務外，包括商品不符規格、不符保證書或契約締結時、締結前相關廣告所載之其他要求時，應償還價金、更換、維修或服務的保證。

- (15) 附屬契約：指消費者因遠距契約或營業場所外契約，獲得經營者或第三方所提供的商品或服務的契約，而該商品或服務係依據第三方與經營者間的契約。

### 第3條 範圍

1. 於本指令規定的情形與範圍下，本指令適用所有經營者與消費者簽訂的契約。亦適用於公眾供應商，基於契約基礎提供水、瓦斯、電力及區域供熱等必需商品。
2. 如本指令規定與聯盟其他主管特定法令衝突時，於其他特定法令範圍內優先適用。
3. 本指令不適用於下列契約：
  - (a) 社會服務，包括社會住宅、兒童照護與家庭支持及個人永久或暫時性需要之護理（包括長期護理）；
  - (b) 醫療保健，依據2011/24/EU指令第3條第(a)點定義，不論是否經由醫療院所提供者；

producer (the guarantor) to the consumer, in addition to his legal obligation relating to the guarantee of conformity, to reimburse the price paid or to replace, repair or service goods in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of, or before the conclusion of the contract;

- (15) ‘ancillary contract’ means a contract by which the consumer acquires goods or services related to a distance contract or an off-premises contract and where those goods are supplied or those services are provided by the trader or by a third party on the basis of an arrangement between that third party and the trader.

### **Article 3 Scope**

1. This Directive shall apply, under the conditions and to the extent set out in its provisions, to any contract concluded between a trader and a consumer. It shall also apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis.
2. If any provision of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and shall apply to those specific sectors.
3. This Directive shall not apply to contracts:
  - (a) for social services, including social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care;
  - (b) for healthcare as defined in point (a) of Article 3 of Directive 2011/24/EU, whether or not they are provided via healthcare

- (c) 賭博，下注而有機會獲得金錢價值之博奕，包括樂透、賭場博奕及博彩交易；
- (d) 金融服務；
- (e) 為創設、收購或移轉不動產或其權利；
- (f) 營造新建築、現有建築的重大施工轉換及住宅用途之出租宿舍；
- (g) 屬於1990年6月13日，90/314/EEC理事會指令，有關套裝旅遊、假期及團遊範圍內；
- (h) 屬於2009年1月14日，2008/122/EC歐盟議會及理事會指令中，有關保護消費者於分時渡假、長期渡假商品之轉售及交換範圍內；
- (i) 依據會員國法律的公務員基於公正獨立之法定義務，且依此提供之綜合的法律資訊，消費者基於審慎法律思考的基礎及了解法律範疇才締結的契約；
- (j) 供應糧食、飲料或其他商品用於日常的家庭消費；
- (k) 客運服務，除第8條第(2)款、第19條、第22條外；

- facilities;
- (c) for gambling, which involves wagering a stake with pecuniary value in games of chance, including lotteries, casino games and betting transactions;
  - (d) for financial services;
  - (e) for the creation, acquisition or transfer of immovable property or of rights in immovable property;
  - (f) for the construction of new buildings, the substantial conversion of existing buildings and for rental of accommodation for residential purposes;
  - (g) which fall within the scope of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours<sup>1</sup>;
  - (h) which fall within the scope of Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts<sup>2</sup>;
  - (i) which, in accordance with the laws of Member States, are established by a public office-holder who has a statutory obligation to be independent and impartial and who must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful legal consideration and with knowledge of its legal scope;
  - (j) for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are physically supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace;
  - (k) for passenger transport services, with the exception of Article

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1 OJ L 158, 23.6.1990, p. 59.

2 OJ L 33, 3.2.2009, p. 10.

- (l) 透過自動販賣機或自動商業場所締結之契約；
  - (m) 透過公用付費電話與電信業者締結之契約，或消費者透過電話、網路或傳真締約目的在於單一次連接使用；
4. 會員國可決定在消費者支付不超過50歐元費用情形時，得不適用本指令或維持或提出相對應的國家規定於營業場所外契約。會員國可於國內法定訂較低的金額。
5. 本指令不影響一般契約法律原則，如契約的生效、構成要件、效力等契約的一般法律面不在本指令規範範圍。
6. 本指令不禁止經營者依契約約定提供消費者超越本指令所保護的範圍。

#### 第4條 層級一致化

除本指令另有規定外，會員國不得維持或採用其本國法令，與本指令之規定有所歧異，包括增加或減少嚴格的規定，以確保不同層級的消費者保護。

## 第二章 遠距及營業場所外契約以外之消費者資訊

- 8(2) and Articles 19 and 22;
- (l) concluded by means of automatic vending machines or automated commercial premises;
  - (m) concluded with telecommunications operators through public payphones for their use or concluded for the use of one single connection by telephone, Internet or fax established by a consumer.
4. Member States may decide not to apply this Directive or not to maintain or introduce corresponding national provisions to off-premises contracts for which the payment to be made by the consumer does not exceed EUR 50. Member States may define a lower value in their national legislation.
5. This Directive shall not affect national general contract law such as the rules on the validity, formation or effect of a contract, in so far as general contract law aspects are not regulated in this Directive.
6. This Directive shall not prevent traders from offering consumers contractual arrangements which go beyond the protection provided for in this Directive.

#### **Article 4 Level of harmonisation**

Member States shall not maintain or introduce, in their national law, provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection, unless otherwise provided for in this Directive.

## **CHAPTER II CONSUMER INFORMATION FOR CONTRACTS OTHER THAN DISTANCE OR OFF-**

## 第5條 遠距及營業場所外契約以外之契約必要資訊

1. 於消費者受契約拘束前，而非遠距及營業場所外契約時，或其他相應要約，如交易資訊尚不明顯時，經營者應以清楚且易理解的方式，提供消費者下列資訊：
  - (a) 在商品或服務傳達媒介的適當範圍內，商品或服務的主要特性；
  - (b) 經營者身分，如經營名稱、設立之營業所地址及電話號碼；
  - (c) 商品或服務含稅總價，或價格因商品或服務性質不能合理地預先計算時，其價格計算方式，以及必要時所有額外的運費、送貨費用或郵資，或相關費用不能預先計算時，可能需支付費用一事；
  - (d) 付款、運送、履行方式，及經營者承諾交付商品或提供服務的時間，以及必要時經營者的客訴處理政策；
  - (e) 除提醒消費者具有法定的商品品質保證存在外，必要時包括售後服務的條件及商業保證；

## PREMISES CONTRACTS

### **Article 5 Information requirements for contracts other than distance or off-premises contracts**

1. Before the consumer is bound by a contract other than a distance or an off-premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner, if that information is not already apparent from the context:
  - (a) the main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;
  - (b) the identity of the trader, such as his trading name, the geographical address at which he is established and his telephone number;
  - (c) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
  - (d) where applicable, the arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the service, and the trader's complaint handling policy;
  - (e) in addition to a reminder of the existence of a legal guarantee of conformity for goods, the existence and the conditions of after-sales services and commercial guarantees, where applicable;

- (f) 必要時契約的存續期，或契約為不定期或契約自動延長時，契約的終止條件；
  - (g) 必要時數位內容的功能性，包括適用的技術保護措施；
  - (h) 必要時，任何相關數位內容的軟、硬體相容性，經營者已知或可合理期待知道的。
2. 第一項也適用於水、瓦斯、電力等不以有限的容量或以整組販售，區域供熱及不以有形媒介提供的數位內容的契約。
  3. 涉及日常交易且於締約後立即履行的契約，會員國得不適用第一項規定。
  4. 會員國可採用或維持附加的前契約資訊義務於本條適用契約情形。

### 第三章 遠距及營業場所外契約之消費者資訊與解除權

#### 第6條 遠距及營業場所外契約必要資訊

1. 消費者受遠距或營業場所外契約拘束前，或其他相應情形，經營者應以清楚且易理解的方式，提供消費者下列資訊：

- (f) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
  - (g) where applicable, the functionality, including applicable technical protection measures, of digital content;
  - (h) where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of.
2. Paragraph 1 shall also apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium.
  3. Member States shall not be required to apply paragraph 1 to contracts which involve day-to-day transactions and which are performed immediately at the time of their conclusion.
  4. Member States may adopt or maintain additional pre-contractual information requirements for contracts to which this Article applies.

## **CHAPTER III CONSUMER INFORMATION AND RIGHT OF WITHDRAWAL FOR DISTANCE AND OFF- PREMISES CONTRACTS**

### **Article 6 Information requirements for distance and off-premises contracts**

1. Before the consumer is bound by a distance or off-premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible

- (a) 在商品或服務傳達媒介的適當範圍內，商品或服務的主要特性；
- (b) 經營者的身分，例如其經營名稱；
- (c) 經營者設立之營業所地址、電話號碼、傳真及電子郵件，必要時使消費者能迅速接觸經營者且與之有效溝通，以及必要時經營者負責人的地址及身分；
  
- (d) 與 (c) 點提供的地址不同時，經營者所在地地址，必要時代表人的地址，以供消費者投訴；
  
- (e) 商品或服務含稅總價，或價格因商品或服務性質不能合理地預先計算時，其價格計算方式，以及必要時，所有額外的運費、送貨費用或郵資及任何其它費用，或相關費用不能預先計算時，可能需支付費用一事。於不確定期間的契約或契約包含訂閱的情形，總價應包含每期付帳總費用。若契約收取固定利率，總價應包含每月總費用。總費用不能合理地預先計算時，應提供計算價格的方式。
  
- (f) 使用通訊工具以外締結契約的基本費用；

manner:

- (a) the main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;
- (b) the identity of the trader, such as his trading name;
- (c) the geographical address at which the trader is established and the trader's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate with him efficiently and, where applicable, the geographical address and identity of the trader on whose behalf he is acting;
- (d) if different from the address provided in accordance with point (c), the geographical address of the place of business of the trader, and, where applicable, that of the trader on whose behalf he is acting, where the consumer can address any complaints;
- (e) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable. In the case of a contract of indeterminate duration or a contract containing a subscription, the total price shall include the total costs per billing period. Where such contracts are charged at a fixed rate, the total price shall also mean the total monthly costs. Where the total costs cannot be reasonably calculated in advance, the manner in which the price is to be calculated shall be provided;
- (f) the cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;

- (g) 付款、運送、履行方式，及經營者承諾交付商品或提供服務的時間，以及必要時經營者的客訴處理政策；
- (h) 依據第11條第1項所行使的權利，解除權的有無、條件、時間限制、程序以及附錄I (B) 所載之解除權格式；
- (i) 於遠距契約必要時消費者需負擔解除契約返回商品的運費，如果商品依其特性無法以一般郵寄方式，其返還的費用；
- (j) 若消費者依據第7條第3項或第8條第8項行使解除權時，依據第14條第3項消費者應當支付經營者合理的費用；
- (k) 適用第16條不提供解除權的情形，消費者不具解除權利益的資訊，或必要時消費者喪失解除權的情況；
- (l) 提醒消費者具有法定的商品品質保證；
- (m) 必要時售後協助、服務與商業保證存在情形及條件；
- (n) 相關行為準則存在的情形，如2005/29/EC指令第2條第(f)點定義，必要時如何獲得副本的情形；
- (o) 必要時契約存續期，或契約為不定期或契約自動延長時，契約的終止條件；

- (g) the arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the services and, where applicable, the trader's complaint handling policy;
- (h) where a right of withdrawal exists, the conditions, time limit and procedures for exercising that right in accordance with Article 11(1), as well as the model withdrawal form set out in Annex I(B);
- (i) where applicable, that the consumer will have to bear the cost of returning the goods in case of withdrawal and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;
- (j) that, if the consumer exercises the right of withdrawal after having made a request in accordance with Article 7(3) or Article 8(8), the consumer shall be liable to pay the trader reasonable costs in accordance with Article 14(3);
- (k) where a right of withdrawal is not provided for in accordance with Article 16, the information that the consumer will not benefit from a right of withdrawal or, where applicable, the circumstances under which the consumer loses his right of withdrawal;
- (l) a reminder of the existence of a legal guarantee of conformity for goods;
- (m) where applicable, the existence and the conditions of after sale customer assistance, after-sales services and commercial guarantees;
- (n) the existence of relevant codes of conduct, as defined in point (f) of Article 2 of Directive 2005/29/EC, and how copies of them can be obtained, where applicable;
- (o) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically,

- (p) 必要時消費者契約義務的最短期間；
  - (q) 必要時經營者要求消費者存款或其他金融擔保支付的存在與條件；
  - (r) 必要時數位內容的功能，包括適用的技術保護措施；
  - (s) 必要時任何相關數位內容的軟、硬體相互操作性，經營者已知或可合理期待知道的。
  - (t) 必要時以經營者為主體的法庭外投訴的機會與申訴機制，及使用途徑。
2. 第1項也適用於水、瓦斯、電力等不以特定的容量或以整組販售，區域供熱及不以有形媒介提供的數位內容契約。
  3. 於公開拍賣情形，第1項 (b)、(c)、(d) 點可以揭露之拍賣詳情取代；
  4. 第1項 (h)、(i)、(j) 點可藉由附錄I (A) 所載解除權規範指南提供。若經營者已向消費者提供第1項 (h)、(i)、(j) 點規定且正確填入，經營者即應履行其所提供的資訊要求。
  5. 第1項所指資訊為遠距契約或營業場所外契約的一部分，除非契約交易雙方明確同意，否則不得更改。
  6. 如果經營者未遵守第1項 (e) 點所指的額外費用或其他費用的資訊要求，或第1項 (i) 點中所提到的返還商品的費用，消費

- the conditions for terminating the contract;
- (p) where applicable, the minimum duration of the consumer's obligations under the contract;
  - (q) where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader;
  - (r) where applicable, the functionality, including applicable technical protection measures, of digital content;
  - (s) where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of;
  - (t) where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.
2. Paragraph 1 shall also apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium.
  3. In the case of a public auction, the information referred to in points (b), (c) and (d) of paragraph 1 may be replaced by the equivalent details for the auctioneer.
  4. The information referred to in points (h), (i) and (j) of paragraph 1 may be provided by means of the model instructions on withdrawal set out in Annex I(A). The trader shall have fulfilled the information requirements laid down in points (h), (i) and (j) of paragraph 1 if he has supplied these instructions to the consumer, correctly filled in.
  5. The information referred to in paragraph 1 shall form an integral part of the distance or off-premises contract and shall not be altered unless the contracting parties expressly agree otherwise.
  6. If the trader has not complied with the information requirements on additional charges or other costs as referred to in point (e) of

者無須負擔這些費用或成本。

7. 會員國可以維持或採用其本國法律語言規定於有關契約的資訊，以確保消費者可容易理解這些訊息。
8. 除本指令與2006/123/EC指令及2000/31/EC指令規定所含資訊要求外，並不妨礙會員國依照這些指令施加額外的資訊要求。在無損於前段情形下，如2006/123/EC指令及2000/31/EC指令的規定的內容與方式其資訊提供，與本指令規定衝突時，以本指令規定為準。
9. 關於依照本章規定之資訊要求，由經營者負舉證責任。

## 第7條 營業場所外契約要式

1. 於營業場所外契約，經營者應以書面，或經消費者同意以其他可靠媒介，提供第6條第1項規定的資訊給消費者。這些資訊應以清楚，簡單的且易於理解語言為之。
2. 經營者應提供消費者，包括依據第16條(m)點消費者事先明確同意並確認的簽約副本或書面確認契約，或必要時經消費者同意的其他可靠媒介。

paragraph 1, or on the costs of returning the goods as referred to in point (i) of paragraph 1, the consumer shall not bear those charges or costs.

7. Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer.
8. The information requirements laid down in this Directive are in addition to information requirements contained in Directive 2006/123/EC and Directive 2000/31/EC and do not prevent Member States from imposing additional information requirements in accordance with those Directives. Without prejudice to the first subparagraph, if a provision of Directive 2006/123/EC or Directive 2000/31/EC on the content and the manner in which the information is to be provided conflicts with a provision of this Directive, the provision of this Directive shall prevail.
9. As regards compliance with the information requirements laid down in this Chapter, the burden of proof shall be on the trader.

## **Article 7 Formal requirements for off-premises contracts**

1. With respect to off-premises contracts, the trader shall give the information provided for in Article 6(1) to the consumer on paper or, if the consumer agrees, on another durable medium. That information shall be legible and in plain, intelligible language.
2. The trader shall provide the consumer with a copy of the signed contract or the confirmation of the contract on paper or, if the consumer agrees, on another durable medium, including, where applicable, the confirmation of the consumer's prior express consent and acknowledgement in accordance with point (m) of Article 16.

3. 於第9條第2項規定解除期間，消費者希望開始履行服務或提供水、瓦斯、電力等不以特定的容量或以整組販售，或區域供熱的情形時，經營者應要求消費者於可靠媒介上明示其要求。
  
4. 營業場所外契約中，消費者已明確要求經營者提供服務進行維修或保養，且立即履行其契約義務，而消費者所支付的費用不超過200歐元時：

(a) 經營者應以書面或經消費者同意於可靠媒介上，提供消費者第6條第1項 (b)、(c) 點資訊及價格與估算方式。經營者應提供第6條第1項 (a)、(h)、(k) 點資訊，如消費者明示同意時可選擇不以書面或其他可靠媒介提供；

(b) 依本條第2項所提供的確認契約應包含第6條第1項資訊。

會員國得決定不適用本項。

5. 會員國不應附加任何更進一步先契約資訊要求，以為實現本指令規定之資訊義務。

## 第8條 遠距契約要式

3. Where a consumer wants the performance of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating to begin during the withdrawal period provided for in Article 9(2), the trader shall require that the consumer makes such an express request on a durable medium.
4. With respect to off-premises contracts where the consumer has explicitly requested the services of the trader for the purpose of carrying out repairs or maintenance for which the trader and the consumer immediately perform their contractual obligations and where the payment to be made by the consumer does not exceed EUR 200:
  - (a) the trader shall provide the consumer with the information referred to in points (b) and (c) of Article 6(1) and information about the price or the manner in which the price is to be calculated together with an estimate of the total price, on paper or, if the consumer agrees, on another durable medium. The trader shall provide the information referred to in points (a), (h) and (k) of Article 6(1), but may choose not to provide it on paper or another durable medium if the consumer expressly agrees;
  - (b) the confirmation of the contract provided in accordance with paragraph 2 of this Article shall contain the information provided for in Article 6(1).Member States may decide not to apply this paragraph.
5. Member States shall not impose any further formal pre-contractual information requirements for the fulfilment of the information obligations laid down in this Directive.

## **Article 8 Formal requirements for distance**

1. 於遠距契約，經營者應提供第6條第1項資訊，或以適當方式於遠距通訊工具上，以平易且易於明瞭的語言將該訊息提供給消費者。在可靠媒介提供範圍內，資訊應清晰可辨。
  
2. 如遠距契約係以電子方式締約，消費者將因訂單而負有支付義務前，經營者應以清楚及顯著的方式，直接使消費者瞭解，第6條第1項(a)、(e)、(o)、(p)點的資訊。  
經營者應確保消費者提出訂單時，明確瞭解該訂單意指將負有支付義務。若提出訂單需啟動按鍵或其他類似功能，該按鍵或類似功能應只以清晰可辨的「訂購即須付款」文字標籤，或類似的明確方式，表明下訂單必須付款給經營者。  
如經營者未遵守本項規定，消費者得不受契約或訂單拘束。
  
3. 交易頁面的訂購流程一開始即應清晰且明確，不論是傳輸限制申請及支付工具限制。
  
4. 如以遠距通訊工具締結契約，而資訊顯示於有限的空間或時間時，經營者應於該特定通訊工具上，依據第6條第1項(a)、(b)、(e)、(h)、(o)點，提供締約前有關商品或服務的特性、經營者身分、總價、解除權、契約期間，與不確定期間契約的終止條件。  
其他第6條第1項所定資訊，經營者得依本條第1項以適當方式提供予消費者。

## **contracts**

1. With respect to distance contracts, the trader shall give the information provided for in Article 6(1) or make that information available to the consumer in a way appropriate to the means of distance communication used in plain and intelligible language. In so far as that information is provided on a durable medium, it shall be legible.
2. If a distance contract to be concluded by electronic means places the consumer under an obligation to pay, the trader shall make the consumer aware in a clear and prominent manner, and directly before the consumer places his order, of the information provided for in points (a), (e), (o) and (p) of Article 6(1).  
The trader shall ensure that the consumer, when placing his order, explicitly acknowledges that the order implies an obligation to pay. If placing an order entails activating a button or a similar function, the button or similar function shall be labelled in an easily legible manner only with the words ‘order with obligation to pay’ or a corresponding unambiguous formulation indicating that placing the order entails an obligation to pay the trader. If the trader has not complied with this subparagraph, the consumer shall not be bound by the contract or order.
3. Trading websites shall indicate clearly and legibly at the latest at the beginning of the ordering process whether any delivery restrictions apply and which means of payment are accepted.
4. If the contract is concluded through a means of distance communication which allows limited space or time to display the information, the trader shall provide, on that particular means prior to the conclusion of such a contract, at least the pre-contractual information regarding the main characteristics of the goods or services, the identity of the trader, the total price, the right of withdrawal, the duration of the contract and, if the contract is of

5. 無損於第4條規定下，經營者以電話與消費者締結遠距契約，經營者在一開始與消費者對話前，須揭露其身分，必要時表明其代表的身分以及商業目的的通話。
6. 遠距契約係以電話締結時，會員國得規定消費者簽署要約或寄出書面同意時，經營者確認要約時，消費者僅受一次拘束。會員國亦得規定此確認須定於可靠媒介上。
7. 經營者應於遠距契約締結後的合理時間內，在可靠媒介上提供消費者確認締結契約的機制，最遲在商品交付前或服務開始履行前。該確認機制應包括：
  - (a) 第6條第1項規定的全部資訊，除非經營者於締結遠距契約前，事先已以可靠媒介提供給消費者；及
  - (b) 必要時，依第16條 (m) 點規定消費者事先明確同意及理解的確認機制。
8. 消費者希望於第9條第2項規定解除權期間，開始履行服務或提供水、瓦斯、電力等不以特定的容量或以整組販售，或區域供熱的情形時，經營者應要求消費者明示其要求。

indeterminate duration, the conditions for terminating the contract, as referred to in points (a), (b), (e), (h) and (o) of Article 6(1). The other information referred to in Article 6(1) shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1 of this Article.

5. Without prejudice to paragraph 4, if the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall, at the beginning of the conversation with the consumer, disclose his identity and, where applicable, the identity of the person on whose behalf he makes that call, and the commercial purpose of the call.
6. Where a distance contract is to be concluded by telephone, Member States may provide that the trader has to confirm the offer to the consumer who is bound only once he has signed the offer or has sent his written consent. Member States may also provide that such confirmations have to be made on a durable medium.
7. The trader shall provide the consumer with the confirmation of the contract concluded, on a durable medium within a reasonable time after the conclusion of the distance contract, and at the latest at the time of the delivery of the goods or before the performance of the service begins. That confirmation shall include:
  - (a) all the information referred to in Article 6(1) unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the distance contract; and
  - (b) where applicable, the confirmation of the consumer's prior express consent and acknowledgment in accordance with point (m) of Article 16.
8. Where a consumer wants the performance of services, or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, to begin during

9. 本條規定無損於2000/31/EC指令第9條及第11條有關締結電子契約、電子訂單的規定。
10. 會員國不應附加任何更進一步先契約資訊要求，以為實現本指令規定之資訊義務。

### 第9條 解除權

1. 除第16條所載的例外情形外，消費者應享有14天期間內不必附理由解除遠距契約或營業場所外契約的權利，且除第13條第2項及第14條規定情形外不須負擔任何費用。
2. 在不損及第10條權利下，本條第1項解除權的期間依下列規定起算，於14天後屆滿：
  - (a) 在服務契約的情形，於契約訂立之日。
  - (b) 在銷售契約的情形，消費者或非運送人而由消費者指定之第三人，實質持有該商品之日或：
    - (i) 於一筆訂單訂購多數商品而分別送達的情形，消費者或非運送人且由消費者指定之第三人，實質持有該最後一項商品之日。
    - (ii) 商品由多數部分或數單位組成的情形，於消費者或非運送人且由消費者指定之第三人，實質持有該最後部分或單位時。

the withdrawal period provided for in Article 9(2), the trader shall require that the consumer make an express request.

9. This Article shall be without prejudice to the provisions on the conclusion of e-contracts and the placing of e-orders set out in Articles 9 and 11 of Directive 2000/31/EC.
10. Member States shall not impose any further formal pre-contractual information requirements for the fulfilment of the information obligations laid down in this Directive.

## **Article 9 Right of withdrawal**

1. Save where the exceptions provided for in Article 16 apply, the consumer shall have a period of 14 days to withdraw from a distance or off-premises contract, without giving any reason, and without incurring any costs other than those provided for in Article 13(2) and Article 14.
2. Without prejudice to Article 10, the withdrawal period referred to in paragraph 1 of this Article shall expire after 14 days from:
  - (a) in the case of service contracts, the day of the conclusion of the contract;
  - (b) in the case of sales contracts, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the goods or:
    - (i) in the case of multiple goods ordered by the consumer in one order and delivered separately, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the last good;
    - (ii) in the case of delivery of a good consisting of multiple lots or pieces, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires

- (iii)在約定一段期間中定期交付商品的情形，消費者或非運送人且由消費者指定之第三人實質持有第一件商品之日。
  - (c)在供給水、瓦斯或電力的契約中，以有限的容量或以整組販售或僅區域供熱，以及非以有形媒介提供的數位內容，於訂立契約之日。
3. 會員國不得禁止契約雙方於解除期間內履行其契約義務。然而，在營業場所外契約，會員國得維持既存的國家立法，於契約訂立後的一定期間內，禁止經營者收取來自消費者的付款。

## 第10條 解除權資訊的隱匿

1. 如果經營者並未提供消費者依照第6條第1項第h款規定的解除權利之資訊，其解除權依第9條第2項規定之日開始計算，經12個月屆滿。
2. 依第9條第2項規定起算的12個月中，經營者提供消費者第一項資訊，則解除權自消費者獲得該資訊之日起14天屆滿。

- physical possession of the last lot or piece;
  - (iii) in the case of contracts for regular delivery of goods during defined period of time, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the first good;
  - (c) in the case of contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium, the day of the conclusion of the contract.
3. The Member States shall not prohibit the contracting parties from performing their contractual obligations during the withdrawal period. Nevertheless, in the case of off-premises contracts, Member States may maintain existing national legislation prohibiting the trader from collecting the payment from the consumer during the given period after the conclusion of the contract.

## **Article 10 Omission of information on the right of withdrawal**

1. If the trader has not provided the consumer with the information on the right of withdrawal as required by point (h) of Article 6(1), the withdrawal period shall expire 12 months from the end of the initial withdrawal period, as determined in accordance with Article 9(2).
2. If the trader has provided the consumer with the information provided for in paragraph 1 of this Article within 12 months from the day referred to in Article 9(2), the withdrawal period shall expire 14 days after the day upon which the consumer receives that information.

### 第11條 解除權的行使

1. 在解除權屆滿前，消費者得通知經營者解除契約的決定。基於此，消費者得選擇：

- (a) 使用附錄I(B)所載之解除權範例；或
- (b) 製作任何其他明確聲明解除該契約。

會員國不得於附錄I(B)以外，規定適用於解除權格式的額外要件。

2. 消費者以通訊方式於期間屆滿前發出行使解除權之表示，符合第9條第2項及第10條規定應在期間內行使解除權。

3. 經營者於第一項情形外，可給予消費者選擇的權利，得以電子方式填入並提交附錄I(B)所載解除權範例，或其他明確的聲明於經營者的網頁上。於此情形，經營者應毫不延遲，透過可靠媒介向消費者傳達確認已收到其解除通知。

4. 依據本條規定行使解除權的舉證責任由消費者負擔。

### 第12條 解除權的效果

行使解除權當事人得終止契約義務：

- (a) 履行遠距或營業場所外契約的義務；或
- (b) 因消費者之要約，須締結之遠距或營業場所外契約的義務。

## **Article 11 Exercise of the right of withdrawal**

1. Before the expiry of the withdrawal period, the consumer shall inform the trader of his decision to withdraw from the contract. For this purpose, the consumer may either:
  - (a) use the model withdrawal form as set out in Annex I(B); or
  - (b) make any other unequivocal statement setting out his decision to withdraw from the contract.Member States shall not provide for any formal requirements applicable to the model withdrawal form other than those set out in Annex I(B).
2. The consumer shall have exercised his right of withdrawal within the withdrawal period referred to in Article 9(2) and Article 10 if the communication concerning the exercise of the right of withdrawal is sent by the consumer before that period has expired.
3. The trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit either the model withdrawal form set out in Annex I(B) or any other unequivocal statement on the trader's website. In those cases the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal on a durable medium without delay.
4. The burden of proof of exercising the right of withdrawal in accordance with this Article shall be on the consumer.

## **Article 12 Effects of withdrawal**

The exercise of the right of withdrawal shall terminate the obligations of the parties:

- (a) to perform the distance or off-premises contract; or
- (b) to conclude the distance or off-premises contract, in cases where an offer was made by the consumer.

### 第13條 解除事件中經營者之義務

1. 消費者依據第11條通知經營者解除契約時，經營者不得無故拖延，應於通知日起14日內，退還自消費者收受的所有款項，必要時包括交付費用。

經營者退款應採用與消費者初始交易相同的付款方式，除非消費者明示同意，否則退款不應產生任何費用。

2. 雖有第1項規定，若消費者明確選擇經營者所提供之非最便宜的交付方式時，經營者不負擔額外附加的費用。
3. 除非經營者於銷售契約中約定自行回收商品，經營者得暫緩退款，直到取回商品或消費者證明已寄回商品，兩者以最早者為準。

### 第14條 解除事件中消費者的義務

1. 除非經營者提供自行回收商品，消費者依據第11條通知經營者解除契約時，應於通知日起14日內返還經營者商品，不得無故拖延。消費者於14日內寄出商品亦符合本規定。

## **Article 13 Obligations of the trader in the event of withdrawal**

1. The trader shall reimburse all payments received from the consumer, including, if applicable, the costs of delivery without undue delay and in any event not later than 14 days from the day on which he is informed of the consumer's decision to withdraw from the contract in accordance with Article 11.

The trader shall carry out the reimbursement referred to in the first subparagraph using the same means of payment as the consumer used for the initial transaction, unless the consumer has expressly agreed otherwise and provided that the consumer does not incur any fees as a result of such reimbursement.

2. Notwithstanding paragraph 1, the trader shall not be required to reimburse the supplementary costs, if the consumer has expressly opted for a type of delivery other than the least expensive type of standard delivery offered by the trader.
3. Unless the trader has offered to collect the goods himself, with regard to sales contracts, the trader may withhold the reimbursement until he has received the goods back, or until the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

## **Article 14 Obligations of the consumer in the event of withdrawal**

1. Unless the trader has offered to collect the goods himself, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive the goods, without undue delay and in any event not later than 14 days from the day on which he has communicated his decision to withdraw from the

消費者只負擔商品退回的直接費用，除非經營者同意承擔該用，或經營者未能告知消費者該負擔的費用。

於營業場所外契約，契約成立時商品已送達消費者所在地，如依該商品性質不能依一般方式郵寄返還，經營者應以自己費用收回貨物。

2. 消費者只對因使用商品而減損商品價值時負責，不含因確認商品性質、特點或功能所必要而造成的。當經營者未依第6條第1項(h)點告知消費者解除權資訊時，消費者對於商品價值的減損不負任何責任。
  
3. 當消費者依第7條第3項或第8條第8項行使解除權後，消費者應按整體契約比例支付經營者已提供之服務至行使解除權之時。消費者支付比例的計算建立在該契約總額的基礎上。如總額過高，應依已提供的服務市場價值計算之。
  
4. 消費者不需負擔以下費用
  - (a) 關於水、瓦斯或電力以有限的容量或以整組販售，或區域供熱，其服務提供之全部或一部，在解除權期間，當：

contract to the trader in accordance with Article 11. The deadline shall be met if the consumer sends back the goods before the period of 14 days has expired.

The consumer shall only bear the direct cost of returning the goods unless the trader has agreed to bear them or the trader failed to inform the consumer that the consumer has to bear them.

In the case of off-premises contracts where the goods have been delivered to the consumer's home at the time of the conclusion of the contract, the trader shall at his own expense collect the goods if, by their nature, those goods cannot normally be returned by post.

2. The consumer shall only be liable for any diminished value of the goods resulting from the handling of the goods other than what is necessary to establish the nature, characteristics and functioning of the goods. The consumer shall in any event not be liable for diminished value of the goods where the trader has failed to provide notice of the right of withdrawal in accordance with point (h) of Article 6(1).
3. Where a consumer exercises the right of withdrawal after having made a request in accordance with Article 7(3) or Article 8(8), the consumer shall pay to the trader an amount which is in proportion to what has been provided until the time the consumer has informed the trader of the exercise of the right of withdrawal, in comparison with the full coverage of the contract. The proportionate amount to be paid by the consumer to the trader shall be calculated on the basis of the total price agreed in the contract. If the total price is excessive, the proportionate amount shall be calculated on the basis of the market value of what has been provided.
4. The consumer shall bear no cost for:
  - (a) the performance of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, in full or in part, during the

- (i) 經營者未依第6條第1項 (h) 或 (j) 點告知資訊時；或
  - (ii) 消費者依據第7條第3項及第8條第8項之解除權期間，未明確要求開始提供服務。
- (b) 非以有形媒介提供的全部或一部之數位內容，當：
- (i) 在第9條所指的14天期間內，消費者事先未明確同意開始履行；
  - (ii) 當給予消費者解除權時，消費者未認知到喪失解除權時；或
  - (iii) 經營者未能依第7條第2項或第8條第7項提供確認機制。
5. 除依第13條第2項及本條規定外，消費者不因行使解除權而負擔任何責任。

## 第15條 行使解除權對附屬契約的影響

1. 在不影響2008年4月23日歐洲議會及理事會2008/48/EC有關消費者信用指令第15條規定下，消費者於遠距契約或營業場所外契約，依本指令第9到14條行使解除權時，任何附屬契約應自動終止，除第13條第2項或14條規定外，消費者不生任何費用。

withdrawal period, where:

- (i) the trader has failed to provide information in accordance with points (h) or (j) of Article 6(1); or
  - (ii) the consumer has not expressly requested performance to begin during the withdrawal period in accordance with Article 7(3) and Article 8(8); or
- (b) the supply, in full or in part, of digital content which is not supplied on a tangible medium where:
- (i) the consumer has not given his prior express consent to the beginning of the performance before the end of the 14-day period referred to in Article 9;
  - (ii) the consumer has not acknowledged that he loses his right of withdrawal when giving his consent; or
  - (iii) the trader has failed to provide confirmation in accordance with Article 7(2) or Article 8(7).
5. Except as provided for in Article 13(2) and in this Article, the consumer shall not incur any liability as a consequence of the exercise of the right of withdrawal.

## **Article 15 Effects of the exercise of the right of withdrawal on ancillary contracts**

1. Without prejudice to Article 15 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers<sup>1</sup>, if the consumer exercises his right of withdrawal from a distance or an off-premises contract in accordance with Articles 9 to 14 of this Directive, any ancillary contracts shall be automatically terminated, without any costs for the consumer, except as provided for in Article 13(2) and in Article 14 of this Directive.

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<sup>1</sup> OJ L 133, 22.5.2008, p. 66.

2. 會員國應制定此類終止契約的詳細規定。

### 第16條 解除權之例外

於遠距與營業場所外契約中，下列情形，會員國得不賦予解除權，排除第9條到15條規定，

- (a) 已經完成的服務契約，開始執行係由於消費者的事先明確同意與確認，一旦經營者完成執行，消費者喪失解除權；
- (b) 所供應的商品或服務的價格，可能在解除期間發生的波動取決於金融市場而不能由經營者控制的；
- (c) 為消費者特製或明顯個人化的商品服務；
- (d) 所供應的商品會迅速變質或過期；
- (e) 所供應的密封商品，因健康保護或衛生理由不宜退還，且送達後被拆封；
- (f) 所供應的商品送達後，因其性質與其他物品混合而不可分割；
- (g) 含酒精飲料的供應，價格已於買賣契約中確定，如為三十天後交付的商品，且其實際價值隨著市場波動而非經營者所能控制；

2. The Member States shall lay down detailed rules on the termination of such contracts.

## **Article 16 Exceptions from the right of withdrawal**

Member States shall not provide for the right of withdrawal set out in Articles 9 to 15 in respect of distance and off-premises contracts as regards the following:

- (a) service contracts after the service has been fully performed if the performance has begun with the consumer's prior express consent, and with the acknowledgement that he will lose his right of withdrawal once the contract has been fully performed by the trader;
- (b) the supply of goods or services for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader and which may occur within the withdrawal period;
- (c) the supply of goods made to the consumer's specifications or clearly personalised;
- (d) the supply of goods which are liable to deteriorate or expire rapidly;
- (e) the supply of sealed goods which are not suitable for return due to health protection or hygiene reasons and were unsealed after delivery;
- (f) the supply of goods which are, after delivery, according to their nature, inseparably mixed with other items;
- (g) the supply of alcoholic beverages, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place after 30 days and the actual value of which is dependent on fluctuations in the market

- (h) 消費者具體要求經營者到府，進行緊急維修或維護。在此情形，除經營者所提供的服務非消費者所具體要求，或商品非進行維修或維護所必要的，解除權僅適用於額外的服務或商品。
  
- (i) 所供應的密封之影音紀錄或電腦軟體，送達後遭拆封；
  
- (j) 商品為報紙、期刊、雜誌等出版品，於訂購契約中排除；
  
- (k) 契約以公開拍賣方式締結；
  
- (l) 屬於非住宅用途之住宿提供、商品（貨物）運輸、汽車租賃服務、餐飲或與休閒活動等相關服務之契約，而於一特定的期間或日期履行；
  
- (m) 非以有形媒介提供的數位內容，係由消費者事先明確同意與確認而開始執行，且其知悉將喪失解除權。

## 第四章 其他消費者權利

### 第17條 範圍

1. 第18、20條應適用於銷售契約。這些條文不適用於水、瓦斯、電力等不以有限的容量或以整組販售，區域供熱及不以有形媒介提供的數位內容契約。

- which cannot be controlled by the trader;
- (h) contracts where the consumer has specifically requested a visit from the trader for the purpose of carrying out urgent repairs or maintenance. If, on the occasion of such visit, the trader provides services in addition to those specifically requested by the consumer or goods other than replacement parts necessarily used in carrying out the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods;
  - (i) the supply of sealed audio or sealed video recordings or sealed computer software which were unsealed after delivery;
  - (j) the supply of a newspaper, periodical or magazine with the exception of subscription contracts for the supply of such publications;
  - (k) contracts concluded at a public auction;
  - (l) the provision of accommodation other than for residential purpose, transport of goods, car rental services, catering or services related to leisure activities if the contract provides for a specific date or period of performance;
  - (m) the supply of digital content which is not supplied on a tangible medium if the performance has begun with the consumer's prior express consent and his acknowledgment that he thereby loses his right of withdrawal.

## **CHAPTER IV OTHER COSUMER RIGHTS**

### **Article 17 Scope**

1. Articles 18 and 20 shall apply to sales contracts. Those Articles shall not apply to contracts for the supply of water, gas or electricity,

2. 第19、21及22條應適用於銷售契約、服務契約及供應水、電、瓦斯、電力、區域供熱或數位內容契約。

### 第18條 交付

1. 除非當事人另有約定的交付時間，經營者應移轉商品的實際占有或控制給消費者，不得無故拖延，但自契約締結日起不得超過30日。
2. 如果經營者未於與消費者約定的時間，或第1項規定時間內履行交付義務，消費者在此情形下應定適當期間催告經營者交付。若經營者未於催告期間內交付，消費者有權終止契約。

前段規定不適用於銷售契約中，經營者拒絕交付，或依契約本旨於約定期間內交付乃至關重要，或消費者於締約前已通知經營者交付的特定日期等情形。於此情形中，經營者未於約定時間內或第1項規定時間內履行交付，消費者有權立即終止契約。

3. 契約終止後，經營者應返還契約所有款項，不得無故拖延。

where they are not put up for sale in a limited volume or set quantity, of district heating or the supply of digital content which is not supplied on a tangible medium.

2. Articles 19, 21 and 22 shall apply to sales and service contracts and to contracts for the supply of water, gas, electricity, district heating or digital content.

## **Article 18 Delivery**

1. Unless the parties have agreed otherwise on the time of delivery, the trader shall deliver the goods by transferring the physical possession or control of the goods to the consumer without undue delay, but not later than 30 days from the conclusion of the contract.
2. Where the trader has failed to fulfil his obligation to deliver the goods at the time agreed upon with the consumer or within the time limit set out in paragraph 1, the consumer shall call upon him to make the delivery within an additional period of time appropriate to the circumstances. If the trader fails to deliver the goods within that additional period of time, the consumer shall be entitled to terminate the contract.

The first subparagraph shall not be applicable to sales contracts where the trader has refused to deliver the goods or where delivery within the agreed delivery period is essential taking into account all the circumstances attending the conclusion of the contract or where the consumer informs the trader, prior to the conclusion of the contract, that delivery by or on a specified date is essential. In those cases, if the trader fails to deliver the goods at the time agreed upon with the consumer or within the time limit set out in paragraph 1, the consumer shall be entitled to terminate the contract immediately.

3. Upon termination of the contract, the trader shall, without undue delay, reimburse all sums paid under the contract.

4. 除第2項規定終止契約外，消費者得援用國內法規定救濟。

### **第19條 支付工具的費用**

會員國應禁止經營者向消費者收取費用超過經營者使用的支付工具之成本。

### **第20條 風險移轉**

契約中經營者交付商品予消費者，即當消費者或非運送人而由消費者指定之第三人實質持有該商品時，商品的毀損或滅失風險移轉給消費者。然而當運送人係受消費者委託運送商品，非經營者選擇時，風險應移轉予消費者，但無損於消費者對運送人得主張的權利。

### **第21條 以電話通訊**

會員國應確保經營者提供消費者透過電話締結契約時，消費者於聯繫時，消費者的支出不會超過基本費用。

前段規定無損於電信服務提供者收取通話費用的權利。

### **第22條 額外費用**

4. In addition to the termination of the contract in accordance with paragraph 2, the consumer may have recourse to other remedies provided for by national law.

### **Article 19 Fees for the use of means of payment**

Member States shall prohibit traders from charging consumers, in respect of the use of a given means of payment, fees that exceed the cost borne by the trader for the use of such means.

### **Article 20 Passing of risk**

In contracts where the trader dispatches the goods to the consumer, the risk of loss of or damage to the goods shall pass to the consumer when he or a third party indicated by the consumer and other than the carrier has acquired the physical possession of the goods. However, the risk shall pass to the consumer upon delivery to the carrier if the carrier was commissioned by the consumer to carry the goods and that choice was not offered by the trader, without prejudice to the rights of the consumer against the carrier.

### **Article 21 Communication by telephone**

Member States shall ensure that where the trader operates a telephone line for the purpose of contacting him by telephone in relation to the contract concluded, the consumer, when contacting the trader is not bound to pay more than the basic rate.

The first subparagraph shall be without prejudice to the right of telecommunication services providers to charge for such calls.

### **Article 22 Additional payments**

在消費者受契約或要約拘束前，除為經營者主要契約義務所約定的償還費用外，任何額外的費用，經營者應獲得消費者明示同意。若經營者未獲得消費者的明確同意，但已藉由預設的選項使消費者必須拒絕以避免額外費用時，消費者應支付此費用。

## 第五章 通則

### 第23條 執行

1. 會員國應確保有使本指令充分及有效遵循的方法存在。
2. 前項方法應包括依國內法規定一個或多個以下的機構，在法院或主管機關轉換本指令適用前，可以依據國家法律採取行動：
  - (a) 公共機構或其代表；
  - (b) 消費者組織在保護消費者方面的合法權益；
  - (c) 專業組織在行動方面的合法權益。

### 第24條 罰則

1. 會員國應設置處罰規定，以適用於違反依據本指令所定之國內法規定時，並應採取必要措施以確保其實施。處罰必須是有效、適度及具勸阻性的。

Before the consumer is bound by the contract or offer, the trader shall seek the express consent of the consumer to any extra payment in addition to the remuneration agreed upon for the trader's main contractual obligation. If the trader has not obtained the consumer's express consent but has inferred it by using default options which the consumer is required to reject in order to avoid the additional payment, the consumer shall be entitled to reimbursement of this payment.

## **CHAPTER V GENERAL PROVISIONS**

### **Article 23 Enforcement**

1. Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive.
2. The means referred to in paragraph 1 shall include provisions whereby one or more of the following bodies, as determined by national law, may take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are applied:
  - (a) public bodies or their representatives;
  - (b) consumer organisations having a legitimate interest in protecting consumers;
  - (c) professional organisations having a legitimate interest in acting.

### **Article 24 Penalties**

1. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they

- 會員國於(2013年12月13日)前應將此些規定通知執委會，且應毫不延遲的通知任何後續影響相關規定的修正。

### **第25條 指令的強制性**

如果契約適用的法律為會員國依本指令轉換的國家法律，消費者不得拋棄法律所賦予的權利。

任何契約條款直接或間接，拋棄或限制消費者依本指令所賦予之權利，消費者不受此拘束。

### **第26條 資訊**

會員國應採取適當措施，告知消費者及經營者，國內法轉換本指令的規定，且必要時應鼓勵經營者及依據2005/29/EC指令第2條(g)點定義之守則制定者，通知消費者其行為守則。

### **第27條 慣性銷售**

於2005/29/EC指令第5條第5項及附錄I第29點所禁止之未經請求而提供的商品、水、瓦斯、電力、區域供熱、數位內容或未經請求的服務時，消費者不負義務提供任何代價。

are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2. Member States shall notify those provisions to the Commission by ...<sup>1</sup> and shall notify it without delay of any subsequent amendment affecting them.

## **Article 25 Imperative nature of the Directive**

If the law applicable to the contract is the law of a Member State, consumers may not waive the rights conferred on them by the national measures transposing this Directive.

Any contractual terms which directly or indirectly waive or restrict the rights resulting from this Directive shall not be binding on the consumer.

## **Article 26 Information**

Member States shall take appropriate measures to inform consumers and traders of the national provisions transposing this Directive and shall, where appropriate, encourage traders and code owners as defined in point (g) of Article 2 of Directive 2005/29/EC, to inform consumers of their codes of conduct.

## **Article 27 Inertia selling**

The consumer shall be exempted from the obligation to provide any consideration in cases of unsolicited supply of goods, water, gas, electricity, district heating or digital content or unsolicited provision of services, prohibited by Article 5(5) and point 29 of Annex I to

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1 OJ: Please insert date: two years after the entry into force of this Directive.

在上述案例中，消費者也無須對於此等未經請求的服務做出回應。

### **第28條 轉換**

1. 會員國於(2013年12月13日)應通過法律、條例、行政規則以遵守本指令。且應立即以文書傳達這些措施的文本予執委會。執委會得以此文件作為第30條所指報告。其自(2014年6月13日)應適用此措施。

當會員國採取這些措施，須包括本指令的指引或於正式公布時伴隨如此的指引。

會員國應決定如何制定該指引。

2. 本指令的規定適用於(2014年6月13日)後所締結之契約。

### **第29條 回報規定**

1. 當會員國依據第3條第4項、第6條第7項、第6條第8項、第7條第4項、第8條第6項及第9條第3項規定，進行任何規範時，以及後續相關變更時，應自(2013年12月13日)通知執委會。

Directive 2005/29/EC.

In such cases, the absence of a response from the consumer following such an unsolicited supply or provision shall not constitute consent.

## **Article 28 Transposition**

1. Member States shall adopt and publish, by ...<sup>+</sup>, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of these measures in the form of documents. The Commission shall make use of these documents for the purposes of the report referred to in Article 30.

They shall apply those measures from ...<sup>++</sup>.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. The provisions of this Directive shall apply to contracts concluded after ...<sup>+</sup>.

## **Article 29 Reporting requirements**

1. Where a Member State makes use of any of the regulatory choices referred to in Article 3(4), Article 6(7), Article 6(8), Article 7(4), Article 8(6) and Article 9(3), it shall inform the Commission thereof

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+ OJ: Please insert date: two years after the entry into force of this Directive.

++ OJ: Please insert date: 30 months after the entry into force of this Directive.

+ OJ: Please insert date: 30 months after the entry into force of this Directive.

2. 執委會應確保第1項所提資訊，易於使消費者及經營者獲取，特別是於指定網站。
3. 執委會應將第1項所指訊息，轉發給其他會員國及歐洲議會。就相關資訊執委會應諮詢利害關係者。

### 第30條 執委會的報告與審查

到(2016年12月13日)執委會應向歐洲議會及理事會，提交有關本指令應用的報告。報告應特別包括本指令中有關數位內容及解除權的評估，必要時該報告應併附立法建議以調整本指令於此領域對消費者權利保護的發展。

## 第六章 最後條款

### 第31條 廢止

85/577/EEC指令、97/7/EC指令，及依2002年9月23日歐洲議會及理事會修訂之2002/65/EC指令有關消費金融服務之遠距行銷服務，與2005/29/EC及2007/64/EC，於(2014年6月13日)廢止。被廢除的指令其指引應解為本指令之指引，且應符合附錄II所設相關表中。

- by ...<sup>++</sup>, as well as of any subsequent changes.
2. The Commission shall ensure that the information referred to in paragraph 1 is easily accessible to consumers and traders, inter alia on a dedicated website.
  3. The Commission shall forward the information referred to in paragraph 1 to the other Member States and the European Parliament. The Commission shall consult stakeholders on that information.

## **Article 30 Reporting by the Commission and review**

By ...<sup>+</sup> the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. That report shall include in particular an evaluation of the provisions of this Directive regarding digital content including the right of withdrawal. The report shall be accompanied, where necessary, by legislative proposals to adapt this Directive to developments in the field of consumer rights.

## **CHAPTER VI FINAL PROVISIONS**

### **Article 31 Repeals**

Directive 85/577/EEC and Directive 97/7/EC, as amended by Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer

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<sup>++</sup> OJ: Please insert date: two years after the entry into force of this Directive.

<sup>+</sup> OJ: Please insert date: five years after the entry into force of this Directive.1 OJ L 271, 9.10.2002, p. 16.

### 第32條 93/13/EEC指令修正

93/13/EEC指令中，應插入下列條文：

“第8a條

1. 當會員國依據第8條制定規定，應告知執委會其規定及其後之任何修正，特別是有關：

--個別商議契約條款、價款或賠償適當性之擴充不公平的評估；

--含有應被視為不公平的契約條款清單。

2. 執委會應確保第1項所提資訊，易於使消費者及經營者獲取，特別是於指定網站。

3. 執委會應將第1項所指訊息，轉發給其他會員國及歐洲議會。就相關資訊執委會應諮詢利害關係者。”

### 第33條 1999/44/EC指令修正

financial services<sup>1</sup> and by Directives 2005/29/EC and 2007/64/EC, are repealed as of...<sup>++</sup>.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II.

### **Article 32 Amendment to Directive 93/13/EEC**

In Directive 93/13/EEC, the following Article is inserted:

‘Article 8a

1. Where a Member State adopts provisions in accordance with Article 8, it shall inform the Commission thereof, as well as of any subsequent changes, in particular where those provisions:
  - extend the unfairness assessment to individually negotiated contractual terms or to the adequacy of the price or remuneration;
  - or
  - contain lists of contractual terms which shall be considered as unfair.
2. The Commission shall ensure that the information referred to in paragraph 1 is easily accessible to consumers and traders, inter alia on a dedicated website.
3. The Commission shall forward the information referred to in paragraph 1 to the other Member States and the European Parliament. The Commission shall consult stakeholders on that information.’

### **Article 33 Amendment to Directive 1999/44/EC**

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<sup>1</sup> OJ L 271.9.10.2002, p16

<sup>++</sup> OJ: Please insert date: 30 months after the entry into force of this Directive.

1999/44/EC指令中，應插入下列條文：

“第8a條

回報規定

1. 會員國依照第8條第2項規定，採取較第5條第1項至第3項及第7條第1項更嚴格的消費者保護規定時，以及後續相關變更時，應通知執委會。
2. 執委會應確保第1項所提資訊，易於使消費者及經營者獲取，特別是於指定網站。
3. 執委會應將第1項所指訊息，轉發給其他會員國及歐洲議會。就相關資訊執委會應諮詢利害關係者。”

### 第34條 生效

本指令於歐盟官方公報公布後第20日生效。

### 第35條 發布

本指令對會員國發布。

於斯特拉斯堡

歐洲議會

議長

理事會

主席

In Directive 1999/44/EC, the following Article is inserted:

‘Article 8a

Reporting requirements

1. Where, in accordance with Article 8(2), a Member State adopts more stringent consumer protection provisions than those provided for in Article 5(1) to (3) and in Article 7(1), it shall inform the Commission thereof, as well as of any subsequent changes.
2. The Commission shall ensure that the information referred to in paragraph 1 is easily accessible to consumers and traders, inter alia on a dedicated website.
3. The Commission shall forward the information referred to in paragraph 1 to the other Member States and the European Parliament. The Commission shall consult stakeholders on that information.’

### **Article 34 Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

### **Article 35 Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg,

For the European Parliament

The President

For the Council

The President

## 附錄一

有關於解除權行使的資訊

### A. 解除權操作範本

解除權

您於14天內有權解除本契約無須附理由。

解除權於1起14天屆期。

欲行使解除權時，您必須通知我們(2)您決定解除本契約，並以明確聲明為之(例如透過郵寄、傳真或電子郵件)。您可以使用附件之解除權範本，但非強制性的。3

為符合解除權期限，在解除權屆滿前，您有充足時間發出通訊行使解除權。

## ANNEX I

Information concerning the exercise of the right of withdrawal

### A. Model instructions on withdrawal

#### Right of withdrawal

You have the right to withdraw from this contract within 14 days without giving any reason.

The withdrawal period will expire after 14 days from the day 1.

To exercise the right of withdrawal, you must inform us (2) of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post, fax or e-mail). You may use the attached model withdrawal form, but it is not obligatory. 3

To meet the withdrawal deadline, it is sufficient for you to send your communication concerning your exercise of the right of withdrawal before the withdrawal period has expired.

### 解除權的效力

假如您解除本契約，自您通知我們決定解除契約時起，我們將毫不延遲且不會晚於14天，退還所有您支付的款項，包含運送費用（您選擇使用價格較高昂的運送方式，而非使用我們所提供的標準運送服務時除外）。我們將會依照您原先使用的付款方式完成退費，除非您已明確表達同意使用其他方式；任何情況下，您都不會因退費而產生任何費用。4

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#### Effects of withdrawal

If you withdraw from this contract, we shall reimburse to you all payments received from you, including the costs of delivery (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us), without undue delay and in any event not later than 14 days from the day on which we are informed about your decision to withdraw from this contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of such reimbursement. 4

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完成指南：

1 在倒轉的逗點之間插入以下文字：

(a) 若是服務契約或者是提供水、瓦斯或電力以有限容量或整組販售，區域供熱，或者非以有形媒介提供的數位內容契約：“契約締結日”；

(b) 銷售契約：“您或您指定的非運送人之第三人，實質持有該商品時”；

(c) 消費者一次性訂購複數商品而分次運送的契約：“您或您指定的非運送人之第三人，實質持有最後一項商品時”；

(d) 由數個部分組成而運送的商品契約：“您或您指定的非運送人之第三人，實質持有最後或最後一部分時”；

(e) 定期而規律的交付商品的契約：“您或您指定的非運送人之第三人，實質持有第一個商品時”。

2 插入您的名字，地理地址，如果可以的話，以及您的電話號碼、傳真號碼和電子郵件信箱

3 假如您提供消費者選擇填寫並傳送網站上的解除契約方式，插入以下敘述”您可以電子化方式填寫並提交解除範本，或以我們網站（插入網站地址）上其他可以表達清楚的方式為之。若您選擇此方式，我們將毫不遲延地以適當之方式（例如電子郵件）聯絡您並寄發確認解除之通知回覆”。

Instructions for completion:

- 1 Insert one of the following texts between inverted commas:
  - (a) in the case of a service contract or a contract for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium: ‘of the conclusion of the contract.’;
  - (b) in the case of a sales contract: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the goods.’;
  - (c) in the case of a contract relating to multiple goods ordered by the consumer in one order and delivered separately: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last good.’;
  - (d) in the case of a contract relating to delivery of a good consisting of multiple lots or pieces: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last lot or piece.’;
  - (e) in the case of a contract for regular delivery of goods during a defined period of time: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the first good.’.
- 2 Insert your name, geographical address and, where available, your telephone number, fax number and e-mail address.
- 3 If you give the option to the consumer to electronically fill in and submit information about his withdrawal from the contract on your website, insert the following: ‘You can also electronically fill in and submit the model withdrawal form or any other unequivocal statement on our website [insert internet address]. If you use this option, we will communicate to you an acknowledgement of receipt of such a withdrawal on a durable medium (e.g. by e-mail) without

4若於銷售契約，解除契約後您尚未取回商品，插入以下敘述”  
我們將暫緩退費，直到我們收到您寄回來的商品或者是您已證明稍早已寄還給我們」

5當消費者收到商品與本契約有關：

(a)插入：

- “我們將會收取商品”；或
- “於您發出解除契約通知時起14天內，您應毫不延遲的寄回或交還商品給我們，或\_\_\_\_(插入姓名、地址，必要時您授權收受商品者之名字、地理地址)。或於14天屆滿前寄出商品亦可。”

(b)插入：

- “我們將負擔退貨之費用。”；
- “您必須負擔退貨的直接費用。”；
- 在遠距契約，因商品性質不能以通常郵寄方式退還時，您不需要負擔退貨的費用；” 您將必須負擔退貨的直接費用，\_\_\_\_ 歐元（插入數量）。”；或於退貨費用不能合理預先計算時：” 您將必須負擔退貨的直接費用，費用估計最多可能\_\_\_\_ 歐元（插入數量）。”；或

-在營業場所外契約情形，商品因其性質，不能以通常郵寄方式寄還，且於契約締結時已經送達消費者之情形：” 我們將以自己費用收取商品”；以及

delay.’.

4 In the case of sales contracts in which you have not offered to collect the goods in the event of withdrawal insert the following: ‘We may withhold reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest.’

5 If the consumer has received goods in connection with the contract:

(a) insert:

- ‘We will collect the goods.’; or
- ‘You shall send back the goods or hand them over to us or \_\_\_\_ [insert the name and geographical address, where applicable, of the person authorised by you to receive the goods], without undue delay and in any event not later than 14 days from the day on which you communicate your withdrawal from this contract to us. The deadline is met if you send back the goods before the period of 14 days has expired.’

(b) insert:

- ‘We will bear the cost of returning the goods.’;
- ‘You will have to bear the direct cost of returning the goods.’;
- If, in a distance contract, you do not offer to bear the cost of returning the goods and the goods, by their nature, cannot normally be returned by post: ‘You will have to bear the direct cost of returning the goods, \_\_\_ EUR [insert the amount].’; or if the cost of returning the goods cannot reasonably be calculated in advance: ‘You will have to bear the direct cost of returning the goods. The cost is estimated at a maximum of approximately \_\_\_ EUR [insert the amount].’; or
- If, in an off-premises contract, the goods, by their nature, cannot normally be returned by post and have been delivered to the consumer’s home at the time of the conclusion of the contract: ‘We will collect the goods at our own expense.’; and

(c)插入”您只對因使用商品而減損商品價值時負責，不含因確認商品性質、特點或功能所必要而造成的。”

6在服務提供契約或供應水、瓦斯或電力，以有限的容量或以整組販售，或區域供熱的契約，插入以下敘述：”假如您於解除契約期間要求開始提供服務，供應水／瓦斯／電力／區域供熱（刪除不適用的），直到您發出解除契約要求前，依整體契約比較後，您應按比例支付我們已提供的服務之費用

- (c) insert ‘You are only liable for any diminished value of the goods resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the goods.’
- 6 In the case of a contract for the provision of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, insert the following: ‘If you requested to begin the performance of services or the supply of water/gas/electricity/district heating [delete where inapplicable] during the withdrawal period, you shall pay us an amount which is in proportion to what has been provided until you have communicated us your withdrawal from this contract, in comparison with the full coverage of the contract.’

## B. 解除權申請範例 (欲解除契約請填妥並擲回本表格)

-致：〔經營者資訊：姓名，地理地址，必要時經營者所插入之傳真號碼、電子郵件信箱〕

-本人在此聲明\*解除雙方\* 下列XX商品/服務XX契約

- 訂購時間\*/收貨時間\*
- 消費者姓名
- 消費者地址
- 消費者簽名(僅限紙本)
- 日期

\*依情形刪除

## **B. Model withdrawal form**

(complete and return this form only if you wish to withdraw from the contract)

- To [here the trader’s name, geographical address and, where available, his fax number and e-mail address are to be inserted by the trader]:
- I/We\* hereby give notice that I/We\* withdraw from my/our\* contract of sale of the following goods\*/for the provision of the following service\*
- Ordered on\*/received on\*
- Name of consumer(s)
- Address of consumer(s)
- Signature of consumer(s) (only if this form is notified on paper)
- Date

\* Delete as appropriate.

**附錄二**  
**相互關係表格(對照表)**

87/577/EEC指令	97/7/EC指令	本指令
第1條		第3條與第2條第8點、第9點以及第16條(h)點
	第1條	第1條與第2條第7點
第2條		第2條第1點及第2點
	第2條第1點	第2條第7點
	第2條第2點	第2條第1點
	第2條第3點	第2條第2點
	第2條第4點第1句	第2條第7點
	第2條第4點第2句	
	第2條第5點	

**AEX II**  
Correlation table

Directive 85/577/EEC	Directive 97/7/EC	This Directive
Article 1		Article 3 read in conjunction with Article 2, points 8 and 9, and Article 16, point (h)
	Article 1	Article 1 read in conjunction with Article 2, point 7
Article 2		Article 2, points 1 and 2
	Article 2, point 1	Article 2, point 7
	Article 2, point 2	Article 2, point 1
	Article 2, point 3	Article 2, point 2
	Article 2, point 4, first sentence	Article 2, point 7
	Article 2, point 4, second sentence	-
	Article 2, point 5	-

指令87/577/EC	指令97/7/EC	本指令
第3條(1)		第3條(4)
第3條(2), a點		第3條(3), e點和f點
第3條(2), b點		第3條(3), j點
第3條(2), c點		-
第3條(2), d點		第3條(3), d點
第3條(2), e點		第3條(3), d點
第3條(3)		-
	第3條(1), 第1個縮排	第3條(3), d點
	第3條(1), 第2個縮排	第3條(3), l點
	第3條(1), 第3個縮排	第3條(3), m點
	第3條(1), 第4個縮排	第3條(3), e點和f點
	第3條(1), 第5個縮排	第6條(3)及第16條， 與第12條第13點連結 的點(k)

Directive 85/577/EEC	Directive 97/7/EC	This Directive
Article 3(1)		Article 3(4)
Article 3(2), point (a)		Article 3(3), points (e) and (f)
Article 3(2), point (b)		Article 3(3), point (j)
Article 3(2), point (c)		-
Article 3(2), point (d)		Article 3(3), point (d)
Article 3(2), point (e)		Article 3(3), point (d)
Article 3(3)		-
	Article 3(1), first indent	Article 3(3), point (d)
	Article 3(1), second indent	Article 3(3), point (l)
	Article 3(1), third indent	Article 3(3), point (m)
	Article 3(1), fourth indent	Article 3(3), points (e) and (f)
	Article 3(1), fifth indent	Article 6(3) and Article 16, point (k) read in conjunction with Article 2, point 13

指令87/577/EC	指令97/7/EC	本指令
	第3條(2), 第1個縮排	第3條(3), (j) 點
	第3條(2), 第2個縮排	第3條(3), (f) 點 (基於居住目的租賃房屋), (f)點(套裝旅遊), (h) 點 (分時渡假), (k)點 (旅客運送的特定例外)以及第16條(1)點 (解除權的例外)
第4條, 第1個縮排		第6條(1), 點(b), (c) 以及(h), 及第7條(1) 及(2)
第4條, 第2個縮排		第6條(1), 點a及第7 條(1)
第4條, 第3個縮排		第6條(1)
第4條, 第4個縮排		第10條
	第4條(1), 點(a)	第6條(1), 點(b)以 及(c)
	第4條(1), 點(b)	第6條(1), 點(a)
	第4條(1), 點(c)	第6條(1), 點(e)

Directive 85/577/EEC	Directive 97/7/EC	This Directive
	Article 3(2), first indent	Article 3(3), point (j)
	Article 3(2), second indent	Article 3(3), point (f) (for rental of accommodation for residential purposes), point (g) (for package travel), point (h) (for timeshare), point (k) (for passenger transport with some exceptions) and Article 16, point (l) (exemption from the right of withdrawal)
Article 4, first sentence		Article 6(1), points (b), (c) and (h), and Article 7(1) and (2)
Article 4, second sentence		Article 6(1), point a and Article 7(1)
Article 4, third sentence		Article 6(1)
Article 4, fourth sentence		Article 10
	Article 4(1), point (a)	Article 6(1), points (b) and (c)
	Article 4(1), point (b)	Article 6(1), point (a)
	Article 4(1), point (c)	Article 6(1), point (e)

指令87/577/EC	指令97/7/EC	本指令
	第4條(1), 點(d)	第6條(1), 點(e)
	第4條(1), 點(e)	第6條(1), 點(g)
	第4條(1), 點(f)	第6條(1), 點(h)
	第4條(1), 點(g)	第6條(1), 點(f)
	第4條(1), 點(h)	-
	第4條(1), 點(i)	第6條(1), 點(o)及點(p)
	第4條(2)	第6條(1) 與第8條(1), (2)和(4)連結
	第4條(3)	第8條(5)
	第5條(1)	第8條(7)
	第5條(2)	第3條(3), 點m
	第6條(1)	第9條(1)及(2), 第10條, 第13條(2), 第14條

Directive 85/577/EEC	Directive 97/7/EC	This Directive
	Article 4(1), point (d)	Article 6(1), point (e)
	Article 4(1), point (e)	Article 6(1), point (g)
	Article 4(1), point (f)	Article 6(1), point (h)
	Article 4(1), point (g)	Article 6(1), point (f)
	Article 4(1), point (h)	-
	Article 4(1), point (i)	Article 6(1), points (o) and (p)
	Article 4(2)	Article 6(1) read in conjunction with Article 8(1), (2) and (4)
	Article 4(3)	Article 8(5)
	Article 5(1)	Article 8(7)
	Article 5(2)	Article 3(3), point m
	Article 6(1)	Article 9(1) and (2), Article 10, Article 13(2), Article 14

指令87/577/EC	指令97/7/EC	本指令
	第6條(2)	第13條及第14條(1), 第2與第3小段
	第6條(3), 第1個縮排	第16條, 點(a)
	第6條(3), 第2個縮排	第16條, 點(b)
	第6條(3), 第3個縮排	第16條, 點(c)及(d)
	第6條(3), 第4個縮排	第16條, 點(i)
	第6條(3), 第5個縮排	第16條, 點(j)
	第6條(3), 第6個縮排	第3條(3), 點(c)
	第6條(4)	第15條
	第7條(1)	第18條(1)(銷售契約)
	第7條(2)	第18條(2), (3)及(4)
	第7條(3)	-
	第8條	-
	第9條	第27條
	第10條	-(但看2002/58/EC指令第13條)

Directive 85/577/EEC	Directive 97/7/EC	This Directive
	Article 6(2)	Article 13 and Article 14(1), second and third subparagraphs
	Article 6(3), first indent	Article 16, point (a)
	Article 6(3), second indent	Article 16, point (b)
	Article 6(3), third indent	Article 16, point (c) and (d)
	Article 6(3), fourth indent	Article 16, point (i)
	Article 6(3), fifth indent	Article 16, point (j)
	Article 6(3), sixth indent	Article 3(3), point (c)
	Article 6(4)	Article 15
	Article 7(1)	Article 18(1) (for sales contracts)
	Article 7(2)	Article 18(2), (3) and (4)
	Article 7(3)	-
	Article 8	-
	Article 9	Article 27
	Article 10	- (but see Article 13 of Directive 2002/58/EC)

外國消費者保護法(二十)

指令87/577/EC	指令97/7/EC	本指令
	第11條(1)	第23條(1)
	第11條(2)	第23條(2)
	第11條(3), 點(a)	第6條(9)有關締約前資訊舉證責任; 及其它
	第11條(3), 點(b)	第24條(1)
	第11條(4)	-
	第12條(1)	第25條
	第12條(2)	-
	第13條	第3條(2)
	第14條	第4條
	第15條(1)	第28條(1)
	第15條(2)	第28條(1)
	第15條(3)	第28條(1)
	第15條(4)	第30條
	第16條	第26條
	第17條	-
	第18條	第34條
	第19條	第35條

Directive 85/577/EEC	Directive 97/7/EC	This Directive
	Article 11(1)	Article 23(1)
	Article 11(2)	Article 23(2)
	Article 11(3), point (a)	Article 6(9) for the burden of proof concerning precontractual information; for the rest: –
	Article 11(3), point (b)	Article 24(1)
	Article 11(4)	-
	Article 12(1)	Article 25
	Article 12(2)	-
	Article 13	Article 3(2)
	Article 14	Article 4
	Article 15(1)	Article 28(1)
	Article 15(2)	Article 28(1)
	Article 15(3)	Article 28(1)
	Article 15(4)	Article 30
	Article 16	Article 26
	Article 17	-
	Article 18	Article 34
	Article 19	Article 35

外國消費者保護法(二十)

指令87/577/EC	指令97/7/EC	本指令
第5條(1)		第9條及第11條
第5條(2)		第12條
第6條		第25條
第7條		第13條, 14及第15條
第8條		第4條
附錄法規2004年10月27日歐洲議會及理事會(EC)第2006/2004關於國家機關執行消費者權益保護法之間的合作(消費者權益保護合作規範)		解釋時做為參考
第2以及11段		本指令

Directive 85/577/EEC	Directive 97/7/EC	This Directive
Article 5(1)		Articles 9 and 11
Article 5(2)		Article 12
Article 6		Article 25
Article 7		Articles 13, 14 and 15
Article 8		Article 4
Annex to Regulation (EC) No 2006/2004 of the on cooperation between national authorities responsible for European Parliament and of the Council of 27 October 2004. the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) <sup>1</sup>	To be construed as a reference to	
Paragraphs 2 and 11	This Directive	

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<sup>1</sup> OJ L 364, 9.12.2004, p. 1.

# 電子商務交易的消費者保護法

[2009年2月4日施行]

[法令No. 8635，其他法律最進修正日期 2007年8月3日]

## 第1章 總則

### 第1條 目的

本法以保護消費者權利，增進消費者對於公平交易法所規範的電子商務與遠距銷售的商品及服務市場的信心，以達促進國家經濟進步為目的。

### 第2條 定義

本法使用之名詞定義如下：〈修正2005年3月31日〉

1. 「電子商務交易」係指透過電子交易方式而為的買賣行為（指「電子商務框架法」第2-(5)條所規定的電子交易，以下同）。
2. 「遠距銷售」係指除「訪問買賣法」第2-(3)條所規定之電話行銷外，利用郵務或電信通訊提供商品或服務（包含使用特定設施或接受服務提供的權利，以下同）的相關資訊，與收到消費者的訂購單而提供商品或服務（以下稱為「商品等」）所為之銷售。

# Act on Consumer Protection in Electronic Commerce, etc

[Enforced 2-4-2009]

[Act No 8635, Last Amended 8-3-2007 by Another Act]

## Chapter 1 General Provisions

### Article 1 (Purpose)

The purpose of this Act is to protect consumer rights and improve consumer confidence in the market by prescribing the basic rules for fair trade of goods or services in electronic commerce and distance selling, thereby contributing to the progress of the national economy.

### Article 2 (Definitions)

Major terms used in this Act are defined as follows: <Amended 3-31-205>

1. “Electronic Commerce” means trade conducted in the form of electronic transaction (in the sense of “Electronic Transaction” as prescribed by Article 2-(5) of the Framework Act on Electronic Commerce: the same shall apply hereinafter).
2. “Distance Selling” means offering information about goods or services (including rights to use a facility or receive offers of service: the same apply hereinafter) by mail or telecommunications and selling goods and services (hereafter referred to as “Goods, etc.”) to a consumer after receiving an application for a sales contract from that consumer; provided that this definition shall not include telemarketing sales prescribed by

3. 「遠距銷售業者」係指以從事遠距銷售為業，或根據契約執行遠距銷售之人。
4. 「遠距銷售中介」係指於由遠距銷售的雙方同意使用網路商店（使用電腦或資訊通訊設備做商品買賣交易等的虛擬商店）做為中介的行為，或依據總理令所規定之其他銷售方式。
5. 「消費者」係指符合下列各項之一者：
  - a. 因生活需要向業者購買所提供的商品者。
  - b. 除前款規定之人外，由總統令所規令，與前款以相同地位及交易條件進行買賣者。
6. 「業者」係指提供（包含處理或包裝，以下同）、進口、販售商品或提供服務者。

### 第3條 不適用的範圍

- (1)除以與消費者具相同能力與條件進行交易之業者外，本法不適用於以商業行為之目的而為購買之業者（不含「訪問買賣買賣法」第2-(6)條多層次傳銷員，以下同）。
- (2)第13-(2)條要求簽訂契約（包含電子形式，以下同）之相關規定，不適用於下列各項交易，除前項更改契約內容與傳遞

Article 2-(3) of the Door-to-door Sales, etc. Act.)

3. “Distance Seller” means a person who receives income from engaging in Distance Selling or a person who, under a contract with such a person, conducts Distance Selling activities.
4. “Distance Sales Mediation” means an act of mediation between seller(s) and buyer(s) in Distance Sales by offering the use of a Cybermall (a virtual marketplace for trading Goods, etc. by computer or telecommunications) or other methods of trading specified by a Prime Minister’s Decree.
5. “Consumer” means a person falling under any of the following categories.
  - a. a person who purchases Goods, etc. supplied by a Business Operator for consumption purposes.
  - b. a person specified by a presidential decree, who is outside the definition of subparagraph (a) but trades in the same capacity and under the same conditions as a person falling under subparagraph (a)
6. “Business Operator” means a person who manufactures (including processing and packaging: the same applies hereinafter), imports, or sells goods or offers service

### **Article 3 (Non-applicability)**

- (1) The Act shall not apply to Business Operators who make purchases for commercial purposes (excluding Multilevel Marketing Agents specified in Article 2-(6) of the Door-to-door Sales, etc. Act: the same shall apply hereinafter); provided that this exclusion shall not apply to a Business Operator who trades in practically the same capacity and under the same conditions as other Consumers.
- (2) The requirement for issuance of a contract (including ones in electronic format: the same shall apply hereinafter) under Article

方式的情形，得依總理令規定之特定方式辦理。〈修正2005年3月31日〉

1. 總理令所規定之交易類型，消費者經常透過標準化的交易方式，或已知的契約所進行之交易。
2. 其他法令（排除「民法」及「訪問買賣法」等相關法令）所規定之交易類型，具簽訂契約之要求。
- (3) 第13條至第19條之規定，不適用於遠距銷售業者中介非遠距銷售業者之個人，所為之遠距銷售行為。
- (4) 第12條至第20條之規定，不適用於買賣證券之投資業者、「資本市場與金融投資業相關法令」規定之中介者、總統令規定之進行金融商品買賣的金融機構，與供應鄰近地區日常生活用品、食物、飲料等交易。〈修正2007年8月3日〉

#### 第4條 與其他法令的關係

當本法之電子商務或遠距銷售之消費者保護有關的規定，與其他法令抵觸時，應優先適用本法。但是，若適用其他法令對消費者較有利時，應適用該法。

13-(2) shall not apply to the following types of transactions; provided that in the case of paragraph (1) the contents of a contract and its delivery method can be altered in a manner specified by a Prime Minister's decree. <Amended 3-31-2005>

1. transaction types specified by a Prime Minister's decree in which a Consumer makes frequent transactions through a standardized trading method or under a contract previously known to the Consumer
  2. transaction types which are regulated by other statutes (excluding the Civil Act and the Door-to-door, etc. Act) in the requirement for issuance of a contract, etc.
- (3) Article 13 or 19 shall not apply to a Distance Seller who mediates Distance Sales between individuals who are not Distance Sellers.
- (4) Article 12 and 20 shall not apply to trading of securities by a investment trader or mediator under the Capital Market and Financial Investment Service Act, trading of financial products by financial institutions specified by a presidential decree and trading of commodities, foods and beverages for supply to neighboring regions. <Amended 8-3-2007>

#### **Article 4 (Relations to Other Statues)**

If this Act conflicts with other laws in its provisions for consumer protection in Electronic Commerce and Distance Selling, this Act shall take precedence; provided that other laws shall apply if that is more advantageous to Consumers.

## 第2章 電子商務交易及遠距銷售

### 第5條 電子文件的應用

- (1) 儘管已有「電子商務框架法」第6-(2)-2條之規定，若業者事先與消費者約定以電子形式的契約進行交易，而業者未將電子文件（係依「電子商務框架法」第2-(1)條所規定電子文件，以下同）傳送至指定地址（指「電子商務框架法」第2-(2)條之資訊處理系統），業者不可主張該電子文件所述之相關權利。本條不適用於總統令規定之情況，例如緊急需要、消費者已預期使用電子文件交易，或由消費者已經列印該電子文件。
  
- (2) 若業者欲使用電子簽章（係依「電子簽章法」第2-(2)條所規定之電子簽章，以下同）的電子文件，業主應依總統令之規定，將該電子文件之程序、接受的方法，與效力等告知消費者。
  
- (3) 業者不應強迫消費者使用任一特定形式之電子簽章，（包括業者強迫消費者使用的特殊標準），業者亦不得當限制消費者所選擇使用電子簽章的方式。

## **Chapter 2 Electronic Commerce and Distance Selling**

### **Article 5 (Use of Electronic Documents)**

- (1) If a Business Operator has agreed with a Consumer to transact a sale based on a contract in electronic format in spite of what Article 6-(2)-2 of the Framework Act on Electronic Commerce prescribes, and the Business Operator fails to deliver the required electronic document (in the sense of “Electronic Document” as defined by Article 2-(1) of the Framework Act on Electronic Commerce: the same shall apply hereinafter) to the Consumer’s designated email address (which means “Information Processing System” as defined by Article 2-(2) of the Framework Act on Electronic Commerce), the Business Operator shall relinquish all claims on the basis of the electronic document; provided that this provision shall not apply to cases specified by a presidential decree such as when there is urgency, when the Consumer presupposes that the sale will be based on an electronic document, or when the Consumer has already printed the electronic document.
- (2) If a Business Operator wants to use an electronic document signed with an electronic signature (in the sense of “Electronic Signature” as defined by Article 2-(2) of the Digital Signature Act: the same shall apply hereinafter), he/she shall notify the Consumer of the procedures and method of receiving such electronic document as well as its effect in a manner specified by a presidential decree.
- (3) A Business Operator shall not compel a Consumer to use a particular type of electronic signature (including situations in which a Business Operator practically compels such use by insisting on a particular standard), nor shall he/she restrict, by unfair practices, the use of an electronic signature technology chosen by a Consumer.

## 第6條 交易紀錄的保存

- (1)業者應長期保存電子商務交易及遠距銷售的告示、廣告、契約及履行細項等相關紀錄，並應提供使消費者方便閱覽與保存紀錄的方法。
- (2)業者應依據第(1)項之規定保存交易紀錄及相關之個人資料（限姓名、地址、身分證字號等，可供用於辨識之資訊），即使在消費者撤銷業者使用個人資料之同意，尚不得與「資訊與通訊網絡使用與資訊保護促進法」第30-(3)條之規定牴觸。
- (3)依據第(1)條所規定，有關業者應保存交易紀錄之範圍與期限，以及提供消費者閱覽及保存之特定事項，應符合總統令之規定。

## 第7條 交易中操作失誤之預防

為保護消費者在進行電子商務交易時，因操作交易方法錯誤所遭受之損害，業者應提供可供消費者確認的方法與程序，並在有必要時，在確定契約與寄送帳單前，更正消費者先前所簽署之契約內容。

## **Article 6 (Preservation of Transaction Records, etc.)**

- (1) A Business Operator shall keep sale transaction records for a considerable period of time, including notices, advertisements, contracts and details of contractual implementation. In addition, a business operator shall make it possible for a Consumer to view and store such records.
- (2) A Business Operator may keep the kinds of records specified in paragraph (1) and related personal information (limited to a Consumer's name, address, resident number and other information used for the purpose of identification) even after a Consumer has retracted his/her consent to the use of his/her personal information by a Business Operator, counter to Article 30-(3) of the Act on Promotion of Information and Communication Network Utilization and information Protection, etc.
- (3) Particular matters concerning the scope and preservation period of transaction records a Business Operator is required to keep under paragraph (1) and the method of allowing a Consumer to view and store such records shall be specified by a presidential decree.

## **Article 7 (Prevention of Errors in Use of Medium of Transaction)**

A Business Operator shall protect a Consumer against injury resulting from mistakes he/she makes in applying for a sales contract as a result of errors in using the medium of transaction, by providing the Consumer with methods and procedures for reviewing and, if necessary, correcting information he/she has entered into the contract before the contract is finalized and a bill is sent to the Consumer.

## 第8條（確保電子付費的可信度）

- (1) 如交易帳單已依總統令所特定之電子方式付費（以下稱「電子付費」），負責處理電子付費者，應為業者、電子付費工具與電子付費服務業者，（以下稱「電子收費服務業者」），應採取必要的資料安全維護措施。
  
- (2) 完成電子付費時，業者與電子收費業者應注意與確認消費者是否為自願輸入相關資料。
  
- (3) 完成電子付費時，業者與電子收費業者應依總理令之規定，傳送電子文件告知消費者付費的事實，並且提供消費者隨時查閱電子付費的相關紀錄。
  
- (4) 根據總理令之規定與大部分的網路商店所使用之電子付費工具的發行商，應標示或告知消費者有關付費工具的可信度、限制以及使用注意事項。
  
- (5) 如業者與消費者因電子付費發生爭執時，電子收費服務業者應依總統令所規定之方式合作，並同意雙方閱覽與付費紀錄相關資訊，協力解決該紛爭。

## **Article 8 (Securing of Reliability of Electronic Bill Payment)**

- (1) If the bill for a transaction is paid by an electronic method specified by a presidential decree (hereafter referred to as “Electronic Bill Payment”), the parties responsible for handling electronic payments, specified by a presidential decree, such as the Business Operator, issuer of the Electronic Bill Payment instrument and supplier of the Electronic Bill Payment service (hereinafter referred to as “Electronic Bill Payment Service Operator, etc.”) shall take necessary measures to ensure the security of relevant information.
- (2) If the bill for a transaction is paid by electronic methods, the Business Operator and the Electronic Bill Payment Service Operator, etc. shall take care to ascertain that information the Consumer has entered on the sales contract accurately reflects the Consumer’s intention to conclude the transaction.
- (3) If the bill for a transaction has been settled by electronic methods, the Business Operator and the Electronic Bill Payment Service Operator, etc. shall notify the Consumer of the fact in a manner specified by a Prime Minister’s decree, including delivery of an electronic document containing the payment details. Additionally, they shall enable the Consumer to view the payment record at any time.
- (4) The issuer of an Electronic Bill Payment instrument specified by a presidential decree and used by a large number of Cybermalls shall indicate in a statement or notify Consumers about the reliability of the instrument as well as restrictions and precautions on its use.
- (5) If a dispute arises over Electronic Bill Payment between a Business Operator and Consumer, the Electronic Bill Payment Service Operator, etc. shall cooperate, in a manner specified by a presidential decree, with efforts to resolve the dispute by, among

## 第9條 配送服務業者的合作

電子商務或遠距銷售之商品配送業者 [包含利用「資訊與通訊網絡利用與資訊保護促進法」第2-(1)-1條所規定之資訊通訊網絡(以下稱「資訊通訊網絡」)傳送商品]，因配送過程出現損害或毀壞時，應依總統令之規定，協助解決紛爭。

## 第10條 網路商店之營運

- (1)提供電子商務服務的網路商店經營者，應依總理令之規定標示下列各款，以便消費者易於了解業者的身分。〈修正2005年3月31日〉
1. 公司名稱及代表人姓名。
  2. 營業所在地地址(如有不同，包含處理消費者客訴之地址)。
  3. 電話號碼與電子郵件信箱。
  4. 事業登記證編號。
  5. 網路商店的使用條款。
  6. 總統令規定之保護消費者的必要事項。
- (2)依據第(1)條規定，網路商店經營者對於網路商店內所發生違

other things, permitting the parties to the dispute to view relevant payment records.

## **Article 9 (Cooperation of Delivery Service Provider)**

A delivery service provider delivering Goods, etc. traded through Electric Commerce or Distance Sales [including delivery of Goods, etc. through telecommunications networks under Article 2-(1)-1 of the Act on Promotion of Information and Communication Network Utilization and information Protection, etc. (referred hereafter as “Telecommunications Network”) shall cooperate, in a manner specified by a presidential decree, with the resolution of disputes involving damage to goods during delivery or disruptions in delivery.

## **Article 10 (Operation of Cybermall)**

- (1) The operator of a Cybermall providing Electronic Commerce services shall provide the following information in a manner specified by a Prime Minister’s decree so that a Consumer can easily verify the operator’s identity. <Amended 3-31-2005>
  1. business title and e name of the representative
  2. main office address (and the address of an office responsible for handling consumer complaints, if different)
  3. telephone number and email address
  4. business registration number
  5. contractual terms for use of the Cybermall
  6. other kinds of information specified by a presidential decree that are necessary for protecting Consumers
- (2) The operator of a Cybermall shall cooperate with measures taken by regulatory authorities to rectify activities on his/her Cybermall

反本法規定之情事時，應配合監管機關採取更正措施。

## 第11條 利用消費者的資訊

- (1)業者為進行電子商務交易或遠距銷售，而需要蒐集或利用（包含提供給第三方時，以下同）消費者的相關資訊時，應依相關法規，包括「資訊與通訊網絡利用與資訊保護促進法」之規定，以公正之方式蒐集或利用。
- (2)若消費者資料於商品交易過程被盜用，且導致或可能導致消費者財物損失時，業者應依總統令之規定，採取確認身分之必要措施，並回覆其損失。

## 第12條 遠距銷售業者之報告

- (1)除依總統令規定不適用的電信服務提供者（例小規模的遠距銷售業者），遠距銷售業者應依總統令之規定，向公平交易委員會或特都市長、市長或首領（以下稱為「市長/首長」）報告下列各款，

1. 公司名稱（法人則包含代表人姓名及身分證字號）、地址、電話。

that violate this Act.

## **Article 11 (Use of Information about Consumers, etc. )**

- (1) A Business Operator shall ensure fairness in collecting and using information about Consumers for the purposes of Electronic Commerce or Distance Sales (including provision of such information to a third party: the same shall apply hereinafter) by abiding by the relevant statutory regulations including the Act on Promotion of Information and Communication Network Utilization and Information Protection, etc.
- (2) If the theft of information regarding Consumers has occurred in the process of trading of Goods, etc. and it has caused or is likely to cause monetary losses to that Consumer, the Business Operator shall take necessary measures specified by a presidential decree to verify the identity of the Consumer and recover losses for him/her.

## **Article 12 (Reporting by Distance Seller)**

- (1) A Distance Seller shall file a report with the Fair Trade Commission, the competent mayor of a metropolitan or major provincial city or governor of a province (hereafter referred to as “Mayor/Governor”) or the competent mayor/county governor/ward chief, including the following information; provide that this provision shall not apply to telecommunication service providers specified by a presidential decree such as small-size telecommunication service providers.
  1. business title (including the name and residential registration number of the representative, in case of a corporation), address, telephone number

2. 電子郵件、網域名稱，與伺服器的所在地。
  3. 依總統令規定確認業者身分之必要事項
- (2)遠距銷售業者依第(1)條規定變更報告事項時，應依總統令規定之方式，向相關主管機關報告。
- (3)依據第(1)條規定提出報告之遠距銷售業者，被停業、終止，以及回覆營業時，應依總統令規定之方式，向相關主管機關報告。
- (4)公平交易委員會依第(1)條規定，依總統令之規定，得公開報告遠距銷售業者的資料。

### 第13條 身分及交易條件之資訊

- (1)遠距銷售業者利用陳述與廣告商品，對消費者提出要約的引誘時，應包含下列資訊〈修正2005年3月31日〉
1. 公司名稱及代表人姓名。
  2. 地址、電話號碼、電子郵件地址。
  3. 根據第12條規定，向公平交易委員會或市長/首長註冊的資料，例如註冊編號與機關等。
- (2)為避免消費者對於交易發生誤會或錯誤，遠距銷售業者應於簽訂契約前，以標示、廣告或通知之下列資訊，使消費者正確的了解商品之交易條件。若已簽訂契約，遠距銷售業者則應在配送商品前，以書面契約記載下列各款，並交給消費

2. email address, Internet domain name, location of the host server
  3. other information specified by a presidential decree, which may be necessary for verifying the identity of the operator
- (2) If any change has occurred to his/her reported information filed pursuant to paragraph (1), a Distance Seller shall report the change to the relevant authority in a manner specified by a presidential decree.
  - (3) If a Distance Seller who has filed a report pursuant to paragraph (1) suspends or terminates business or resumes business after a suspension, he/she shall report the facts to the relevant authority in a manner specified by a presidential decree.
  - (4) The Fair Trade Commission may make public the information reported by a Distance Seller pursuant to paragraph (1) in a manner specified by a presidential decree.

### **Article 13 (Provision of Information about Business Operator's Identity and Terms of Transaction)**

- (1) Any statement or advertisement made by a Distance Seller to solicit a contract for sale of Goods, etc. shall contain the following information. <Amended 3-31-2005>
  1. business title and the name of the representative
  2. address, telephone number and email address
  3. information about registration made under Article 12 with the Free Trade Agreement or Mayor/Governor such as registration number or the authority with whom the registration was made
- (2) A Distance Seller shall indicate, advertise or give notice of the following information in such form and manner that Consumers will correctly understand the terms of transaction of Goods, etc. prior to conclusion of a contract without any errors in conducting

者。〈修正2005年3月31日〉

1. 商品供應人及賣方。
2. 商品名稱、種類及內容。
3. 商品價格（未訂定價格時，應附訂定價格的具體方法）、付費方式及時間。
4. 商品供應方法及時間。
5. 取消訂購及解除契約（以下稱「取消訂購」）的期限、方法及效果（包含行使取消訂購權利之格式）。
  
6. 商品退換、擔保與退款條件及程序。
  
7. 利用電子媒體傳送與安裝商品之相關技術要求。
  
8. 消費者損害賠償、處理客訴，與消費者與業者間之爭端解決。
  
9. 契約條款（包含查詢條款內容之方法）。
10. 消費者得為交易安全，在收到商品之前，選擇將商品費用寄放於總統令規定之第三方（以下稱「寄放貨款」），或依遠距銷售業者第24-(1)條規定，選擇簽訂消費者損害賠償保險契約（限依第15-(1)條規定之預付式遠距銷售，第24-(3)規定的交易除外）
  
11. 總統令規定之影響消費者是否購買的交易條件或消費者損失求償的需要。

the transaction. Upon conclusion of a contract, a Distance Seller shall issue a written copy of the contract to the Consumer before delivery of the Goods, etc. <Amended 3-31-2005>

1. the supplier and seller of the Goods, etc.
2. the name, type and contents of the Goods, etc.
3. the price of the Goods, etc. (or the method of assessing the price, if the price is not determined, yet), method and dates of payment
4. method and date of delivery of the Goods, etc.
5. time limits, methods and effect of withdrawal of an application for a contract and cancelation of a contract (hereafter referred to as “Withdrawal/Cancelation”) (including forms for exercising the right to Withdrawal/Cancelation)
6. replacement, return and warranty of Goods, etc. and conditions and procedures for refunds
7. technical requirements for transmission and installation of Goods, etc. deliverable in electronic medium
8. compensation for consumer injury, filing of consumer complaints and resolution of disputes between Consumer and Business Operator
9. terms of the contract (and method for verifying such terms)
10. availability of an escrow payment option in which the payment made by the Consumer is put in the custody of a third party specified by a presidential decree until the delivery of Goods, etc. is completed (hereafter referred to as “Escrow Payment Option”) or of a Consumer Indemnity Insurance Contract, etc. under Article 24-(1) (applicable only to pre-paid Distance Sales specified in Article 15-(1) and excluding transactions made under Article 24-(3))
11. other terms of transaction likely to affect a Consumer’s purchase decision or measures for redressing consumer injury, which are specified by a presidential decree

- (3)若遠距銷售業者與未成年人簽定商品交易契約時，應取得法定代理人的同意。如未取得同意時，業者應告知未成年人，本人或法定代理人得取消該契約。〈新增2005年3月31日〉
- (4)公平交易委員會得依第(1)及(2)條規定，以標示、廣告，或公告等特定方式，公告遠距銷售賣方與交易條件之相關事項。該特定方式可因交易性質與商品特性而異。
- (5)遠距銷售賣方應依誠信原則，遵循第(2)條交易條件與告知消費者之相關規定。

#### 第14條 確認契約申請

- (1)當遠距銷售賣方收到消費者商品之確認契約之申請時，應儘快確認訂購商品的意願，並將能否出貨之資訊通知消費者。
- (2)遠距銷售賣方應於簽訂契約前，提供消費者確認、修正或取消訂貨的適當程序。

#### 第15條 商品之配送

- (1)除消費者與遠距銷售賣方另訂商品配送日期外，遠距銷售賣方應自消費者訂貨之日起7日內配送該商品；若消費者已預先部分或全部支付款項（以下稱「預付式遠距銷售」），賣方

- (3) When concluding a sales contract with a minor, a Distance Seller shall obtain consent of his/her legal representative. In case of failure to obtain such consent, a Distance Seller shall indicate to the minor that he/she or his/her legal representative can cancel the contract. <Newly Added 3-31-2005>
- (4) The Trade Commission may determine and give public notice of a specific method for indicating in labels, publicizing or giving notice information about a Distance Seller and transaction terms under paragraph (1) and (2). In such case, the method may be determined differently depending on the type of transaction and the nature of Goods, etc. traded.
- (5) (5) A Distance Seller shall comply in good faith with the terms of transaction indicated or notified to Consumers under paragraph (2).

### **Article 14 (Confirmation of Application for Contract)**

- (1) When a Distance Seller has received an application for a sales contract for Goods, etc. from a Consumer, he/she shall promptly confirm the receipt of the application and notify the Consumer of whether the Goods, etc. are available for sale.
- (2) A Distance Seller shall provide a Consumer with adequate procedures for verifying the contents of the contract he/she has applied for and correcting or withdrawing the application prior to conclusion of the contract.

### **Article 15 (Delivery of Goods, etc.)**

- (1) A Distance Seller shall take necessary measures to deliver the Goods, etc. within 7 days of receipt of an application for a sales contract from a Consumer or within 3 days in case a Consumer

應自消費者支付之日起3日內配送該商品。〈修正2005年3月31日〉

- (2) 當遠距銷售賣方發現無法供應預訂的商品時，應立即將原因告知消費者；若為預付式遠距銷售，則應在消費者支付全部或部分款項之日起3日內進行退款或採取退款措施。〈修正2005年3月31日〉
- (3) 遠距銷售賣方應提供消費者查詢商品配送程序及現況的資訊。公平交易委員會應公告訂定該措施，以提供遠距銷售賣方遵循。
- (4) 第18-(1)-5條之規定，應適用於第(2)條之預付式遠距銷售的退款或退款措施。

## 第16條 刪除 〈2005年3月31日〉

## 第17條 解除契約

- (1) 與遠距銷售業者簽訂買賣契約之消費者，得於下列期間內（若交易當事人所約定之期間大於下列期間，則以該約定期間為準）解除該契約。
  - 1. 收受第13-(2)條規定之書面契約影本日起7日內、送達商品

has prepaid a part or all of the price for the Goods, etc. (hereafter referred to as “Prepaid Distance Sale”);  
provided that this requirement shall not apply when the Consumer and the Distance Seller have agreed on different time frames.  
<Amended 3-31-2005>

- (2) If a Distance Seller discovers circumstances preventing him/her from delivering to a Consumer the Goods, etc. he/she has ordered, he/she shall without delay notify the Consumer of the fact and, in the case of a prepaid Distance Sale, refund the partial or full payment received or take measures to do so within 3 days of the receipt of payment. <Amended 3-31-205>
- (3) A Distance Seller shall provide a purchasing Consumer with adequate information about the delivery process and delivery status for his/her order. In such case, the Fair Trade Commission may determine and give public notice of specific measures to be followed by Distance Sellers.
- (4) Article 18-(1) or -(5) shall apply mutatis mutandis to the requirement for refunding or taking measures to refund the payment in Prepaid Distance Sales under paragraph (2).

## **Article 16 Deleted <3-31-2005>**

### **Article 17 (Withdrawal/Cancelation of Contract)**

- (1) A Consumer who has entered into a sales contract for Goods, etc. with a Distance Seller may withdraw/cancel the contract within the following time limits (unless the parties to a transaction have agreed on a time limit longer than specified herein, in which case that time limit shall apply).
  1. 7 days from the date of receiving a copy of the contract in writing

日起7日內，或若於送達商品日前提供書面契約影本，則以開始配送之日起7日內。

2. 消費者未取得第13-(2)條所規定之書面契約影本、契約未記載遠距賣家之地址、或因遠距賣家變更地址，致消費者無法解除契約時，則以消費者得知遠距賣家地址之日起7日內。

(2) 當消費者符合下列任一款，無法依據第(1)條規定，違反遠距賣家之意願而解除契約；但若遠距銷售賣家未採取第(6)條規定之措施，消費者即可依第(2)至(4)條解除契約。〈修正2005年3月31日〉

1. 除為確認商品內容而損毀包裝外，消費者遺失或損毀商品時。
2. 消費者已使用或消耗部分商品，導致商品價值明顯降低時。
3. 因時間經過，致使商品價值下降至難以重新販售時。
4. 可複製的商品包裝遭到損毀時。
5. 為保護交易安全，總統令所特定之情形。

(3) 儘管有第(1)及(2)條之規定，若消費者發現商品內容與標示、廣告，或契約內容不符時，得自商品配送之日起3個月內，或發現該事實之日起30日內解除契約。

- pursuant to Article 13-(2), or 7 days from the date of arrival of the Goods, etc. or of the initiation of delivery in case the issuance of a copy of the contract preceded the delivery of the Goods, etc
2. 7 days from the date on which the Consumer came into the knowledge of the address of the Distance Seller, in the event that the Consumer has not been issued a copy of the contract pursuant to Article 13-(2), that the contract issued did not bear the address of the Distance Seller, or that the Consumer has not been able to withdraw/cancel the contract due to a change of address of the Distance Seller.
- (2) A Consumer, in any of the situations listed in the following subparagraphs, may not withdraw/cancel a sales contract against the will of the Distance Seller under paragraph (1); provided that if the Distance Seller has failed to take the measures prescribed in paragraph (6), the Consumer may withdraw/cancel the contract even in the situations specified in paragraph (2) and (4). <Amended 3-31-2005>
1. when the Goods, etc. have been lost or damaged by the Consumer, except where the Consumer has damaged the packaging to check the contents of the Goods, etc.
  2. when the value of the Goods, etc. has declined significantly through use or partial consumption
  3. when the value of the Goods, etc. has declined significantly due to the passage of time making it difficult to be resold
  4. when the packaging of duplicable Goods, etc. has been damaged
  5. other cases specified by a presidential decree in the interest of the security of transactions
- (3) Notwithstanding paragraph (1) or (2), when the contents of the Goods, etc. are different from those indicated in labeling or advertised, a Consumer may withdraw/cancel a sales contract within 3 months from the date of delivery of the Goods, etc., or 30

- (4) 當消費者依第(1)或(3)條之規定，以書面表達其意願解除契約時，應自書面發送之日起生效。
- (5) 適用第(1)至(3)條規定時，若雙方對於商品是否被消費者遺失或毀損、簽訂契約之事實及時間、配送商品之事實及時間，發送契約影本之事實與時間發生爭議時，遠距銷售賣家應負舉證責任。〈修正2005年3月31日〉
- (6) 當商品係為依據第(2)-2至-4條規定，無法解除契約之商品，遠距賣家應採取確認消費者之解除契約之權利不受限制的方法，透過在商品包裝標示、消費者容易看到的地方，或以提供試用用品的方法。〈修正2005年3月31日〉

## 第18條 解除契約之效果

- (1) 消費者依第17-(1)-3條規定解除契約時，應立即退還已配送之商品。
- (2) 遠距銷售業者（包含已收到消費者之商品貨款者，或已與消費者簽訂遠距銷售相關契約者，以下第(2)或(10)條同），應在收到退還商品之日起3日內，退還已收取之貨款。若遠距銷售業者遲延退款給消費者，應賠償消費者遲延退款的利息（以下稱「遲延賠償金」），應依總統令規定之利率，並考慮相關經濟指數，包括金融機構依「銀行法」規定，所使

- days from the date on which he/she discovered the difference.
- (4) When a Consumer withdraws/cancels a sales contract pursuant to paragraph (1) or (3) by indicating such an intention in writing, the rescission of the contract shall take effect on the date the document is sent out.
  - (5) In the case of applying paragraph (1) or (3), if disputes arise over whether the Consumer is responsible for loss or damage or not, facts or dates relating to the conclusion of the sales contract, facts or dates relating to the delivery of the Goods, etc., or facts or dates relating to the issuance of a copy of the contract, the burden of proof shall lie with the Distance Seller. <Amended 3-31-2005>
  - (6) In the case of Goods, etc. for which a sales contract cannot be withdrawn or canceled pursuant to paragraph (2)-2 or (4), the Distance Seller shall take measures to ensure that the Consumer's right to withdraw/cancel a sales contract is not restricted, by indicating the fact on the packaging or in other places easily noticeable by Consumers or providing samples. <Amended 3-31-2005>

## **Article 18 (Effect of Withdrawal/Cancelation of Contract)**

- (1) If a Consumer withdraws/cancels a sales contract pursuant to Article 17-(1) or -(3), he/she shall return the Goods, etc. already delivered to him/her.
- (2) A Distance Seller (including the person who has received the payment for the Goods, etc. sold or the person who concluded the sales contract with the Consumer; the same shall apply to paragraph (2) or (10)) shall refund the payment for returned Goods, etc. within 3 days from the date of arrival of the returned Goods, etc. If a Distance Seller delays a refund, he/she shall pay

用之遲延支付的利率，不過，該年利率不得超過40%。〈修正2007年7月19日〉

- (3) 當遠距銷售業者依第(1)及(2)條之規定退費時，若消費者是以「信用特別金融事業法」第2-(3)條規定之信用卡，或依總統令規定之付費方式繳納貨款，則應立即要求提供該信用卡或其他付費方式的業者（以下稱「收費業者」），停止付費的申請，或取消已收取的費用。但是，若遠距銷售業者已由收費業者取得該筆貨款時，應立即將款項退還收費業者，並將該事實通知消費者。
- (4) 收費業者所已依第(3)條但書之規定，已取得遠距銷售業者之退款，應立即將款項退還消費者或採取退款措施。
- (5) 當遠距銷售業者符合第(3)條但書規定遲延退款，並使消費者繳納款項時，遠距銷售業者應支付遲延期間之遲延賠償金予消費者。
- (6) 若遠距銷售業者無正當理由，依規定退還款項時，消費者可要求收費業者就其應退還款項，先已與該遠距銷售業者其他債務進行抵銷。此時，收費業者得根據總統令規定的債務抵銷方法為之。

the Consumer interest on the delayed refund (hereafter referred to as “Compensation for Delayed Payment”), with the annual interest rate used for calculating such compensation specified by a presidential decree by considering various economic indices including the interest rates used by financial institutions for delayed payments under the Banking Act, provided that the annual interest rate shall not exceed 40 percent.<Amended 7-19-2007>

- (3) In refunding the payment for returned Goods, etc. under paragraph (1) or (2), if the payment was made by credit card under Article 2-(3) of the Specialized Credit Financial Business Act or other instruments of payment specified by a presidential decree, a Distance Seller shall without delay request the business operator who provided the credit card or other payment services (hereafter referred to as “Payment Service Provider”) stop the process of charging the transaction or cancel the charge already made.; provided that when a Distance Seller has already received the payment for Goods, etc. from the Payment Service Provider, he/she shall return the payment without delay and notify the Consumer of the fact.
- (4) A Payment Service Provider, upon being refunded a payment for Goods, etc. from a Distance Seller pursuant to the conditional clause in paragraph (3), shall without delay refund the payment to the Consumer or take necessary measures to do so.
- (5) If the conditional clause in paragraph (3) applies to a Distance Seller, when he/she delays a refund, thereby causing the Consumer to settle the charge, he/she shall pay the Consumer Compensation for Delayed Payment for the delayed period.
- (6) If a Distance Seller does not make a required refund without just cause, the Consumer may request the Payment Service Provider offset his/her other debt owed to the Distance Seller against the amount of the payment to be refunded. In such case, the Payment

- (7)若收費業者無正當理由，忽略第(6)條規定之債務抵銷時，消費者可拒絕支付收費業者的帳單。在此情形下，遠距銷售業者與收費業者不得以該拒絕為理由，對消費者行使不利之行為，包括將該消費者視為未在約定期限內付清款項者。〈修正2005年1月27日〉
- (8)若第(1)條的情形，部分商品已被使用或消耗，遠距銷售業者可依據消費者因使用或消耗部分所取得之利益，或供應商品時發生之所有費用，要求消費者支付總統令規定範圍內應支付之金額。
- (9)依第17-(1)條規定解除買賣契約時，遠距銷售業者應負擔退還商品之費用，且不得要求消費者賠償違約金或損害賠償。
- (10)依據第17-(3)條之規定解除契約時，應由遠距銷售業者負擔退還商品之費用。
- (11)當取得商品貨款之遠距銷售業者與消費者簽訂遠距銷售契約者非同一人時，依第17-(1)-3條之規定對解除契約時，應對於第(1)至(7)條所規定退還貨款之義務，負共同責任。

Service Provider may execute the debt offset in a manner specified by a presidential decree.

- (7) If a Payment Service Provider has neglected offsetting a debt under paragraph (6) without just cause, the Consumer may refuse to pay the charge billed by the Payment Service Provider. In such case, the Distance Seller or Payment Service Provider shall not take any harmful actions against the Consumer for his/her refusal to pay, including declaring the Consumer as a debt payment delinquent. <Amended 1-27-2005>
- (8) In the case of paragraph (1), if the Goods, etc. has already been used or partially consumed, the Distance Seller may charge the Consumer an amount of money equivalent to the economic gains made through the use or partial consumption of the Goods or to the money that it cost the Distance Seller to supply the Goods, etc. to the Consumer, within a limit specified by a presidential decree.
- (9) In the case of Withdrawal/Cancelation of a sale contract under Article 17-(1), the Distance Seller shall bear the cost of recollecting the Goods, etc., and the Distance Seller shall not charge the Consumer a penalty or claim damages against the Consumer.
- (10) In the case of Withdrawal/Cancelation of a sales contract made under Article 17-(3), the Distance Seller shall bear the cost of having the Goods, etc. returned.
- (11) If the Distance Seller who received the payment for Goods, etc. from a Consumer and the person who concluded the sales contract with the Consumer are not the same person, they shall be collectively responsible for fulfilling the obligations prescribed in paragraph (1) or (7) regarding refund of payment resulting from Withdrawal/Cancelation of a sales contract made under Article 17-(1) and -(3).

### 第19條 要求賠償損失金額之限制

- (1) 因消費者之責任而需解除商品的販售契約時，遠距銷售業者要求消費者賠償損失的額度，不得超過下列各項訂定金額中未付金額加上遲延賠償金之金額。
  1. 退還已供應之商品時，符合下列任一項金額中較大之金額：
    - a. 依退還商品之通常使用費用或相當於使用後通常可獲得之利益的金額，
    - b. 退還之商品販售價格扣除退還該商品當時之價格的金額。
  2. 退還已供應之商品時，相當於該商品之販售價格的金額。
- (2) 公平交易委員會應公告依據第1項規定計算賠償損失金額之標準，以於必要時，能圓滿解決遠距銷售業者與消費者之間發生的賠償損失紛爭。

### 第20條 遠距銷售中介者之責任

- (1) 除非遠距銷售中介者以契約排除責任，與已給予消費者有關經濟損失免責的告知，否則消費者因遠距銷售業者之過失或錯誤所造成經濟損失，由遠距銷售中介者與使用其服務之遠距銷售業者共同負責。
- (2) 即使遠距銷售中介者已依第(1)條之規定給予消費者免責告

## **Article 19 (Limits on Damages, etc.)**

- (1) When a Distance Seller claims damages for a sales contract canceled due to fault on the Consumer's part, the damages claimed shall not exceed the sum of the amount prescribed in the following subparagraphs plus Compensation for Delayed Payment.
  1. the larger of the amounts specified in the following subparagraphs, if the delivered Goods, etc. has been returned,
    - a. an amount equivalent to the usual charge for using the Goods, etc. returned or to the economic gains usually made through its use
    - b. an amount calculated by deducting the selling price of the Goods, etc. at the time of return from the actual selling price of the Goods, etc.
  2. an amount equivalent to the selling price of the Goods, etc, if the delivered Goods, etc. has not been returned,
- (2) The Fair Trade Commission, when deemed necessary for smooth resolution of disputes between Door-to-door Seller and Consumer over damage claims, may establish and make public criteria for calculating damages under paragraph (1).

## **Article 20 (Accountability of Distance Sales Mediator)**

- (1) A Distance Sales Mediator shall be jointly liable with a seller using his/her services for any economic losses incurred by a Consumer through negligence or fault on the seller's part unless said Distance Sales Mediator is exempted from such liabilities by a contract with the Consumer or has given the Consumer a notice of his/her non-accountability for such economic losses.
- (2) Even though a Distance Sales Mediator has given a disclaimer notice under paragraph (1), he/she shall not be exempted from the

知，但如果遠距售中介商亦為遠距銷售業者，則不得依第12與18條之規定排除責任。除遠距銷售中介者與對於後續負責之賣家簽訂契約，並告知消費者該事實時，遠距銷售中介者應被減輕責任。

- (3) 因遠距銷售中介者之過失或錯誤，致消費者之經濟損失時，使用遠距銷售中介者服務之企業經營者，除已以重大的注意義務，避免消費者遭受損失外，不得以可歸責於遠距銷售中介者之過失或錯誤，而主張免責。
  
- (4) 遠距銷售仲介者應提供消費者，閱覽使用其服務之遠距銷售業者身分資料，萬一賣家並非企業經營者時，遠距銷售中介者應依總統令規定，安排並提供交易雙方閱覽相關資料，包括地址、電話號碼，或其他資料等。

## 第21條 禁止行為

- (1) 遠距銷售業者，不得從事下列任一款行為：<修正2005年3月31日>
  1. 傳達虛假或誇張的事實，及使用欺騙手法引誘消費者交易，或為避免消費者解除或解除契約之行為。
  
  2. 為避免消費者解除契約，而變更其地址或網域名稱。

responsibilities of Distance Sellers prescribed in Article 12 or 18, if he/she is a Distance Seller, too; provided that the Distance Sales Mediator shall be relieved of such responsibilities when he/she has concluded a contract with the seller holding the latter liable for such responsibilities and has notified the Consumer of that fact.

- (3) A Business Operator using the services of a Distance Sales Mediator shall not be exempted from responsibility for economic losses incurred by a Consumer through negligence or fault on the part of the Distance Sales Mediator on the grounds that those negligence or faults are not his/hers; provided that this provision shall not apply when said Business Operator has taken significant care to prevent such injury to Consumers on his/her part.
- (4) A Distance Sales Mediator shall provide the Consumer with arrangements for viewing information about the identity of the seller using his/her services, and in case such seller is not a Business Operator, the Distance Sales Mediator shall provide both parties in a mediated transaction with arrangements for viewing information about each other such as addresses, telephone numbers and other kinds of information specified by a presidential decree.

## **Article 21 (Prohibited Acts)**

- (1) A Distance Seller shall not engage in any of the following acts.<Amended 3-31-2005>
  1. misrepresenting or exaggerating facts, luring a Consumer or soliciting a sales contract by deceptive practices or attempting acts aimed at preventing a Consumer from withdrawing/canceling or terminating a sales contract
  2. altering his/her address or Internet domain name for the purpose of preventing a Consumer from withdrawing/canceling a sales contract

3. 長期忽視處理客訴或爭端的人員或機構，致消費者損失之行為。
  4. 消費者未訂貨，單方面配送商品後，要求消費者支付費用之行為。
  5. 在消費者已表明無意購買或需要提供服務後，仍透過電話、傳真、電腦通訊等方式，強迫消費者購買商品或服務之行為。
  6. 除符合下列任一目情事外，未取得本人同意，或超過同意之範圍，而使用消費者資料之行為。
    - a. 依總統令規定，為履行與消費者之契約於配送商品所必要時。
    - b. 為計算交易之商品貨款所必要時。
    - c. 依總統令規定，為預防身分竊盜，而必須確認本人所必要時。
    - d. 為遵循法律規定而需要資訊所必要時。
- (2) 公平交易委員會應訂定並公告，使電子商務交易之業者或遠距銷售業者應遵守之標準，以避免發生違反本法之行為及預防消費者損失。

## 第22條 停業期間之契約解除

3. leaving unattended for a considerable period of time deficiencies in personnel or facilities needed to handle consumer complaints or disputes, thereby causing harm to a Consumer
  4. delivering Goods, etc. to a Consumer and demanding payment for it, when there has been no application from the Consumer for a sales contract
  5. coercing a Consumer by telephone, facsimile or computer communications to purchase goods or services, although he/she has indicated no intention to purchase such goods or services
  6. using information about a Consumer without his/her permission or for purposes other than those the Consumer has consented to, except for the following cases
    - a. cases specified by a presidential decree in which such information is needed to perform a sales contract with a Consumer as in shipping the purchased Goods, etc.
    - b. cases in which such information is needed to process payment for transacted Goods, etc.
    - c. cases specified by a presidential decree in which such information is needed to verify the identity of the Consumer in order to prevent identity theft, as prescribed by a presidential decree
    - d. cases in which such information is needed to comply with statutory regulations
- (2) The Fair Trade Commission may establish and make public criteria to be observed by Business Operators conducting Electronic Commerce or Distance Sellers in order to prevent violations of this Act and injury to Consumers.

## **Article 22 (Withdrawal/Cancelation of Sales Contracts during Business Suspension,**

- (1)遠距銷售業者得於自行停業或勒令停業期間，繼續處理依據第17-(1)及(3)條規定的解除契約，以及依據第18-(1)至(5)條規定之解除契約的退款的業務。
- (2)遠距銷售業者被勒令停業，例如經宣告破產而無法實際營業時，而無未報告停業時，依據第12-(1)條規定，接受該遠距賣家原始開業報告之公平交易委員會或市長/首長，可利用職權撤銷其營業紀錄。

### 第3章 消費者權益之保護

#### 第23條 制定消費者保護指引

- (1)公平交易委員會為保護電子商務與遠距銷售的消費者權益，得聽取相關領域的交易當事者、機關及團體之意見後，訂定使企業經營者以建立健全市場為目標，自律遵循之指引（以下稱「消費者保護指引」）。
- (2)若業者使用之契約條款，比「消費者保護指引」所建議契約條款，較不利於消費者時，業者應以消費者易懂之方式，清楚標示或告知消費者。

**etc.)**

- (1) A Distance Seller shall, during a voluntary or judicially imposed suspension of business, continue to carry out his/her business relating to Withdrawal/Cancelation of sales contracts under Article 17-(1) or (3) and payment refunds for withdrawn/canceled sales contracts under Article 18-(1) or -(5).
- (2) If a Distance Seller is judged practically incapable of continuing his/her business, such as when he/she has been declared bankrupt without having reported the business as terminated, the Fair Trade Commission or the mayor/county governor/ward chief who received the original report of business initiation from said Distance Seller under Article 12-(1) may, by virtue of his/her office, delete said Distance Seller's records.

## **Chapter 3 Protection of Consumer Rights**

### **Article 23 (Establishment of Consumer Protection Guidelines, etc.)**

- (1) The Fair Trade Commission may establish guidelines for protecting consumer rights (hereinafter referred to as "Consumer Protection Guidelines") in Electronic Commerce and Distance Sales by considering the opinions of market players, relevant groups and organizations and induce Business Operators to observe the guidelines on an autonomous basis in efforts to establish a sound order of trade in those markets.
- (2) A Business Operator shall, in a manner easily recognizable to the Consumer, publicize, or notify Consumers of, any provisions in the contract he/she uses which are more disadvantageous to Consumers than those recommended in Consumer Protection Guidelines.

## 第24條 消費者賠償保險契約

- (1)公平交易委員會應強烈建議電子商務交易或遠距銷售之相關業者，簽訂符合下列任一款契約（以下稱「消費者賠償保險契約」），但是，依第8-(4)條所規定之付費工具的發行者，必須與消費者強致簽訂「消費者賠償保險契約」。<修正2005年3月31日>
1. 與保險公司簽訂支付賠償消費者損害之契約。
  2. 應與「金融監督組織設置條例」第38條所規定之相關機構，簽訂債務支付保證契約，以確保支付消費者損害賠償金。
  3. 根據第(10)條規定所成立之互助合作的契約。
- (2)除有第(1)條之規定外，如消費者第13-(2)-10條之規定，選擇使用委託付款選項的方式支付貨款，遠距銷售業者則須提供委託付款選項，或依第(1)條之規定，將委託付款相關事項放至消費者賠償契約中。<新增2005年3月31日>
- (3)若消費者符合下列任一款交易時，不適用第(2)項規定。<新增2005年3月31日>
1. 所交易商品價值少於總統令所規定之10萬元以下時。
  2. 依「信用特別金融事業法」第2-(3)條規定，利用信用卡支付商品貨款的交易。

## **Article 24 (Consumer Indemnity Insurance Contracts, etc.)**

- (1) The Fair Trade Commission may strongly encourage Business Operators in Electronic Commerce and Distance Sales to enter into the following contracts (hereafter referred to as “Consumer Indemnity Insurance Contract, etc.”); provided that the conclusion of the Consumer Indemnity Insurance Contract, etc. shall be compulsory for issuers of Electronic Bill Payment instruments specified in Article 8-(4). <Amended 5-31-2005>
  1. a contract with an insurance company for payment of indemnity for consumer injury
  2. a debt payment guarantee contract with an institution prescribed in Article 38 of the Act on the Establishment, etc. of Financial Supervisory Organizations as an instrument for securing funds for paying damages for consumer injury
  3. a contract with a mutual aid cooperative established under paragraph (10)
- (2) In addition to paragraph (1), if a Consumer chooses the Escrow Payment Option prescribed in Article 13-(2)-10 or a Consumer Indemnity Insurance Contract, etc. as a payment condition, the Distance Seller shall make the Escrow Payment Option available to the Consumer or enter into the relevant Consumer Indemnity Insurance Contract, etc. under paragraph (1). <Newly Added 3-31-2005>
- (3) The provision of paragraph (2) shall not apply to any of the following cases. <Newly Added 5-31-2005>
  1. when the value of the transacted Goods, etc. is below an amount set by a presidential decree within a range under 100,000 won
  2. when the payment is made by credit card as prescribed in Article 2-(3) of the Specialized Credit Financial Business Act

3. 所交易之商品係由資訊通訊網絡傳送，或所配送之商品，無法由第13-(2)-10條所規定之第三方確認。
  4. 於特定期限內，分期配送所交易之商品。
  5. 依據法律規定交易安全性已得到充分保障、或公平貿易委員會已經判定並宣布的委託付款選項，與依第(1)與(4)條規定訂立消費者賠償契約為不必要且不實際的狀況。
- (4)依第(2)條的規定，提供委託付款選項，或簽訂消費者賠償保險契約等特別事項，應以總統令特定。〈新增2005年3月31日〉
- (5)消費者賠償保險契約應具賠償違反本法所致消費者損害的賠償額度，或依據第8-(4)條規定，確保電子帳單支付工具發行業者，具相當的信用。
- (6)依據消費者賠償保險契約有義務支付消費者損害賠償金者，於發生應支付的理由時，應立即支付。若有遲延，必須支付消費者遲延賠償金。
- (7)企業經營者不應提供不實之營運資料，例如銷售額，給消費者賠償保險契約提供者，簽定或維持該契約。
- (8)受第(1)條規定之消費者賠償保險契約承保之業者，可使用標誌顯示該事實。但未簽訂消費者賠償保險契約之業者，不

3. when the transacted Goods, etc. are transmitted over a telecommunications network or when the delivery of Goods, etc. cannot be ascertained by a third party as required under Article 13-(2)-10
4. when the transacted Goods, etc. are delivered in installments over a specific period of time
5. when the security of the transaction is sufficiently ensured under other statutes or when the transaction is of the type in which the Fair Trade Commission has determined and announced the offering of the Escrow Payment Option or the securing of the Consumer Indemnity Insurance Contract, etc. is unnecessary or impractical for reasons similar to paragraph (1) or (4)
- (4) Particular matters regarding the offering of the Escrow Payment Option or the securing of the Consumer Indemnity Insurance Contract, etc. under paragraph (2) shall be specified by a presidential decree. <Newly Added 5-31-2005>
- (5) A Consumer Indemnity Insurance Contract, etc. shall be of sufficient size to cover redress for consumer injury occurring from violations of this Act or to secure the trustworthiness of the issuers of Electronic Bill Payment instruments prescribed in Article 8-(4).
- (6) A party liable to pay redress to a Consumer under a Consumer Indemnity Insurance Contract, etc. shall make the payment without delay once a cause for it arises. In the event of a delay in such payment, the payer shall pay the Consumer Compensation for Delayed Payment as well.
- (7) A Business Operator shall not provide false information about his/her business such as sales figures to suppliers of Consumer Indemnity Insurance Contracts, etc. to enter into or maintain such contracts.
- (8) A Business Operator covered by a Consumer Indemnity Insurance Contract, etc. under paragraph (1) may use a mark announcing that

- 得使用相關標誌，亦不得製作或使用與此相類似之標誌。〈2005年3月31日修正〉
- (9)根據第(2)條規定之使用委託支付貨款適用第8項之規定。〈2005年3月31日新增〉
- (10)從事電子商務或遠距銷售的企業經營者，得依第(1)條之規定，成立消費者保護的互助會。或依「訪問買賣法」第35條之規定，成立與互助合作社。「訪問買賣法」第35-(1)條中，「依據第5條規定申告或依據第13條規定登記」與「第34(1)-3條」之企業經營者，應被視為「進行電子商務交易的業者或遠距銷售賣方」與「訪問買賣法」第24-(1)-3條規定之意義。第(9)及(10)條的「本法」，應被視為「訪問買賣法」的意義。〈新增2005年3月31日〉

## 第24.2條 購買要約招攬廣告拒收登記系統

- (1)公平交易委員會應建構，可供消費者登記並明確表示拒收購買要約招攬廣告的系統（以下稱「購買要約招攬廣告拒收登記系統」），以保護消費者免受遠距銷售業者利用電話、傳真或電子郵件等方式（以下稱「購買要約招攬廣告」），行銷商品或服務。

fact. A business operator not covered by a Consumer Indemnity Insurance Contract, etc. shall not use such a mark, nor shall he/she make or use a counterfeit mark. <Amended 3-31-2005>

- (9) The provision of paragraph (8) shall apply mutatis mutandis to the use of the Escrow Payment Option under paragraph (2). <Newly Added 3-31-2005>
- (10) A Business Operator engaged in Electronic Commerce or Distance Seller may establish a mutual aid cooperative in order to protect Consumers pursuant to paragraph (1). In such case, Article 35 of the Door-to-door Sales, etc. Act shall apply mutatis mutandis to the establishment and operation of such mutual aid cooperatives; provided that the “Business Operator who has reported or registered his/her business pursuant to Article 5 and 13 respectively” and “Article 34-(1)-3” in Article 35-(1) shall be construed as meaning “Business Operator engaged in Electronic Commerce or Distance Seller” and “Article 24-(1)-3 of the Door-to-door Sales, etc. Act” respectively, and “this Act” in paragraph (9) and (10) of the same Article shall be construed as meaning “the Door-to-door Sales, etc. Act”. <Newly Added 3-31-2005>

## **Article 24.2 (Registration System for Rejecting Reception of Purchase Offer Soliciting Advertisements, etc.)**

- (1) In order to protect Consumers from Distance Sellers’ act of soliciting offers to purchase goods or services from Consumers by telephone, facsimile or email (hereafter referred to as “Purchase Offer Soliciting Advertisements”), the Fair Trade Commission may establish a system to allow Consumers to register themselves on a list of people who have manifested their intention to reject reception of Purchase Offer Solicitation Advertisements (hereafter

- (2)遠距銷售業者在發送購買要約招攬廣告前，應依總統令規定之方式，確定消費者是否已在「購買要約招攬廣告拒收登記系統」中，以確保廣告不會寄送給「購買要約招攬廣告拒收登記系統」中的消費者。前述要求不適用於遠距銷售業者，已依總統令規定之方式，自消費者取得收取購買要約招攬廣告的個別同意。
- (3)公平交易委員會可以將「購買要約招攬廣告拒收登記系統」，委託給符合下列任一款之機關或組織營運，並應支援該機關或團體之營運需求的全部或部分費用，以便能順利營運。
1. 依「消費者保護法」所成立的組織或登記的消費者組織。
  2. 依第37條或其他法令所成立的組織或登記的同業公會。
- (4)依第(3)條規定，委託營運「購買要約招攬廣告拒收登記系統」之機關或組織的選定程序或標準，應符合總統令之規定。〈本條新增2005年3月31日〉

## 第25條 電子商務交易消費者團體之金融援助

公平交易委員會對於從事電子商務交易，及遠距銷售之公平交易活動的消費者權益保護機構或團體，應在預算範圍內提供金融援助。

- referred to as “Advertisement Rejecter Registration System”).
- (2) A Distance Seller shall, in a manner specified by a presidential decree, check with the Advertisement Rejecter Registration System before sending out Purchase Offer Solicitation Advertisements to ensure that such advertisements are not sent to Consumers registered with the Advertisement Rejecter Registration System; provided that this requirement shall not apply to Distance Sellers who, in a manner specified by a presidential decree, have obtained Consumers’ separate agreement to receive Purchase Offer Solicitation Advertisements from them.
  - (3) The Fair Trade Commission may entrust the operation of the Advertisement Rejecter Registration System to any of following the agencies or organizations and provide them with financial assistance to cover all or part of the cost of operating the System.
    1. organizations established under the Consumer Protection Act or consumer organizations registered under the same Act
    2. other organizations or trade associations established or registered under Article 37 or other related statutes
  - (4) Procedures and criteria for selecting an organization that can be entrusted with the Advertisement Rejecter Registration System under paragraph (3) shall be specified by a presidential decree.  
<This Article Newly Added 3-31-2005>

## **Article 25 (Financial Assistance to Consumer Organizations, etc. in Electronic Commerce)**

The Fair Trade Commission may provide financial assistance, within a budget set for such purposes, to agencies or organizations engaged in activities aimed at establishing fairness in trade and protecting consumer rights in Electronic Commerce or Distance Sales.

## 第4章 調查及監督

### 第26條 違反行為之調查等

- (1) 當公平交易委員會，或市長/首長認定有違反本法之情事，應依職權進行調查。
- (2) 市長/首長於依第(1)條規定進行調查之前，應先通知公平交易委員會；若公平交易委員會發現可能有重複調查之情形時，可要求市長/首長終止調查。除有合理理由拒絕該要求外，當市長/首長收到終止調查之要求時，應立即終止該調查。
- (3) 公平交易委員會或市長/首長依據第(1)或(2)條之規定進行調查時，應將調查結果以書面(包括任何糾正措施)通知該案件之當事人。
- (4) 若懷疑任何人違反本法之情事時，皆可向公平交易委員會或相關市長/首長報告該事實。
- (5) 自違反本法之行為結束日起5年後，公平交易委員會不應依據第32條之規定，命令當事人糾正該違反行為，或第34條之規定收取罰金。當事人同意接受，但卻未按第33-(1)條所規定，遵循消費者爭端調解組織之爭端解決建議或調解時，則不適用上述免除條款。〈2005年3月31日修正〉

### 第27條 公開資訊的搜尋

## **Chapter 4 Investigations & Supervision**

### **Article 26 (Investigation of Violations)**

- (1) If the Fair Trade Commission or Mayor/Governor has sufficient grounds for suspecting a violation of this Act, he/she may, by virtue of his/her office, initiate an investigation into the matter.
- (2) If a Mayor/Governor intends to initiate an investigation under paragraph (1), he/she shall notify the Fair Trade Commission. The Trade Commission may request the Mayor/Governor to halt the investigation if it is likely to duplicate an investigation by the Commission. Upon such a request from the Commission, the Mayor/Governor shall halt the investigation unless he/she has sufficiently justifiable grounds for rejecting the request.
- (3) When the Fair Trade Commission or a Mayor/Governor has undertaken an investigation under paragraph (1) or (2), he/she shall notify the investigated party of the results of the investigation in writing (including any corrective actions ordered).
- (4) When anyone suspects a violation of this Act, he/she may report it to the Fair Trade Commission or the competent Mayor/Governor.
- (5) When five years have passed from the date on which a violation of this Act has ended, the Fair Trade Commission shall not order corrective action against the violation under Article 32 or impose a monetary penalty on the offender under Article 34; provided that this exemption shall not apply when the offender has failed to comply with a dispute settlement recommended or mediated by a consumer dispute mediation organization under Article 33-(1), which he/she has agreed to accept. <Amended 3-31-2005>

### **Article 27 (Search of Disclosed Information)**

- (1) 為確保電子商務交易及遠距銷售的公平交易及預防消費者損害，若有必要時，公平交易委員會得同意消費者保護團體，搜尋企業經營者於公共電信網絡，或消費者組織於電子商務或遠距銷售所公開的資訊。
- (2) 企業經營者或相關團體於無正當理由時，不得拒絕或妨礙，公平交易委員會依第(1)條之規定所進行之資訊搜尋。
- (3) 為能有效收集及利用消費者損害的資訊，若有必要時，公平交易委員會得根據總統令之規定，要求執行電子商務交易或遠距銷售消費者保護之相關業務的機關或團體，提交或分享相關資料。
- (4) 機關或團體於無正當理由時，不得拒絕公平交易委員會依第(3)項規定，提交與分享資料的要求。

## 第28條 違反行為資料之公開

為確保電子商務交易及遠距銷售的公平交易與避免消費者受到損害，公平交易委員會以總統令所規定之事項為限，依第27-(1)條進行網路搜尋，並得揭露企業經營者違反本法之行為相關資訊，或為避免消費者損害之關鍵資訊。

## 第29條 評鑑與認證的公平性

- (1) The Fair Trade Commission may, if determined necessary for the establishment of fairness in trade and the protection of consumer rights in Electronic Commerce and Distance Sales, search information disclosed on public telecommunication networks by Business Operators or consumer organizations in the fields of Electronic Commerce or Distance Sales.
- (2) A Business Operator or consumer organization shall not, without just cause, reject or impede information searches conducted by the Fair Trade Commission under paragraph (1).
- (3) The Fair Trade Commission, if necessary for the effective collection and use of consumer injury information, may require agencies or organizations working for consumer protection in the fields of Electronic Commerce or Distance Sales to submit or share relevant data.
- (4) An agency or organization shall not reject, without just cause, a request from the Fair Trade Commission for submission or sharing of data under paragraph (3).

## **Article 28 (Disclosure of Information about Violations, etc. )**

In order to establish fairness in trade and prevent consumer injury in Electronic Commerce and Distance Sales, the Fair Trade Commission may disclose, in a matter specified by a presidential decree, information it has obtained through online searches under Article 27-(1) when the information concerns a violation of this Act by a Business Operator or is critical for preventing consumer injury.

## **Article 29 (Fairness in Assessment and Certification)**

- (1) 為使交易公平與保護消費者，無論評估與認證電子商務及遠距銷售業者之人（以下稱「評鑑認證服務提供者」）的名稱為何，均應依總統令規定之方式，公告其評鑑及認證相關的標準與方法，並確認於進行評估與認證時，公平的遵守相關標準與方法。
- (2) 依據第(1)條規定之所公布之評鑑與認證的標準及方法，均應能適當反映業者在公平性及保護消費者所做之努力與成果的相關資訊。
- (3) 公平交易委員會得命令評鑑與認證服務提供者，提交營運現況之相關資料。

### 第30條 報告及監督

- (1) 市長/首長依據第31與32條之規定，給予建議或行使糾正措施時，應根據總統令規定之方式，向公平交易委員會報告相關事實。
- (2) 為能有效執行本法，公平交易委員會得於其認為有必要時，要求市長/首長進行調查、確認相關事實、提交資料，或採取其他必要的糾正措施。除具有有效的不執行的理由外，該市長/首長應遵循該要求。

- (1) A person who assesses and certifies Business Operators in the field of Electronic Commerce and Distance Sales for the purpose of fairness in trade and consumer protection (hereafter referred to as “Assessment and Certification Service Provider”) shall, no matter what title he/she goes by, give public notice of their criteria and methods of assessment and certification in a manner specified by a presidential decree and ensure fairness in their activities by abiding by those criteria and methods.
- (2) The criteria and methods of assessment and certification publicized under paragraph (1) shall be appropriate for delivering information about the efforts made by Business Operators to attain fairness in trade and protect consumer rights and the achievements attained as a result of such efforts.
- (3) The Fair Trade Commission may order an Assessment and Certification Service Provider to submit data showing the current status of operation of his/her business.

### **Article 30 (Reporting & Supervision)**

- (1) When a Mayor/Governor has recommended or ordered corrective action under Article 31 and 32, he/she shall report the fact to the Fair Trade Commission in a manner specified by a presidential decree.
- (2) The Fair Trade Commission may, if deemed necessary for the effective enforcement of this Act, require the competent Mayor/Governor to undertake an investigation, verify facts, submit data or take other necessary corrective actions against a Business Operator. In such case, the Mayor/Governor shall comply with the demand unless he/she has valid reasons for not doing so.

## 第5章 糾正措施及罰金

### 第31條 糾正措施的建議

- (1)當公平交易委員會或市長/首長發現企業經營者違反本法，或因過失不履行本法所規定之義務，在依第32條之規定發布糾正措施之命令前，應對該企業經營者提出糾正措施的建議，並強烈的鼓勵終止該違反行為，或履行本法所規定之義務。若該業者接受建議，則該建議將與通知發出，並視為已依第(3)條之規定，命令其進行糾正措施。〈修正2005年3月31日〉
- (2)企業經營者接獲第(1)條所規定之糾正措施的建議時，應自接獲通知之日起10日內回覆相關主管機關，並表示是否接受該建議。
- (3)企業經營者接獲第(1)條所規定之糾正措施的建議後，接受該建議時，應視為已依第32條之規定，命令其進行糾正措施。

### 第32條 糾正措施

- (1)企業經營者違反下列任一項行為或未履行本法之義務時，公平交易委員會得令命該企業經營者進行糾正措施。〈修正2005

## **Chapter 5 Corrective Actions and Monetary Penalties**

### **Article 31 (Recommendation of Corrective Actions)**

- (1) If the Fair Trade Commission or competent Mayor/Governor finds a Business Operator in violation of this Act or negligent in carrying out his/her obligations under this Act, he/she may recommend corrective actions to the Business Operator, prior to issuing an order of corrective actions under Article 32, strongly encouraging him/her to halt that act or fulfill his/her obligations under this Act. In such case, the recommendation shall be accompanied by a notification that if the Business Operator accepts the recommended actions, it will be construed as having fulfilled an order of corrective action issued pursuant to paragraph (3). <Amended 3-31-2005>
- (2) A Business Operator who has received a recommendation of corrective actions under paragraph (1) shall have 10 days to reply to the relevant authority, indicating whether or not he/she accepts the recommendation.
- (3) If a Business Operator who has received a recommendation of corrective actions under paragraph (1) accepts the recommendation, it shall be construed as having fulfilled an order of corrective actions issued pursuant to Article 32.

### **Article 32 (Corrective Actions)**

- (1) The Fair Trade Commission may order corrective actions be made by a Business Operator who has committed any of the following

年3月31日>

1. 違反第5-(2)或-(3)條、第6-(1)條、第7條、第8-(1)條、-(3)或(5)條、第9條、第10條、第11條、第12-(1)或-(3)條、第13-(1)或-(3)與(5)條、第14條、第15條、第17-(1)或-(3)與(5)條、第18條、第19-(1)條、第20條、第22-(1)條、第23-(2)條、第24-(1)條、-(2)、-(5)或-(9)條、第24.2-(2)條、第27-(2)與-(4)條，或第29-(1)與-(2)條規定之行為。
  2. 符合第21條第1項各款之行為
- (2)依第(1)條規定，可被命令之糾正措施，係包括下列各款。
1. 停止該違反行為。
  2. 履行本法之義務。
  3. 公告接獲糾正措施命令之事實
  4. 糾正違反行為之其他必要措施。
- (3)依據第(2)-3條規定公告接獲糾正措施命令之事實時，相關過程之特定事項應依總統令之規定。
- (4)若企業經營者已經被命令依第(1)條之規定，進行糾正措施後，仍有再違反或未履行糾正措施時，公平交易委員會仍命令其全部或一部停止營業一年。

### 第33條 消費者爭端調解的要求

- (1)當消費者提起因違反本法電子商務，與遠距銷售所致損害之

acts or neglected fulfilling his/her obligations under this Act.  
<Amended 3-31-2005>

1. an act in violation of Article 5-(2) or -(3), Article 6-(1), Article 7, Article 8-(1), -(3) or (5), Article 9, Article 10, Article 11, Article 12-(1) or -(3), Article 13-(1) or -(3) and -(5), Article 14, Article 15, Article 17-(1) or -(3) and -(5), Article 18, Article 19-(1), Article 20, Article 22-(1), Article 23-(2), Article 24-(1), -(2), -(5) or -(9), Article 24.2-(2), Article 27-(2) and -(4), or Article 29-(1) and -(2).
  2. any of the acts prohibited by Article 21-(1)
- (2) Corrective actions that can be ordered pursuant to paragraph (1) shall include the following.
1. cessation of the violation in question
  2. fulfillment of obligations under this Act
  3. issuing public notice of the fact that one has been ordered to take corrective actions
  4. other measures necessary to correct the violation in question
- (3) Particular matters relating to the process of giving public notice of the fact that one has been ordered to take corrective actions under paragraph (2)-3 shall be specified by a presidential decree.
- (4) If a Business Operator repeats a violation after corrective actions have been ordered under paragraph (1) or fails to carry out such ordered corrective actions, the Fair Trade Commission may order his/her business suspended partially or fully for a period of less than a year.

### **Article 33 (Request for Consumer Dispute Mediation)**

- (1) When a Consumer files a request for damages for consumer injury suffered from a violation of this Act in Electronic Commerce

賠償要求時，公平交易委員會或市長/首長得於第31條規定之建議與第32條規定之糾正措施前，將案件交給依總統令規定所設立之執行電子商務或遠距銷售消費者保護的機關或組織，或其他消費者紛爭解決組織，進行爭端解決。

- (2) 公交易委員會或市長/首長，應通知依第(1)條之規定送交消費者機關或組織之企業經營者，如接受機關或組織的爭端解決建議或調解，第32條所規定之命令進行糾正措施應被免除。
- (3) 處理依第(1)條之規定送交消費者機關或組織的案件時，公平交易委員會或市長/首長，不應對於接受機關或組織的爭端解決建議或調解之企業經營者，下第32條規定之糾正措施的命令。〈2005年3月31日修正〉
- (4) 依第(1)條之規定送交消費者機關或組織的案件時，公平交易委員會應在其目的的預算範圍內，提供前述機關或組織，調解紛爭所需之金融援助。

### 第34條 罰金

- (1) 企業經營者於受第32-(2)條之命令糾正措施後，仍重複違反本法之行為，或僅依糾正措施無法避免消費者損失時，公平交易委員會得以罰金替代，第32-(4)條所規定之勒令全部或一部停業，且依總統令規定，罰金不應超過違反行為之相關

or Distance Sales, the Fair Trade Commission or the competent Mayor/Governor may, prior to recommending or ordering corrective actions to the Business Operator concerned under Article 31 and 32 respectively, refer the case to an agency or organization dedicated to consumer protection in Electronic Commerce and Distance Sales or other consumer dispute settlement organizations specified by a presidential decree, for resolution.

- (2) The Fair Trade Commission or Mayor/Governor shall advise the Business Operator involved in a case referred to a consumer agency or organization under paragraph (1) that if he/she accepts a resolution recommended or mediated by said organization, he/she shall be exempted from corrective actions that can be ordered under Article 32.
- (3) In a case referred to a consumer agency or organization under paragraph (1), the Fair Trade Commission or Mayor/Governor shall not order corrective actions be made by the Business Operator involved under Article 32, if he/she accepts a resolution recommended or mediated by said agency or organization.<Amended 3-31-2005>
- (4) When referring a consumer dispute to a consumer agency or organization for resolution under paragraph (1), the Fair Trade Commission may provide said agency or organization with financial assistance needed to discharge the case, within a budget set for such purpose.

### **Article 34 (Monetary Penalties)**

- (1) If a Business Operator repeats a violation of this Act after corrective actions have been ordered under Article 32-(2) or if corrective actions alone are not considered sufficient to prevent consumer injury caused by such an act, the Fair Trade Commission

銷售額。但如無相關銷售額或銷售額無法計算時，公平交易委員會得於處以5千萬韓元以下之罰金。〈 2005年3月31日修正〉

- (2)公平交易委員會依據第(1)條規定收取罰金時，應考量下列各款：
1. 消費者因違反行為產生之損失程度。
  2. 企業經營者補償消費者損失的努力程度。
  3. 自違反行為所獲取之利潤。
  4. 違反行為之內容、時間及次數。
- (3)因違反本法必須負責之企業經營者的公司遭合併時，公平交易委員會得將該公司之違反行為視為合併後存續或因合併後成立之公司的行為，而收取罰金。
- (4)第1項規定之罰金繳納期限的延長、分期繳納，以及罰金之收取及退還，與因未繳納而採取的處分，均適用「獨占管制及公平交易法」第55條之4至第55條之6的規定。〈 2005年3月31日修正〉

## 第6章 補充規定

may impose a monetary penalty on the offender as an alternative to a full or partial suspension of the offender's business pursuant to Article 32-(4), provided that the amount of the monetary penalty shall not exceed the value of sales associated with the violation as specified by a presidential decree. In such case, when no sales are associated with such a violation or such sales are impossible to assess, the Fair Trade Commission may set the monetary penalty at an amount not exceeding 50 million won. <Amended 3-31-2005>

- (2) The Fair Trade Commission shall consider the following in assessing a monetary penalty under paragraph (1).
  1. the amount of consumer injury caused by the violation
  2. the extent of efforts made by the Business Operator to compensate Consumers for the injury they suffered
  3. the amount of profits gained from the violation
  4. the nature of the violation, the duration which it has persisted, and its frequency
- (3) If the company of a Business Operator responsible for a violation of this Act is merged with another company, the Fair Trade Commission may hold the surviving or newly created company from the merger liable for the violation and thereby impose a monetary penalty on it.
- (4) Article 55-(4) and Article 55-(6) of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the extension of the due date for payment of a monetary penalty, the installment payment of a monetary penalty, the collection and refunding of monetary penalties and the determination of actions on nonpayment of monetary penalties under paragraph (1). <Amended 3-31-2005>

## **Chapter 6 Supplementary Provisions**

### 第35條 禁止對消費者不利之銷售契約

違反第17條至第19條規定之契約條款，若對消費者不利，將不具效力。

### 第36條 管轄法院

依本法對於遠距銷售賣家所提起之相關訴訟，若無消費者提出訴訟當時的居所或住所地址時，以區域法院為管轄法院，本條不適用於消費者的住所或居所地址難以確定之情形。

### 第37條 同業公會之登記

- (1)以健全發展電子商務交易與遠距銷售業，以及提高消費者對於市場的信賴，以促進其他會員之共同利益為目的而成立之同業公會，應根據總統令之規定，向公平交易委員會登記。
- (2)第1項規定之登記條件、方法及程序等必要事項，應符合總統令之規定。

### 第38條 權限之委任與委託

- (1)公平交易委員會得依總統令規定之方式，依本法將其部分權限委任所屬機關之首長或市長/首長，或委託其他相關行政機關之首長。

### **Article 35 (Prohibition of Sales Contracts Disadvantageous to Consumers)**

Any provision in a contract which violates Article 17 or 19 and is disadvantageous to a Consumer shall be invalid.

### **Article 36 (Jurisdiction of Trial Court)**

Any lawsuit brought against a Distance Seller under this Act shall fall under the jurisdiction of the regional court of the district in which the plaintiff Consumer has his/her address or his/her domicile in the absence of such address; provided that this provision shall not apply when it is difficult to establish the plaintiff's address or domicile.

### **Article 37 (Registration of Trade Association)**

- (1) A trade association established for the purposes of assisting the sound development of Distance Sales, improving consumer confidence in the market and advancing other common interests of its members may register with the Fair Trade Commission in a manner specified by a presidential decree.
- (2) Particular matters relating to requirements for, methods and procedures of, and registration pursuant to paragraph (1) shall be specified by a presidential decree.

### **Article 38 (Delegation & Entrusting of Powers )**

- (1) The Fair Trade Commission may delegate part of its powers established under this Act to the head of the competent government agency or Mayor/Governor or entrust it to the head of other relevant administrative agencies in a manner specified by a presidential decree.

- (2)市長/首長得依總統令規定之方式，將其部分權限委任市長、郡長、首領（指自治區的首領，以下同）。
- (3)公平交易委員會得於有效執行本法所必要，將部分事務委託依第37-(1)條規定登記的同業公會。
- (4)當公平交易委員會根據第(3)條規定，將部分事務委託同業公會時，應在預算範圍內，提供執行該委託事務所需之全部或部分費用的金融支援。〈2005年3月31日新增〉
- (5)依據第(3)條規定接受委託事務之同業公會的員工及職員，得視為公務人員，並適用刑法第129條至第132條之罰則。

### 第39條 獨占管制及公平交易法之適用

- (1)公平交易委員會依本法進行之審議與議決，適用「獨占管制及公平交易法」第42條至第45條及第52條的規定。
- (2)由公平交易委員會或市長/首長針對違反本法行為所進行之調查，適用「獨占管制及公平交易法」第50-(1)或-(4)條的規定。
- (3)對於公平交易委員會或依第49條之規定被公平交易委員會委任權限的市長/首長，所命令進行之糾正措施或為執行而勒令停業，向管轄區域法院提起不服之訴時，適用「獨占管制及公平交易法」第53條、第53.2條、第54條 第55條第55.2條的

- (2) A Mayor/Governor may delegate part of his/her powers established under this Act to the competent mayor/county governor/ward chief (defined as the chief of an autonomous ward; the same shall apply hereinafter) in a manner specified by a presidential decree.
- (3) The Fair Trade Commission may, if necessary for the effective enforcement of this Act, entrust some of its activities to a trade association registered under Article 37-(1).
- (4) The Fair Trade Commission may provide financial assistance to the trade association which has been entrusted with some of the Commission's activities under paragraph (3) to cover the full or partial cost of carrying out such activities. <Newly Added 3-31-2005>
- (5) The officers and staff of a trade association which has been entrusted with some of the Fair Trade Commission's activities paragraph (3) shall be deemed public officials to the extent that the Penal Provisions of Article 129 or 132 apply to them.

### **Article 39 (Application of Monopoly Regulation and Fair Trade Act)**

- (1) Article 42 or 45 and Article 52 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the deliberation on, and resolution of, matters by the Fair Trade Commission under this Act.
- (2) Article 50-(1) or -(4) of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to an investigation undertaken by the Fair Trade Commission or Mayors/Governors.
- (3) Article 53, Article 53.2, Article 54, Article 55 and Article 55.2 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the determination of the regional court with jurisdiction over a lawsuit brought to protest corrective actions ordered by

規定。

(4)依據本法從事相關職務，或公平交易委員會之委員及公務員，適用「獨占管制及公平交易法」第62條的規定。

## 第7章 罰則

### 第40條 罰則

違反第32-(1)條規定且未執行糾正措施命令者，得處3年以下徒刑或1億韓元以下罰鍰。

### 第41條 罰則

違反第32-(4)條規定而勒令停止營業卻繼續營業者，得處2年以下徒刑或5千萬韓元以下罰鍰。

### 第42條 罰則

符合下列任一款者，得處3千萬元以下罰鍰。〈 2005年3月31日修正〉

1. 依第12-(1)條規定之未申報或申報不實者。

the Fair Trade Commission or by the Mayor/Governor under the powers delegated to by the Fair Trade Commission pursuant to Article 49 or to have the execution of such actions suspended by the court.

- (4) Article 62 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the Commissioners of the Fair Trade Commission or public officials who are engaged or used to be engaged in the activities prescribed by this Act.

## **Chapter 7 Penal Provisions**

### **Article 40 (Penal Provisions)**

A person who has failed to comply with an order of corrective actions issued under Article 32-(1) shall be punishable by imprisonment for not more than 3 years or a fine not more than 100 million won.

### **Article 41 (Penal Provisions)**

A person who has continued to conduct business in disregard of an order of business suspension issued under Article 32-(4) shall be punishable by imprisonment for not more than 2 years or a fine not more than 50 million won.

### **Article 42 (Penal Provisions)**

A person falling under any of the following categories shall be punishable by a fine not more than 30 million won.<Amended 3-31-2005>

1. a person who, in violation of Article 12-(1), has failed to file the required report or filed a false report

2. 違反第24-(8)及-(9)條之規定，不法使用表示具消費者損害賠償保險契約或委託付款的標誌，或假冒類似標誌。

### 第43條 罰則

符合下列任一款者，得處1千萬元以下罰鍰。

1. 依第13-(1)條之規定，提供與公司有關之不實資料者
2. 依第13-(2)條之規定，提供與交易條件有關之不實資料者。

### 第44條 處罰雙方之規定

法人之代表人或代理人，受雇人或其他法人之勞工、人員，違反第40條或第43條之規定時，除將處罰該行為人外，同時會向該法人或自然人處以該項條文之罰鍰。

### 第45條 罰鍰

(1)符合下列任一款者，得處1千萬韓元以下罰鍰。〈2005年3月31日修正〉

1. 依第8-(4)條所規定之電子帳單支付工具發行者，違反第24-(1)條但書之規定，未簽訂消費者賠償保險契約者。
2. 違反第21-(1)-1或-5條之規定者。

2. a person who, in violation of Article 24-(8) and -(9), has illegally used the mark indicating coverage by a Consumer Indemnity Insurance Contract, etc. or the availability of the Escrow Payment Option or who made or used a counterfeit mark.

### **Article 43 (Penal Provisions)**

A person falling under any of the following categories shall be punishable by a fine not more than 10 million won.

1. a person who has provided false information with regard to business titles, etc. under Article 13-(1)
2. a person who has provided false information about terms of transaction under Article 13-(2)

### **Article 44 (Punishment of Both Parties)**

If a representative of a corporation, or an agent, employee or any worker of a corporation or a person violates Article 40 or 43, the fine under each Article shall be imposed on such corporation or person in addition to the punishment of the offender.

### **Article 45 (Administrative Fines)**

- (1) A person falling under any of the following categories shall be punishable by an administrative fine not more than 10 million won.  
<Amended 3-31-2005>
  1. an issuer of an Electronic Bill Payment instrument prescribed in Article 8-(4) who, in violation of the conditional clause of Article 24-(1), has failed to secure the required Consumer Indemnity Insurance Contract, etc.
  2. a person who has violated Article 21-(1)-1 or -5

3. 依第15-(1)條規定之預付式遠距銷售業者，違反第24-(2)條之規定者。
  4. 根據第8-(4)條規定之電子帳單支付工具發行者，違反第24-(7)條之規定，使用不實資料簽訂消費者賠償保險契約者。
  5. 依第15-(1)條規定之預付式遠距銷售業者，違反第24-(7)條之規定，使用不實資料簽訂消費者賠償保險契約者。
  6. 違反第24-(2)-2條規定，寄送購買邀約招攬廣告給消費者之人。
  7. 依第39-(2)條規定，違反「獨占管制及公平交易法」第50-(1)-1條規定者，未具正當理由，不遵循公平交易委員會要求出席的命令2次以上者。
  8. 依第39-(2)條規定，適用「獨占管制及公平交易法」第50-(1)-3或-(3)條，拒絕提交規定之報告或所需之資料及物品，或提交不實報告或資料及物品者。
  9. 依第39-(2)條規定，適用「獨占管制及公平交易法」第50-(2)條之規定，拒絕、妨害或迴避調查者。
- (2)符合下列任一款者，得處500萬韓元以下罰鍰。〈 2005年3月31日修正〉
1. 違反第6條之規定，未保存交易紀錄或未提供消費者保存及閱覽紀錄之方法者。
  2. 違反第10-(1)或13-(1)條之規定，未標示企業經營者之身分資料者。

3. a prepaid Distance Seller prescribed under Article 15-(1) who has violated Article 24-(2)
  4. an issuer of an Electronic Bill Payment instrument prescribed in Article 8-(4) who, in violation of Article 24-(7), has submitted false data in entering into a Consumer Indemnity Insurance Contract, etc.
  5. a prepaid Distance Seller prescribed under Article 15-(1) who, in violation of Article 24-(7), has submitted false data in entering into a Consumer Indemnity Insurance Contract, etc.
  6. a person who has sent Purchase Offer Soliciting Advertisements to Consumers in violation of Article 24.2-(2)
  7. a person who has violated Article 50-(1)-1 of the Monopoly Regulation and Fair Trade Act, which applies to Article 39-(2), by not complying with an order to appear before the Fair Trade Commission more than twice without just cause
  8. a person who has refused to submit the required report, data or materials or by submitting a false report, data or materials under Article 50-(1)-3 or -(3) of the Monopoly Regulation and Fair Trade Act as it applies to Article 39-(2)
  9. a person who has rejected, impeded or evaded an investigation initiated under Article 50-(2) of the Monopoly Regulation and Fair Trade Act as it applies to Article 39-(2)
- (2) A person falling under any of the following categories shall be punishable by an administrative fine not more than 5 million won.  
<Amended 3-31-2005>
1. a person who, in violation of Article 6, has failed to preserve transactions records or failed to provide Consumers with a method for storing and viewing their transaction records
  2. a person who, in violation of Article 10-(1) or 13-(1), has failed to provide information about the identity of the Business Operator

3. 違反第12-(2)及-(3)條之規定，未提交申報者。
4. 違反第13-(2)條之規定，未標示、廣告或公告以及未交付書面契約內容者
5. 刪除<2005年3月31日>
6. 違反第13-(3)條之規定，未告知可取消商品交易相關契約之內容者。
- (3) 第(1)及(2)條所規定之罰鍰，由公平交易委員會或市長/首長負責收取。
- (4) 第(1)及(2)條所規定之罰鍰評估標準，應符合總統令之規定。
- (5) 不服第(1)及(2)條規定之罰鍰處分者，應自接獲處分之日起30日內，向公平交易委員會或市長/首長提出異議。
- (6) 當接獲第(1)及(2)條規定之罰鍰處分者，依第(5)條規定提出異議時，公平交易委員會或市長/首長應立即將事實通報管轄法院，而該管轄法院應於接獲該通報後，依「非訟事件程序法審理」該案件。
- (7) 若未於第(5)條規定之期限內提出異議，亦未繳納罰鍰時，若由公平交易委員會收取罰金時，依遲延繳納國家稅賦的標準程序進行徵收；若由市長/首長收取罰金時，則依遲延繳納地方稅賦之標準程序進行徵收。

3. a person who, in violation of Article 12-(2) and -(3), has failed to file the required report
4. a person who, in violation of Article 13-(2), has not provided required information to Consumers by indication, advertisement or notification or who has failed to issue a written copy of the contract to the Consumer
5. Deleted <3-31-2005>
6. a person who, in violation of Article 13-(3), has failed to indicate that a sales contract for Goods, etc. can be canceled
- (3) Administrative fines under paragraph (1) or (2) shall be levied and collected by the Fair Trade Commission or Mayor/Governor.
- (4) Criteria for the assessment of administrative fines under paragraph (2) and (2) shall be specified by a presidential decree.
- (5) A person who wants to protest an administrative fine imposed on him/her under paragraph (1) or (2) shall do so to the Levier within 30 days of notification of the administrative action.
- (6) If a person who has been ordered to pay an administrative fine under paragraph (1) and (2) protests the action pursuant to paragraph (5), the Levier shall without delay serve notice of the fact to the court of law with jurisdiction over the case. The court, upon such notification, shall try the case under the Non-Contentious Case Litigation Procedure Act.
- (7) When a levied administrative fine is not paid within the period specified in paragraph (5) without being protested, the amount shall be collected in accordance with the standard procedures for collecting delinquent national taxes, if the fine was levied by the Fair Trade Commission, or in accordance with the standard procedures for collecting delinquent provincial taxes, if the fine was levied by a Mayor/Governor.

## 附錄

(金融投資服務與資本市場法) <2007年8月3日, 第8635號法>

### 第1條 實施日期

自本法自公佈日起1年又6個月後生效。

第2至41條 略。

### 第42條 其他法律修正

(1) 至<45> 略。

<46> 部分電子商務交易的消費者保護法相關用詞應修正如下：  
「證券交易法」第2-(9)條，「透過證券承銷商之證券承銷」等文字，應修改為依「金融投資服務與資本市場法」之規定，「透過操盤手或中介者所為之證券承銷」。

<47>至<67> 略。

第43-44條 略。

## **Addenda**

(Financial Investment Services and Capital Markets Act) <Act No. 8635, 8-3-2007>

### **Article 1 (Date of Enforcement)**

This Act shall come into force one year and six months after its promulgation:

Article 2 through 41 Omitted

### **Article 42 (Amendment of Other Acts)**

(1) through <45> Omitted

<46> Part of the Act on Consumer Protection in Electronic Commerce, etc. shall be amended as follows.

The wording “securities underwritten by a security company prescribed in Article 2-(9) of the Securities and Exchange Act” shall be amended to read “securities underwritten by an investment trader or mediator prescribed in the Financial Investment Services and Capital Markets Act”.

<47> through <67> Omitted

Article 43 through 44 Omitted

## 電子商務消費者權益保護法施行令

[2008年8月31日施行]

[總統令No. 21214，最近被其他法律修正日期2008年12月31日]

### 第一章 總則

#### 第1條 目的

本施行令依電子商務消費者保護法（以下簡稱本法）之授權，訂定與執行本法之必要事項。

#### 第2條 消費者的範圍

本法第2-5-b條規定，總統令特定之「個人」係指下列為消費之目的，而使用或利用業者提供之商品或服務（以下簡稱為「商品」）之類別。 2006年2月22日，2007年10月31日，2008年12月31日修正>

1. 商品之最終使用或利用者，但不包括使用原物料（包括中間產品），或資本貨物之個人。
2. 符合本法第3-(1)條規定之條件的企業經營者（只適用於個人賣商品給企業經營者間之關係）。

# Enforcement Decree of the Act on Consumer Protection in Electronic Commerce, etc.

[Enforced 12-31-2008]

[Presidential Decree No.21214, Amended by another Law 12-31-2008]

## Chapter 1 General Provisions

### Article 1 (Purpose)

The purpose of this Decree is to prescribe matters delegated by the Act on Consumer Protection in Electronic Commerce, etc. (hereinafter referred to as “Act”) and other necessary matters for enforcement of the Act.

### Article 2 (Scope of Consumer)

“Person specified by a presidential decree” in Article 2-5-b of the Act on Consumer Protection in Electronic Commerce, etc. (hereinafter referred to as “Act”) shall mean a person falling under any of the following categories, who uses or utilizes goods or services supplied by a business operator (hereinafter referred to as “Goods, etc.”) for purposes other than consumption. <Amended 2-22-2006, 10-31-2007, 12-31-2008>

1. a person who is the end user or utilizer of Goods, etc., excluding a person who uses Goods, etc. as raw material (including intermediary goods) or capital goods
2. a business operator who qualifies for the conditional clause of Article 3-(1) of the Act (this prescription applicable only to the

3. 為成為多層次傳銷業務員，必須從多層次傳銷企業經營者處購買商品之個人。
4. 除畜牧業規模超過「食品與農林漁業部命令」，並依「畜牧業法」第21-(1)條規定之畜牧業者，或擁有「食品與農林漁業部命令」之許可證，並依「深海漁業發展法」第6-(1)條規定之深海捕漁業者外，為農業（包括養殖業）或漁業而購買商品之人。

### 第3條 金融商品不適用之範圍

依本法第3-(4)條規定，總統令特定「金融機構交易之金融商品」，係指由依「金融監督機構設立法」第38-(1)或(12)所規定，或依其他法律，或經中央政府許可所設立之金融機構，直接處理之金融商品。〈2006年2月22日修正〉

### 第4條 承認將電子文件發送至指定契約不特定地址之電子郵件信箱的法律效力

本法第5-(1)條但書規定，總統令特定之「案件」如下。〈2006年2月22日修正〉

- extent of a business operator's relationship with a person who sells Goods, etc. to him/her)
3. a person who purchases Goods, etc. from a multilevel marketing business operator as a condition for becoming a multilevel marketing agent
  4. a person who purchases Goods, etc. for agricultural (including livestock breeding business) or fishery business, except when his/her livestock business exceeds a scale specified by an ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries under Article 21-(1) of the Livestock Industry Act or when he/she is a deep-sea fishing business owner licensed by the Minister of Food, Agriculture, Forestry and Fisheries under the Article 6-(1) of the Development of Deep-sea Fisheries Act

### **Article 3 (Scope of Non-applicability for Financial Products)**

“Trading of financial products by financial institutions specified by a presidential decree” in Article 3-(4) of the Act shall mean the trading of financial products handled directly by financial institutions prescribed in Article 38-(1) or -(12) of the Act on the Establishment, etc. of Financial Supervisory Organizations, financial institutions established under other laws or financial institutions authorized or permitted by a central government agency. <Amended 2-22-2006>

### **Article 4 (Recognition of Legal Effect of Electronic Document Sent to Email Address Unspecified on Contract)**

“Cases specified by a presidential decree” in the conditional clause of

1. 當企業經營者發送「電子商務基本法」第2-(1)條所規定之電子文件(以下簡稱為「電子文件」)，至消費者之前已寄送兩封以上之電子郵件給企業經營者所使用之電子郵件帳號。
2. 當消費者已列印的電子文件。
3. 當電子文件並不損害消費者的利益，而且消費者對於電子文件的效力亦無爭議。
4. 因緊急需要，寄送電子郵件是聯繫消費者唯一的方法。

### 第5條 通知消費者電子簽章效力的程序

企業經營者應依本法第5-(2)條之規定，預先寄送電子郵件、第2-(2)條所規定附有電子簽章的電子文件的資訊，與下列資訊通知消費者。〈2006年2月22日修正〉

1. 簽署電子簽章之電子文件的效果。
2. 列印簽有電子簽章之電子文件的說明。

### 第6條 企業經營者所保存之交易紀錄類型

Article 5-(1) of the Act shall mean the following. <Amended 2-22-2006>

1. when the Business Operator has sent the electronic document prescribed by Article 2-(1) of the Framework Act on Electronic Commerce (hereinafter referred to as “Electronic Document”) to an email address which the Consumer used twice or more times previously to trade with the Business Operator
2. when the Consumer has printed the electronic document
3. when the electronic document does not impair the Consumer’s interests, and the Consumer does not dispute the effect of the electronic document
4. when the Business Operator needed to contact the Consumer urgently, and email was the only method for doing so

## **Article 5 (Procedures for Notifying Consumer of Effect of Electronic Signature, etc.)**

A Business Operator shall, pursuant to Article 5-(2) of the Act, include the following information within the main body of the electronic mail message, which has attached to it an electronic document with an electronic signature as prescribed in Article 2-(2) of the Electronic Signature Act, and he/she shall notify the Consumer in advance of the following. <Amended 2-22-2006>

1. the effect of an electronic document signed with an electronic signature
2. instructions for printing an electronic document signed with an electronic signature

## **Article 6 (Kinds of Transaction Records to be Preserved by Business Operator, etc.)**

- (1) 依本法第6-(3)條之規定，企業經營者必須保存之交易記錄類型與期限如下；遠距銷售的中介，亦必須保存透過其資訊系統處理的紀錄。
  1. 標籤和廣告的記錄：6個月。
  2. 取消或撤回契約的記錄：5年。
  3. 付款及交付商品的記錄：5年。
  4. 消費者投訴和糾紛的記錄：3年。
- (2) 企業經營者必須提供消費者，其貯存交易記錄的方法，並依本法第6-(3)條之規定，提供消費者查閱。〈2006年2月22日修正〉
  1. 企業經營者應提供消費者，可在網路百貨（本法第2-(4)條2定義之Cybermall）之資訊處理系統，查閱和確認以電子文件方式進行交易與貯存之交易記錄。
  2. 企業經營者應提供消費者，以個人詢問、電話、傳真或電子郵件形式，查閱或索取其進行交易的紀錄影本。
- (3) 當企業經營者根據第6-(2)條之規定，企業經營者應將所留存之消費者已撤回其使用其交易記錄，和個人資料之同意時，與沒有撤回使用同意的消費者的交易紀錄與個人資料分別存放。

- (1) The types of transaction records a Business Operator is required to keep under Article 6-(3) of the Act and the required durations for their preservation shall be as follows; provided that in the case of a Distance Sales Mediator, he/she shall be required to keep only those records that he/she processed through his/her own information processing system.
  1. records of labeling and advertising : 6 months
  2. records of canceled or withdrawn contracts : 5 years
  3. records of payments and deliveries of Goods, etc. : 5 years
  4. records of consumer complaints and disputes : 3 years
- (2) The methods of storing the transaction records a Business Operator is required to provide to Consumers and of making them available for viewing by Consumers under Article 6-(3) of the Act shall be as follows. <Amended 2-22-2006>
  1. The Business Operator shall enable the Consumer to view and confirm his/her own transaction records at the Cybermall (as “Cybermall” is defined in Article 2-(4) of the Act; the same shall apply herein after) where the transaction was made and store the records in the form of an electronic document on an information processing system.
  2. The Business Operator shall enable the Consumer to view or obtain copies of his/her transaction records by personal visit, telephone, facsimile or email.
- (3) When a Business Operator, pursuant to Article 6-(2) of the Act, keeps the transaction records and personal information of a Consumer who has retracted his/her consent to the use of his/her personal information by the former, the Business Operator shall store such records and personal information separately from those of other Consumers who have not retracted their consent.

### 第7條 支付電子帳單

依本法第8-(1)條規定，總統令所特定之「電子形式」，應指除在面交付款的情形外，在電子文件的形式所為之支付。

### 第8條 電子帳單支付服務商等

本法第8-(1)條規定，「負責處理電子帳單支付者」係指下列，電子帳單支付工具提供商、電子帳單支付服務提供者，和電子帳單支付服務代收或中介（以下簡稱電子帳單支付服務營運商等）。〈2006年2月22日修正〉

1. 依「銀行法」成立，提供帳戶間轉帳服務的金融機構。
2. 依「專業信貸金融業法」第2-(2)條所規定之信用卡業務營運商。
3. 允許用戶以電子媒介或或資訊處理系統貯儲或記錄的方式，存放貨幣值或其他等同於貨幣值，用來購買商品等的電子帳單支付機器提供商。
4. 使用有線或無線通信設備之支付服務提供商。
5. 依「資訊與通信網絡利用及資訊保護促進法」第2-(3)條規定的電信服務供應商。
6. 電子帳單支付服務代理或中介。

## **Article 7 (Electronic Bill Payment)**

“Electronic method specified by a presidential decree” in Article 8-(1) of the Act shall mean payments made in the form of an electronic document, except when the payment is accompanied by face-to-face identification.

## **Article 8 (Electronic Bill Payment Service Operator, etc.)**

“Parties responsible for handling electronic payments” in Article 8-(1) of the Act shall mean those falling under any of the following categories, who are issuers of Electronic Bill Payment instruments, providers of Electronic Bill Payment service and assistants to or mediators of Electronic Bill Payment service (hereinafter referred to as “Electronic Bill Payment Service Operator, etc.”). <Amended 2-22-2006>

1. a financial institution established under the Banking Act which provides account-to-account money transfer service
2. a credit card business operators prescribed in Article 2-(2)-2 of the Specialized Credit Financial Business Act
3. an issuer of a payment service instrument which allows the user to keep a monetary value or other values equivalent to it stored or recorded on an electronic medium or an information processing system and use it to pay for purchase of Goods, etc.
4. a payment service provider using wired or wireless telecommunications devices
5. a telecommunications service provider prescribed in Article 2-(3) of the Act on Promotion of Information and Communication Network Utilization and information Protection, etc.
6. an agent or mediator of Electronic Bill Payment service

## 第9條 多家網路百貨所使用之支付工具

依本法第8-(4)條規定，總統令所特定之「電子帳單支付工具」，係指本法第7條所規定之3家以上網路百貨用以繳費之電子帳單的支付工具（不包括由單一企業管理之多家網路百貨），消費者得先行購買或使用商品，之後再行支付帳單。

## 第10條 電子帳單支付之爭端解決

依本法第8-(5)條規定之電子帳單支付營運商，應立即依下列方式，與企業經營者或消費者之要求進行合作，並於有必要時提供解決帳單支付爭議的協助。

1. 允許企業經營者或消費者，查閱或複製與帳單支付爭議相關之資訊（包括有關消費者身份確認的資訊）。
2. 允許企業經營者或消費者，查閱或複製電子帳單支付服務營運商所採取的措施與相關資訊，以維持支付爭議的資訊安全。因電子帳單支付服務營運商，可以資訊揭露可能對於支付服務可能會造成風險為由，拒絕企業經營者或個人近用資訊。

## 第11條 配貨服務商的合作

## **Article 9 (Payment Instruments Used by Multiple Cybermalls)**

“Electronic Bill Payment instrument specified by a presidential decree” in Article 8-(4) of the Act shall mean a payment instrument used for electronic bill payment prescribed in Article 7, which is used by 3 or more Cybermalls (excluding multiple Cybermalls managed by a single enterprise), enabling the Consumer to pay for the Goods, etc. he/she purchases or uses before settling the bill for the payment later.

## **Article 10 (Resolution of Disputes over Electronic Payments)**

An Electronic Bill Payment Service Operator, etc., pursuant to Article 8-(5) of the Act, shall cooperate with a Business Operator or Consumer in the following manners at their request without delay to help them resolve a payment dispute to the extent that such cooperation is necessary for resolving the dispute.

1. allowing the Business Operator or Customer to view or copy the information related to the payment in dispute (including information concerning customer authentication)
2. allowing the Business Operator or Customer to view or copy the information related to measures taken by the Electronic Bill Payment Service Operator, etc. to maintain the security of the payment in dispute; provided that the Electronic Bill Payment Service Operator may refuse the Business Operator or Customer access to the kind of information which, if disclosed, may cause risks to the security of payment service

## **Article 11 (Cooperation of Delivery Service**

依本法第9條規定之負責運送商品之配貨服務商，應立即依下列方式，與企業經營者或消費者之要求進行合作，並於有必要時提供解決帳單支付爭議的協助。

1. 允許企業經營者或消費者查閱紀錄。
2. 允許企業經營者或消費者查閱，因意外或商品配送時損壞之紀錄。

## 第12條 驗證消費者的資訊

依本法第11-(2)條規定，總統令所特定「必要措施」的含義如下。

1. 驗證消費者身份竊盜，與受消費者的要求，提供相關的交易記錄。
2. 回復消費者因身分竊盜而被改變的資訊。
3. 回復消費者因身分竊盜而造成的損失。

## 第13條 遠距銷售賣方提交報告的程序

- (1) 遠距銷售賣方如欲根據第12-(1)條提交業務報告，應完成填寫總理令所特定的報告書表（包括以電子形式），並提交至總公司所屬行政區域之市長或特別都會市、都會市，以及省的首長（以下簡稱為市長/首長），（如總公司設在國外，則提交給公平交易委員會）。於接收該報告時，負責承辦

### **Provider)**

A Business Operator responsible for delivering Goods, etc., pursuant to Article 9 of the Act, shall cooperate with a Business Operator or Consumer in the following manner at their request without delay to help them resolve a payment dispute to the extent that such cooperation is necessary for resolving the dispute.

1. allowing the Business Operator or Customer to view delivery records
2. allowing the Business Operator or Customer to view records relating to any accident or disruption in delivery

### **Article 12 (Verification of Information about Consumers, etc.)**

“Necessary measures specified by a presidential decree” in Article 11-(2) of the Act shall mean the following.

1. verifying the theft of the Consumer’s identity and provide the Consumer with relevant transaction records at the Consumer’s request
2. restoring information about the Consumer that has been altered by theft
3. recovering the Consumer’s losses caused by theft

### **Article 13 (Procedures for Filing a Report by Distance Seller)**

- (1) A Distance Seller who wants to report his/her business pursuant to Article 12-(1) of the Act shall complete a report form (including an electronic form) specified by a Prime Minister’s decree and submit it to the Mayor or Governor of the Special Metropolitan City,

之公務人員應依「實現電子化政府之行政事務電子化促進法(Promotion of Electronization of Administrative Affairs, etc. for the Realization of an Electronic Government)第21-(1)條所分享之行政資訊，透過資料庫，查證報告書所列項目；如有使用資料庫查證的方式不適用的情況，或報告人不同意使用該查證程序，公務人員應要求報告人提交與項目之相關文件以供查證。〈2006年6月12日修正〉

1. 公司註冊登記影本(只適用於公司)，如於公司註冊登記前提交報告，則必須提交公司主要發起人居民註冊登記的完整影本。
2. 市長/首長在收到根據前項所提交的報告時，應依總理令之規定，出具業務報告證書。
3. 刪除〈2006年6月12日〉

#### 第14條 遠距賣方豁免提交報告的義務

- (1) 依本法第12-(1)條的但書中，總統令所特定之「電信服務提供者」，為被歸類「增值稅法」第25-(1)條規定，適用簡易稅務申報的企業經營者。〈2006年2月22日修正〉
- (2) 依前項規定被豁免提交報告義務之電信服務提供者，應於其

Metropolitan City or Province (hereinafter referred to as “Mayor/Governor”) of the administrative district in which his/her main office is located (or to the Fair Trade Commission if the main office is in a foreign country). The public official in charge of receiving such a report shall verify the following items on the report by using the database of shared administrative information provided for by the Article 21-(1) of the Act on the Promotion of the Electronization of Administrative Affairs, etc. for the Realization of an Electronic Government or, in case verification by using the database is not applicable or the reporting party does not agree to such a verification process, the public official shall require the reporting party to submit relevant documentation for verification of the aforementioned items. <Amended 6-12-2006>

1. a copy of the registration of the corporation (only applicable to corporations) or, in case the report is filed before the corporation is registered, a copy of the complete resident registration of the chief promoter of the establishment of the corporation
2. Upon receiving a report under paragraph (1), the Mayor/Governor shall issue a business reporting certificate as prescribed by a Prime Minister’s decree.
3. Deleted <6-12-2006>

## **Article 14 (Distance Sellers Exempted from Obligation of Reporting)**

- (1) “Telecommunication service providers specified by a presidential decree” in the conditional clause of Article 12-(1) of the Act shall mean those who qualify to be categorized as simple tax reporting business operators under Article 25-(1) of the Value-added Tax Act. <Amended 2-22-2006>
- (2) When a telecommunications service provider exempted from the

電信服務產品之標籤或廣告，註明豁免的原因，而不是僅依本法第13-(1)-3條之規定，標示註冊號碼。

## 第15條 電信服務供應商應提報的資訊

依本法第12-(1)-3條規定，總統令所特定之「其他資訊」，係為企業經營者的姓名和身份證號碼（只適用於個人）。

## 第16條 遠距賣方更動的報告

- (1) 企業經營者欲根據本法第12-(2)條做業務更動的報告，必須完成填寫總理令所指定之報告書表，並於變更發生日起在15天內，提交公平交易委員會或主管市長/首長。
- (2) 市長/首長於查驗更動資訊後，應出具更新後的註冊登記證書給遠距賣方。

## 第17條 企業停業、終止或回復業務報告

根據本法第12條第3項規定，當遠距賣方暫停、終止業務，或回復業務時，應填寫完成總理令特定之報告書表，向公平交易委員會或市長/首長提交報告，並說明相關事實。當報告涉及終止業務時，應當包括提交已發行的註冊證書。

obligation of reporting under paragraph (1) labels or advertises his/her telecommunication service products, he/she shall specify the reasons for the exemption instead of providing a registration number as required by Article 13-(1)-3 of the Act.

### **Article 15 (Information to be Reported by Telecommunication Service Providers)**

“Other information specified by a presidential decree” in Article 12-(1)-3 of the Act shall be the business operator’s name and resident registration number (only applicable to individuals).

### **Article 16 (Reporting of Change to Business by Distance Sellers)**

- (1) A business operator who wants to report a change to his/her business pursuant to Article 12-(2) of the Act, he/she shall complete a report form specified by a Prime Minister’s decree and submit it to the Fair Trade Commission or the competent Mayor/Governor within 15 days from the day on which the change occurred.
- (2) The Mayor/Governor shall issue the Distance Seller a revised certificate of registration after verifying the change.

### **Article 17 (Reporting of Suspension, Termination or Resumption of Business)**

Pursuant to Article 12-(3) of the Act, when a Distance Seller suspends or terminates business or resumes business after a suspension, he/she shall report the facts to the Fair Trade Commission or the competent Mayor/Governor by completing a report form specified by a Prime

### 第18條 電子報告

- (1) 如企業經營者欲依第13、16和17條之規定，以電子文件形式提交報告時，可使用公平交易委員會所指定的資訊處理系統。
- (2) 依前項提交電子報告時，如有文件無法以電子文件形式提交，企業經營者可在提交電子報告後一個月內，郵寄該文件給主管機關。如在期限內收受該文件，則以電子報告提交日為提交完成日。
- (3) 其他有關電子報告應載明之事項，應依總理令之規定。

### 第19條 遠距賣方的資訊揭露

- (1) 在根據第12-(4)條規定，揭露遠距賣方資訊前，公平交易委員會應當通知賣方將如何將揭露其資訊，並提供其糾正錯誤資訊的機會後再予以揭露。〈2006年2月22日修正〉
- (2) 根據前項揭露遠距賣方資訊之規定，公平交易委員會不得揭露遠距賣方（如為公司，則為代表）的身份證號碼。〈2006年2月22日新增〉

Minister's decree. When the report concerns a termination of business, it shall include the certificate of registration already issued.

### **Article 18 (Electronic Reporting)**

- (1) If a business operator wants to complete the reporting prescribed in Article 13, 16 and 17 in Electronic Document form, he/she may do so by using an information processing system specified by the Fair Trade Commission.
- (2) In filing a report electronically under paragraph (1), if there are documents that cannot be submitted in Electronic Document form, a business operator may mail the documents to the relevant authority within one month from the day the electronic report was filed. If such documents are received within the time limit, the reporting shall be considered to have been completed on the day the electronic report was filed.
- (3) Other matters concerning electronic reporting shall be specified by a Prime Minister's decree.

### **Article 19 (Disclosure of Information about Distance Sellers)**

- (1) Prior to disclosing information about a Distance Seller under Article 12-(4) of the Act, the Fair Trade Commission shall notify the Distance Seller the information that will be disclosed as well as how it will be disclosed and give the Distance Seller a chance to correct any errors in the information to be disclosed. <Amended 2-22-2006>
- (2) In disclosing information about a Distance Seller pursuant to paragraph (1), the Fair Trade Commission shall not disclose the resident registration number of the Distance Seller (including that

## 第19.2條 三方的範圍

(1)依本法第13-(2)-10條規定，總統令所特定之「第三方」應如下。〈2006年12月29日，2008年12月31日修正〉

1. 向公平交易委員會登記，依「電子金融交易法」第28-(2)-5條之規定，與依本法第13-(2)-10條，及「委託付款選項施行令」第28-(2)-5所規定之供應商，並符合下列要件之企業經營者。

a. 與消費者間締結賠償保險契約（以下簡稱「消費者賠償保險契約」），和依本法第24-(1)條規定之其他契約。

b. 消費者在本法第38條規定之金融監督機構，或依「郵務存款與保險法」之郵務服務機構，專為委託付款所開設帳戶中所存放之款項。

2. 「電子金融交易法」第28-(2)條所規定之金融機構。

(2)刪除 〈2006年12月29日〉

(3)企業經營者依(1)-1，與消費者所締結之賠償保險契約，應符合下列要求。

1. 該契約的目的，應以提供消費者因企業經營者無法或無能力依本法第28.3 (4)條之規定退款，致消費者所蒙受的損害。

of the representative, in the case of a corporation). <Newly Added 2-22-2006>

## **Article 19.2 (Scope of Third Parties, etc.)**

- (1) “Third party specified by a presidential decree” in Article 13-(2)-10 of the Act shall be any of the following. <Amended 12-29-2006, 12-31-2008>
  1. a business operator satisfying the following requirements, who is registered with the Fair Trade Commission under Article 28-(2)-5 of the Electronic Financial Transaction Act and Article 28-(2)-5 of the Enforcement Decree thereof as a provider of the Escrow Payment Option prescribed in Article 13-(2)-10 of the Act
    - a. conclude a consumer indemnity insurance contract and other contracts prescribed in Article 24-(1) of the Act (hereinafter referred to as “Consumer Indemnity Insurance Contract, etc.”)
    - b. deposit payments made by Consumers in an account opened and reported as exclusively for escrow payment service with a financial institution defined in Article 38 of the Act on the Establishment, etc. of Financial Supervisory Organizations or a postal service agency established under the Act on Postal Savings and Insurance
  2. financial institutions prescribed in the conditional clause of Article 28-(2) of the Electronic Financial Transaction Act
- (2) Deleted <12-29-2006>
- (3) The Consumer Indemnity Insurance Contracts, etc. that a business operator concludes pursuant to paragraph (1)-1 shall satisfy the following requirements.
  1. The contracts shall be aimed at providing compensation to Consumers for injury suffered from the business operator’s failure or inability to provide a refund to Consumers under

2. 契約的被保險人或受益人，應為將款項存放於託管帳戶的消費者。
3. 契約的保險金額，應為存放於託管帳戶款項金額的10%或以上（保險金額可因需要而隨時調整，或如果這是不可能的，其保險金額可依每月月底存放於帳戶的款項金額調整）。
4. 契約不得限制受損害方獲得賠償的資格，或於無正當理由下，限制企業經營者的責任範圍。
5. 契約應確保與即時賠償消費者，和提供賠償延遲金。
6. 契約不得限制消費者表達意見的方式，或無故增加消費者的舉證責任。
7. 契約不得包含不可預測的風險或傷害消費者，或可能對消費者不公平且不利的條款。
8. 保險契約或清償債務的擔保契約，須與「保險業法」第2-(5)條所規定之保險公司，或「銀行法」第2-(2)條所規定之金融機構締結。

<2006年2月22日新增>

## 第20條 契約所包括的項目

依本法第13-(2)-11條款所規定，總統令所特定之「其他條款...或者...指定」含義應該如下。

1. 除商品價格外，任何消費者須負擔的額外費用等。

Article 28.3-4

2. The insurant or beneficiary of the contracts shall be the Consumers whose payments are deposited in the escrow account
3. The insured amounts of the contracts shall be 10 percent or more of the balance of payments deposited in the escrow account. (The insured amount may be adjusted instantly on an as-needed basis, or if that is not possible, the insured amount may be adjusted monthly on the basis of the balance of payments deposited as of the end of each month.)
4. The contracts shall not restrict the scope of the injured party eligible for compensation or limit the liability of the business operator without valid reason.
5. The contracts shall ensure prompt payment of compensation to the Consumer and provide compensation for delayed payment.
6. The contracts shall not restrict the way the Consumer expresses his/her opinion or impose an excessively onerous burden of proof on the Consumer without valid reason.
7. The contracts shall not contain terms likely to cause unpredictable risk or injury to the Consumer or unfairly disadvantageous to the Consumer.
8. The insurance contract or debt payment guarantee contract shall be concluded with an insurance company prescribed in Article 2-(5) of the Insurance Business Act or a financial institution prescribed in Article 2-(2) of the Banking Act.

[This Article Newly Added 2-22-2006]

## **Article 20 (Items to be Included in Contract)**

“Other terms ... or matters ...specified by a presidential decree” in Article 13.2-(2)-11 of the Act shall mean either of the following.

1. any additional charges besides the price of the Goods, etc. that

2. 任何交易條件的限制，如銷售日期、地點、數量，或交貨地點。

## 第21條 撤回或取消的限制

依本法第17-(2)-5條規定，總統令所特定之「其他情況」，係指消費者特別訂作商品的情況，消費者必須以書面（包括電子形式）同意，不會撤回買賣契約的申請，或經遠距賣方告知，撤回/取消契約可能會導致不可彌補的嚴重損害，所以撤回/取消將不會被允許的情況。〈2006年7月27日修正〉

## 第21.2條 延遲金利息的計算

依本法第18-(2)條規定，總統令特定之「年利率」為24%。〈2007年10月16日新增〉

## 第22條 停止付費或取消費用的工具

依本法第18-(3)條規定，總統令特定之「付款工具」，係消費者

- the Consumer will be required to burden
2. any restrictions on the conditions of the transaction such as the date, place and quantity of sale or the place of delivery

### **Article 21 (Restrictions on Withdrawal/ Cancellation)**

“Other cases specified by a presidential decree” in Article 17-(2)-5 of the Act shall be cases in which the Consumer agrees in writing (including in electronic form) not to withdraw his/her application for a sales contract or cancel the sale contract after being notified in advance by the Distance Seller that such withdrawal or cancellation will not be allowed because it can cause irreparably serious damage to the Distance Seller in light of the fact that the Goods, etc. transacted under the sales contract is custom-made on the Consumer’s order.<Amended 7-27-2006>

### **Article 21.2 (Interest Rate for Calculating Compensation for Delayed Payment)**

The “annual interest rate ...specified by a presidential decree” in Article 18-(2) of the Act shall be 24 percent.

[This Article Newly Added 10-16-2007]

### **Article 22 (Instruments of Payment Permitting Stopping of Billing or Canceling of Charge)**

“Instruments of payment specified by a presidential decree” in Article 18-(3) of the Act shall be instruments other than cash paid directly

以直接付現金以外之方式，支付所購買之商品（包括帳戶間的轉帳）的情形。其中企業經營者得以停止向工具提供者（支付服務提供商，以下同）付費的方式，償還退款給消費者、向供應商取消收取的費用，或提供退款給供應商。

### 第23條 債務抵銷

(1)如果消費者採取下列步驟，要求抵銷債務，支付服務提供商可以立即執行第18-(6)條所規定之債務抵銷。

1. 以書面（包括電子形式）要求指定償還的金額。
2. 附上消費者依本法第17-(1)或(3)條規定之期限內，撤回或取消契約的證明文件，與依本法第18-(1)條規定，已退回商品的證明文件（如果是訪問買賣的情形，附上契約已經被拒絕，且商品已寄還至訪問買賣賣方的地址）。

(2)當支付服務提供商根據第(1)項執行債務抵銷時，應該以書面（包括電子形式），通知遠距賣方和消費者相關事實與債務抵銷金額。

(3)除第(1)與(2)項規定外，支付服務提供商與債務抵銷之相關事項，應依總理令之規定。

### 第24條 使用部分商品的收費範圍

by the Consumer who purchases Goods, etc. (including account-to-account money transfer), in which a business operator can provide a refund of a payment to a Consumer by stopping the process of billing the provider of such an instrument (hereinafter referred to as “Payment Service Provider”), canceling the charge already billed to the provider or providing a refund of the payment to the provider.

### **Article 23 (Debt Offsets)**

- (1) A Payment Service Provider may execute a debt offset provided for in Article 18-(6) of the Act immediately if a Consumer requests such a debt offset by taking the following steps.
  1. make the request in writing (including in electronic form), specifying the amount to be refunded
  2. attach documentation verifying that the Consumer has withdrawn or canceled the contract within the time limit set forth in the Article 17-(1) or -(3) and that the Consumer has returned the Goods, etc. pursuant to Article 18-(1) of the Act (or documentation showing that the Goods, etc. sent back to the address of the Door-to-door Seller, etc. on the contract has been rejected, if that is the case)
- (2) When a Payment Service Provider executes a debt offset under paragraph (1), he/she shall send the Distance Seller and the Consumer a written notification (including in electronic form) of the fact and the amount offset.
- (3) Matters concerning debt offsets by Payment Service Providers other than prescribed in paragraph (1) and (2) shall be specified by a Prime Minister’s decree.

### **Article 24 (Scope of Charging for Partial**

依本法第18-(8)條規定，總統令所特定之「限制」應指下列任一。

1. 如商品為消耗性質，經使用將難以轉售，或轉售價值大幅降低，應以提供商品的金額計算。
2. 如商品為可分為多個項目的性質，此時應以提供該部分項目所需金額計算。

### 第25條第 提供遠距銷售之調解資訊

依本法第20-(4)條規定，總統令特定之「其他種類」如下。

1. 必須提供交易賣方的姓名、地址和電話等必要的識別資訊給調解人。
2. 賣方過去通過調解人的信用紀錄資訊。

### 第26條 為運送商品而使用消費者資訊

依本法第21-(1)-6條，總統令所特定的「情形」指下列任一。

1. 運輸或發送商品業務者，為運輸或發送商品，將消費者相關資訊提供給他人。
2. 安裝商品或依約定之服務提供(例如售後服務)者，為進行

### **Consumption of Goods, etc.)**

“Limit specified by a presidential decree” in Article 18-(8) of the Act shall mean either of the following.

1. the amount of money required to supply the Goods, etc. in case the Goods, etc. is a consumable item the use of which makes it difficult to be resold or decreases its resale value considerably
2. the amount of money required to supply the part of the Goods, etc. consumed in case the Goods, etc. is a dividable item

### **Article 25 (Supply of Information by Distance Sales Mediators)**

“Other kinds of information specified by a presidential decree” in Article 20-(4) of the Act shall be the following.

1. name, address and telephone of the seller who commissioned the transaction to the sales mediator, which are necessary for identification
2. information about the seller’s credibility based on his/her record of previous transactions made through the sales mediator

### **Article 26 (Use of Consumer Information for Shipping Goods, etc.)**

“Cases specified by a presidential decree” in Article 21-(1)-6-a of the Act shall mean either of the following.

1. when a person in the business of transporting or transmitting Goods, etc. provides information about a Consumer to another person commissioned to transport or transmit Goods, etc. to that Consumer
2. when a person in the business of installing Goods, etc. or

服務，將消費者資訊提供給他人。

## 第27條 為防止身份竊盜，而使用消費者資訊

依本法第21-(1)-6條規定，總統令所特定的「情形」如下。  
<2006年2月22日修正>

1. 為進行身份驗證，而提供消費者資訊。
  - a. 依「電信事業法」第4(3)-1條所定義之重要電信業務經營者。
  - b. 依「信用資訊之利用與保護法」第2-(4)-(5)條所定義之信用資訊服務提供者。
  - c. 帳單支付服務提供商直接連接到有問題的交易支付。
  - d. 擁有法定牌照或許可證，為防止身份竊盜的目的，核實消費者的真實姓名的企業。
2. 與未成年人進行交易時，為驗證法定監護人的同意，而使用消費者資訊。

## 第28條 消費賠償保險契約

(1) 企業經營者依據本法第24-(1)條規定，所締結之消費賠償契約，應符合下列要求。 <2006年2月22日修正>

1. 契約主要提供消費者，因企業經營者未退款或運送商品所造

providing contracted services for Goods, etc. such as after-sale service provides information about a Consumer to another person commissioned to deliver such services to that Consumer

## **Article 27 (Use of Consumer Information for Prevention of Identity Theft)**

“Cases specified by a presidential decree” in Article 21-(1)-6-c of the Act shall mean any of the following. <Amended 2-22-2006>

1. when providing consumer information to any of the following persons for identity verification
  - a. a key telecommunications business operator as defined by Article 4-(3)-1 of the Telecommunications Business Act
  - b. a credit information service provider as defined by Article 2-(4) and -(5) of the Use and Protection of Credit Information Act
  - c. a Bill Payment Service Provider, etc. directly connected to the payment for the transaction in question
  - d. a person who is in the business of verifying the real names of Consumers for the purpose of preventing identity thefts, under a statutory license or permit
2. when using consumer information to verify the consent of a legal guardian for a transaction with a minor

## **Article 28 (Consumer Indemnity Insurance Contracts, etc.)**

(1) The Consumer Indemnity Insurance Contract, etc. that a business operator concludes pursuant to Article 24-(1) of the Act shall satisfy the following requirements. <Amended 2-22-2006>

1. The contracts shall be aimed at providing compensation to Consumers for injury suffered from the business operator’s

成的損害賠償。

2. 契約的被保險人或受益人，應為向契約持有人購買商品之消費者。
  3. 契約承保金額應高於公平交易委員會對於商品所規定之標準至交易金額間。
  4. 契約不得限制損害賠償的範圍，或於無正當理由下，限制企業經營者的責任範圍。
  5. 本法規定第19. 2-(3)-5與-8條。
  6. 刪除 <2006年2月22日>
  7. 刪除 <2006年2月22日>
  8. 刪除 <2006年2月22日>
- (2) 依本法第24條第5項規定，電子帳單支付工具的發行者，應締結符合下列要求的消費者賠償保險契約。<2006年2月22日修正>
1. 契約的目的應為提供電子帳單支付工具之購買者，因無法使用之支付工具行使其權利所受損害的賠償。
  2. 契約被保險人或受益人應為電子帳單付費工具的購買者。
  3. 契約的保險金額應為電子帳單支付工具發行者，於契約到期日前帳戶金額的10%，帳戶金額應高於公平交易委員會所指定的額度 [依其他法律規定，以扣除的方式調整保險金額，所作的其他付款擔保安排，但不包括「金融監督機構設立法」第38條第1項或第12項規定的機構所持有的保單，（但同法第38條第9項所規定之非專屬信貸業務營運商(Non-specialized Credit Business Operators) 除外)，或依

- failure to provide a refund or delivered purchased Goods, etc. to Consumers
2. The insurant or beneficiary of the contracts shall be a person who purchases Goods, etc. from the holder of the contracts
  3. The insured amounts of the contracts shall be above a level specified by the Fair Trade Commission up to the transaction price of the Goods, etc.
  4. The contracts shall not restrict the scope of compensation for injury or limit the liability of the insurer or the seller of the Goods, etc. without valid reason.
  5. what is prescribed in Article 19.2-(3)-5 or -8
  6. Deleted <2-22-2006>
  7. Deleted <2-22-2006>
  8. Deleted <2-22-2006>
- (2) Pursuant to Article 24-(5) of the Act, an issuer of an Electronic Bill Payment instrument shall conclude a Consumer Indemnity Insurance Contract, etc. satisfying the following requirements. <Amended 2-22-2006>
1. The contracts shall be aimed at providing compensation to a purchaser of the Electronic Bill Payment instrument for injury suffered from not being able to exercise his/her rights provided by that that payment instrument.
  2. The insurant or beneficiary of the contracts shall be the purchaser of the Electronic Bill Payment instrument
  3. The insured amount of the contracts shall be 10 percent of the balance of the account for the issuance of the Electronic Bill Payment instrument within the maturity period of bonds defined by the Commercial Act, provided that it shall be above an amount specified by the Fair Trade Commission [which excludes insurance policies held with institutions prescribed in Article 38-(1) or -(12) of the Act on the Establishment, etc. of Financial

據「郵政儲蓄和保險法」所規定之郵務機構處理儲蓄或保險產品。

4. 契約不得限制損害賠償的範圍，或無正當理由，限制保險人或電子帳單支付工具發行者的賠償責任。

5. 本法第1條第5項與第8項第3款的規定。

(3)有關消費者賠償保險契約的詳細要求，取決於商品和交易的性質、賠償有關的細節和程序，與消費者賠償保險契約等，除第(1)與(2)條之規定外，應依總理令之規定。

## 第28.2條 免除委託付款的選項，或消費者責任保險要件的案例

依本法第24-(3)-1條規定，總統令所特定的「金額」為每項交易10萬韓元。

[2006年2月22日新增]

## 第28.3條 以存款支付的方法

本法第19.2-(1)條所規定的「第三方」(以下簡稱「第三

Supervisory Organizations (with the exception of nonspecialized credit business operators prescribed in Article 38-(9) of the same Act) or a postal service agency handling savings or insurance products under the Act on Postal Savings and Insurance, while adjusted by deducting from it the insured amounts of other payment guarantee arrangements made under other laws].

4. The contracts shall not restrict the scope of compensation for injury or limit the liability of the insurer or the issuer of the Electronic Bill Payment instrument without valid reason.
  5. what is prescribed in Article 1-(5) or -(8)
- (3) Detailed requirements for Consumer Indemnity Insurance Contracts, etc. depending on the nature of Goods, etc. and transaction and matters concerning the details and procedures of compensation and the use of marks for Consumer Indemnity Insurance Contracts, etc., other than those prescribed in paragraph (1) and (2), shall be specified by a Prime Minister's decree.

### **Article 28.2 (Cases Exempted from Requirement of Escrow Payment Option or Consumer Indemnity Insurance Contract, etc.)**

The “amount set by a presidential decree” in Article 24-(3)-1 of the Act shall be 100,000 won (per transaction).

[This Article Newly Added 2-22-2006]

### **Article 28.3 (Methods of Paying Deposited Payments)**

The third party prescribed in Article 19.2-(1) (hereinafter referred to

方」)，不得以第24-(4)條所規定的方法，以存款轉讓或支付退款方式給遠距賣方或消費者。

1. 第三方應要求購買商品之消費者（或經消費者同意之收售商品者；以下第(2)和(3)條同樣適用），應於商品到達的第3個工作日內給予通知，而第三方依據消費者的通知，轉讓支付給遠距賣方。
  
2. 如第三方於商品抵達後三個工作日後，未收到消費者依據第(1)條規定應於商品抵達後通知第三方，則第三方應給予未收到通知之事實通知，並以存款轉讓支付給遠距賣方。
  
3. 如果消費者在無任何正當理由，於3個工作日經過後仍不對第三方為商品已抵達之通知，在下列情況下，第三方得以將存款轉讓支付給遠距賣方。
  - a. 儘管第(2)條所規定之通知已發出，消費者仍未於規定限內通知第三方商品已抵達。
  - b. 萬一沒有在商品抵達前，依據第(2)條之規定給予通知，自從依據第(2)條之規定給予消費者通知，已經經過三天。
  
4. 如事實發生於轉讓支付給遠距賣方前發生，第三方應提供消費者退款。

[2006年2月22日新增]

as “Third Party”) shall transfer or provide a refund of the payment deposited with him to the Distance Seller or the Consumer respectively pursuant to Article 24-(4) of the Act, in the manners prescribed below.

1. The Third Party shall request the Consumer who has purchased the Goods, etc. (or the recipient of the Goods, etc. with the consent of the Consumer; the same shall apply to paragraph (2) and (3) below) to notify him/her the arrival of the Goods, etc. within 3 business days from the day of the arrival of the Goods, etc., and upon such a notification from the Consumer, the Third Party shall transfer the payment to the Distance Seller.
2. In making the request for notification of the arrival of the Goods, etc. under paragraph (1), the Third Party shall also give notice of the fact that in the absence of a notification past 3 business days from the day of the arrival of the Goods, etc. he/she may transfer the deposited payment to the Distance Seller.
3. If the Consumer fails to notify the Third Party of the arrival of the Goods, etc. past 3 business days without any valid reason, the Third Party may transfer the deposited payment to the Distance Seller in the following situations.
  - a. when the Consumer has failed to notify the Third Party of the arrival of the Goods, etc. within the prescribed time limit, in spite of the notice given pursuant to paragraph (2)
  - b. when three days have passed since the notice prescribed in paragraph (2) was given to the Consumer, in case the notice was not given prior to the arrival of the Goods, etc. as prescribed in paragraph (2)
4. The Third Party shall provide a refund to the Consumer if a cause for that has arisen prior to transferring the payment to the Distance Seller.

[This Article Newly Added 2-22-2006]

## 第28.4條 互助合作社的批准

「訪問買賣法」第43條或第45條，應比照適用本法第24-(10)條之規定，進行互助合作社的批准、經營、監督，與章程。

## 第28.5條 招攬廣告要約拒絕者清單的檢查

- (1)遠距賣方打算發送購買要約廣告招攬消費者前，應查閱依本法第24-(2)-2條規定所建立，允許消費者拒絕購買要約招攬廣告的登記系統（以下簡稱「拒絕廣告登記系統」），並每月至少查看公平交易委員會在系統公布經查證的消費者註冊清單一次（透過電子郵件發送購買要約招攬廣告者，每三個月查看一次）。
- (2)本法第24-(2)-2條所但書規定，只適用於當遠距賣方已事先通知消費者購買要約招攬廣告的主體與方式，與撤回同意的指示說明，並已取得其必要的同意的情況。前段情況之遠距賣方，得不必查看消費者是否在拒絕廣告登記系統內，即可寄送購買要約招攬廣告給消費者。
- (3)公平交易委員會依據第24-(2)-3條之規定，選擇並委託機構

## **Article 28.4 ( Approval of Mutual Aid Cooperatives, etc.)**

Article 43 or 45 of the Door-to-door Sales, etc. Act shall apply mutatis mutandis to the approval, operation and supervision and articles of incorporation of a mutual aid cooperative established under Article 24-(10) of the Act

## **Article 28.5 (Checking the List of Rejecters of Purchase Offer Soliciting Advertisements, etc.)**

- (1) Pursuant to Article 24.2-(2) of the Act, a Distance Seller who intends to send Purchase Offer Solicitation Advertisements to Consumers shall visit the registration system established under Article 24-(2) of the Act which allows Consumers to reject Purchase Offer Solicitation Advertisements (hereafter referred to as “Advertisement Rejecter Registration System”) and check the verified list of registered Consumers the Fair Trade Commission posts to the System, at least once a month (once every three months in the case of Purchase Offer Solicitation Advertisements sent by email).
- (2) The conditional clause of Article 24.2-(2) of the Act shall apply only when the Distance Seller has acquired the necessary consent of the Consumer in advance after notifying him/her of the subject and method of the Purchase Offer Solicitation Advertisement and instructions for revoking his/her consent. In such case, the Distance Seller may send Purchase Offer Solicitation Advertisements to the Consumer without checking if he/she is listed on the Advertisement Rejecter Registration System.
- (3) When the Fair Trade Commission selects an agency or organization

或組織運作拒收廣告登記系統，公平交易委員會應從符合下列所有條件的機構或組織，並諮詢該領域的專家後作出選擇。

1. 由具足夠專業技能與知識的法律和電腦操作人員，操作拒收廣告登記系統。
2. 具電腦系統及其他必要的硬體設備，以確保拒收廣告登記系統穩定的運作。

[2006年2月22日新增]

## 第29條 從消費者權益保護相關的機構或組織請求資訊

- (1) 依本法第27-(3)條規定，以書面形式並載明下列資訊，要求公平交易委員會提交或分享資訊。
  1. 要求的目的。
  2. 資訊的使用。
  3. 所提交的資訊與資訊分享的範圍。
- (2) 依本法第27-(3)條規定，公平交易委員會不應於要求所指定之目的與時間外，使用由電子商務或遠距銷售的消費者保護相關機構所提交或分享的資訊。

## 第30條 犯罪資訊揭露

which will be entrusted with the operation of the Advertisement Rejecter Registration System pursuant to Article 24.2-(3) of the Act, the Fair Trade Commission shall make its selection from among agencies or organizations satisfying all of the following requirements by consulting with experts in the field.

1. have staff with sufficient expertise and knowledge in law and computers to operate the Advertisement Rejecter Registration System
2. equipped with computer systems and other hardware necessary for ensuring a stable operation of the Advertisement Rejecter Registration System and the protection of personal information

[This Article Newly Added 2-22-2006]

## **Article 29 (Requesting Data from Consumer Protection-related Agencies or Organizations, etc.)**

- (1) Requests the Fair Trade Commission makes for submission or sharing of data under Article 27-(3) of the Act shall be made in writing and specify the following items.
  1. purpose of the request
  2. uses of data
  3. detailed scope of data to be submitted or shared
- (2) The Fair Trade Commission shall not use data submitted or shared by consumer-protection related agencies or organizations in Electronic Commerce and Distance Sales under Article 27-(3) of the Act for purposes other than those specified at the time it requested the data.

## **Article 30 (Disclosure of Information about**

在公平交易委員會依本法第28條規定揭露資訊前，應通知相關企業經營者其決定，並提供企業經營者改正錯誤資訊的機會。

### 第31條 評估和認證服務的公平性

- (1) 依本法第29-(1)條所規定之評估和認證服務提供商，應依公平交易委員會所指定之方式公告下列資訊。
1. 服務提供者的名稱。
  2. 營業地點的地址或位置。
  3. 評估和認證範圍。
  4. 服務提供商開始服務的日期。
  5. 評估和認證標準、程序和方法。
- (2) 第(1)條所規定之資訊的公告，應該以易於查看和驗證方式為之。

### 第32條 報告義務

當市長/首長依本法第30-(1)條之規定建議或命令改正時，應毫不遲延的向公平交易委員會提報相關事實。該報告可以電子方式為之。

### 第33條 發糾正措施命令的公告

### **Offenses, etc.)**

Prior to disclosing information pursuant to Article 28 of the Act, the Fair Trade Commission shall notify the business operator concerned of its decision and give the business operator a chance to correct any errors in the information to be disclosed.

### **Article 31 (Fairness in Assessment and Certification Services)**

An Assessment and Certification Service Provider prescribed in Article 29-(1) of the Act shall give public notice of the following information in a manner specified by the Fair Trade Commission.

1. name of the service provider
  2. address or location of the place of business
  3. scope of assessment and certification
  4. the date on which the service provider started services
  5. criteria, procedures and methods of assessment and certification
- (2) Public notice of the information listed in paragraph (1) shall be made in such a way that it can be easily viewed and verified.

### **Article 32 (Obligation of Reporting)**

When a Mayor/Governor has recommended or ordered corrective action pursuant to Article 30-(1) of the Act, he/she shall report the fact to the Fair Trade Commission without delay. The reporting may be done electronically.

### **Article 33 (Giving Public Notice of Corrective Action Ordered to be Taken)**

為使企業經營者發出本法第32-(3)條之糾正措施命令公告的事實，公平交易委員會應指定公告的內容，與考量下列項目的次數。

1. 違反的性質和嚴重程度。
2. 違反持續的時間與頻率。
3. 違反所造成消費者受傷的範圍與嚴重程度。

### 第34條 勒令停業和撤銷商業登記的標準

依本法第32-(4)條勒令停業或撤銷商業登記之標準，以附表一為準。

### 第35條 消費爭端解決機構

依本法第33-(1)條規定，總統令所特定之「消費者權益爭議解決機構」，應為下列機構。〈2006年2月22日，2007年3月27日修正〉

1. 依「消費者基本法」第33條所設立之韓國消費者機構。
2. 依「電子商務框架法」第32條所成立之電子商務爭端解決委員會。
3. 依其他消費者保護相關的法律，所成立之其他爭端解決機構。

### 第36條 接受調解及豁免糾正措施

In ordering a business operator to give public notice of the fact that he/she has been ordered to take corrective action pursuant to Article 32-(3) of the Act, the Fair Trade Commission shall specify the content of the notice and the number of times it is to be given by considering the following facts.

1. the nature and gravity of the violation
2. the duration and frequency of the violation
3. the scope and gravity of consumer injury caused by the violation

### **Article 34 (Criteria for Suspending and Revoking Business Registration)**

The criteria for suspending an offender's business or revoking an offender's business registration under Article 32-(4) of the Act shall be as given in Attached Table 1.

### **Article 35 (Consumer Dispute Settlement Organizations)**

“Consumer dispute settlement organizations specified by a presidential decree” in Article 33-(1) of the Act shall be the following organizations. <Amended 2-22-2006, 3-27-2007>

1. the Korea Consumer Agency established under Article 33 of the Framework Act on Consumers
2. the Electronic Commerce Dispute Settlement Council established under Article 32 of the Framework Act on Electronic Commerce
3. other dispute settlement organizations set up by other consumer protection-related laws

### **Article 36 (Acceptance of Mediated Settlement**

- (1)如系爭當事人接受和解的建議，或受本法第33條規定之爭端解決機構的調解，必須向公平交易委員會提交證明文件，證明其已經完成和解，並於和解後10天內執行和解協議，向公平交易委員會要求並確認，對於當事人沒有本法第32條所規定之糾正措施之需要。
- (2)在第(1)條之要求下，公平交易委員會應當通知申請人，並確認他是否被處以糾正措施。

### 第37條 徵收罰款

- (1)公平交易委員會對個人徵收罰款時，應以書面提供其違反的行為類別，和後續應支付罰款的款項。
- (2)個人應於收受罰款通知後60日內，向公平交易委員會所指定之代收機構，繳交依第(1)條規定之被懲處罰款；除非有天災或其他不可抗力之情事，致個人無法於限定期限內繳交罰款，否則個人應於情事消滅後30日內繳交罰款。

### **and Exemption from Corrective Action)**

- (1) If a party to a dispute accepts a settlement recommended or mediated by a dispute settlement organization under Article 33 of the Act, he/she may submit to the Fair Trade Commission documentation verifying that he/she has implemented the settlement within 10 days from the day on which the execution of the settlement is completed and request that the Fair Trade Commission confirm that no corrective action prescribed in Article 32 of the Act will be required of him/her.
- (2) Upon receiving a request under paragraph (1), the Fair Trade Commission shall notify the requesting party of its confirmation of whether he/she is subject to corrective action or not.

### **Article 37 (Levying and Collection of Monetary Penalties)**

- (1) The Fair Trade Commission, in imposing a monetary penalty on a person, shall provide him/her with a written notification of the category of the violation committed and the subsequent amount of monetary penalty to be paid.
- (2) A person shall pay the amount of a monetary penalty imposed on him/her under paragraph (1) to a collecting agency designated by the Fair Trade Commission within 60 days from receiving the notification; provided that if an act of God or other unavoidable circumstances have prevented a person from paying a monetary penalty within the prescribed time limit, he/she shall pay the amount within 30 days after the cause of delay ceased to exist.

### 第38條 以銷售額評估罰款的決定標準

依本法第34-(1)條規定，總統令所特定「與違法行為相關之銷售額」，應指任何數額。不過，如同時違反本法第(1)與(3)條，則取2者數額高者為評估罰款的銷售額。

1. 從違法行為當日開始至結束之銷售額的10%，如違法行為對於銷售或消費者損害並無直接關係（如果在處以罰款時，違法情事尚未結束，違法情事結束日則以公平交易委員會處以罰款之當日為準）；如違法行為限於特定的商業領域，則應依該領域銷售額的10%為準。
2. 如果違法行為與銷售有直接關係，則為與違法行為相關之所有銷售總和。
3. 如果違法行為與損害有直接關係，則為與消費者損害相關之所有銷售總和。

### 第39條 同業公會的登記

(1)依本法第37-(1)條規定，同業公會欲向公平交易委員會註冊時，應檢具申請書，並載明下列事項。

1. 成立的目的。
2. 該公會的名稱。
3. 主要辦公室與地區分支機構的所在地址與網站。

## **Article 38 (Criteria for Determining Sales Figures for Assessing Monetary Penalties)**

“The value of sales associated with the violation as specified by a presidential decree” in Article 34-(1) of the Act shall mean any of the amounts; provided that if a violation falls under both subparagraph 1 and 3, the greater of the two shall be the value of sales associated with the violation.

1. 10 percent of the sales between the day the violation started and the day it ended, in case the violation has no direct bearing on sales or consumer injury (If the violation has not ended at the time the monetary penalty was imposed, then, the violation shall be considered to have ended on the day the Fair Trade Commission imposed the penalty); provided that if the violation is confined to a particular field of business, then, the 10 percent shall be based on the sales in that field.
2. the sum of all sales associated with the violation, in case the violation has direct bearing on sales
3. the sum of all sales associated with a consumer injury if the violation is a direct cause of such injury

## **Article 39 (Registration of Trade Associations)**

- (1) A trade association that wants to register with the Fair Trade Commission under Article 37-(1) of the Act shall submit an application, specifying the following information.
  1. purpose of establishment
  2. name of the association
  3. physical addresses and Website addresses of the main office and regional branch offices

4. 代表的姓名、身份證號碼、電話號碼和電子郵件地址。
  5. 成立日。
  6. 成員數目（包括分支機構的會員）。
  7. 該公會的主要活動。
- (2) 依第(1)條所提交的申請應包括下列證明文件。
1. 公會的資產、財務狀況，和募集資金的計劃。
  2. 公會主要設施與表現的列表。
- (3) 如第(1) -1、-4、-6、-7條，與第(2)條規定的資訊有更動時，依本法第37-(1)條規定，註冊之同業公會必須於資訊更動生效日起20天內向公平交易委員會報告。

#### 第40條 授權和委託權力

依本法第38-(2)條規定，市長/首長應授予下列事項的權力，給相關的市長/縣長/自治區之首領)

1. 依本法第12(1)-(2)條規定，從電信服務供應商處，接收業務開始與更動的報告。
2. 依本法第12-(3)條規定，從電信服務供應商處，接收停業、終止或復業副業告的報告。
3. 依本法第22-(2)條規定，刪除電信服務供應商的記錄。

4. name, resident registration number, telephone number and email address of the representative
  5. the date on which it was founded
  6. number of members (including the memberships of branch offices)
  7. the association's main activities
- (2) The application submitted under paragraph (1) shall include documentation showing the following.
1. the association's assets, financial status and plans for raising funds
  2. a list of major facilities and their performance
- (3) A trade association registered pursuant to Article 37-(1) of the Act shall report to the Fair Trade Commission any change to the information listed in paragraph (1)-1, -4, -6 or -7 and all the subparagraphs of paragraph (2) within 20 days from the day the change was effected.

## **Article 40 (Delegation and Entrusting of Powers)**

Pursuant to Article 38-(2) of the Act, a Mayor/Governor shall delegate his powers concerning the following matters to relevant mayors/county governors/ward chiefs (defined as the chief of an autonomous ward).

1. receiving reports from telecommunications service providers about the start of business and changes to it pursuant to Article 12-(1) and -(2) of the Act
2. receiving reports from telecommunications service providers about a suspension, termination or resumption of business pursuant to Article 12-(3) of the Act
3. deleting the records of telecommunications service providers pursuant to Article 22-(2) of the Act

4. 依本法第26條規定，調查違法行為。

### 第41條 收取行政罰鍰

- (1) 公平交易委員會或市長/首長依本法第45-(1)或(2)條規定，對個人收取罰鍰時，應先進行必要的調查，確認違反情事的發生，並以書面通知個人行政處罰之罰鍰金額、違反的事實、程序，與不服處分的提出期限。
- (2) 公平交易委員會或市長/首長個人處以行政罰鍰時，應以提供該個人10日或以上天數以書面（包括以電子形式）表達意見。如個人於規定期限內未回覆意見，將視為無意見。〈2004年3月14日修正〉
- (3) 公平交易委員會或市長/個人於評估行政罰鍰時，應考慮違反的情況與後果。

### 第42條 行政罰款的評估標準

依本法第45-(4)條行政罰鍰的標準，以附表二為準。

4. investigating violations pursuant to Article 26 of the Act

### **Article 41 (Levying and Collection of Administrative Fines)**

- (1) The Fair Trade Commission or a Mayor/Governor, in imposing an administrative fine on a person under Article 45-(1) or -(2) of the Act, shall first carry out necessary investigations to confirm the facts of the violation and notify the person in writing of the administrative fine imposed, specifying the amount, the facts of the violation and the procedures and time limit for protesting the fine.
- (2) The Fair Trade Commission or a Mayor/Governor, prior to imposing an administrative fine on a person under paragraph (1), shall give that person a period of 10 or more days to state his/her opinion on the planned administrative fine in writing (including Electronic Document form). In such case, if the person fails to give his/her opinion within the time limit, it shall be construed as meaning that the person has no opinion on the matter.<Amended 3-17-2004>
- (3) The Fair Trade Commission or a Mayor/Governor, in assessing an administrative fine, shall consider the circumstances and consequences of the violation involved.

### **Article 42 (Criteria for Assessing Administrative Fines)**

The criteria for assessing administrative fines pursuant to Article 45-(4) of the Act shall be as given in the Attached Table 2.

## 附錄

(公共行政與安全性及其附屬之規則)

<No. 21214, 2008年 12月31日>

### 第1條 實施日期

本令自公布日起生效。 <但書省略>

### 第2條至第4條 略

### 第5條 其他法律的修正

<1> 至 <169> 略

<170> 部份「電子商務消費者權益保護法」施行令應修正如下。

第2條第1項第4款，「農業與林業部令」與「海事漁業部令部部長」等文字，應修改為「食品與農林漁業部」與「食品與農林漁業部部長」。

第19.2條第1項第1款，「金融監督管理委員會」等文字，應修改為「金融服務委員會」。

<171>到<175> 略。

## **Addendum**

(Regulation of Ministry of Public Administration and Security and its Affiliates)

<No. 21214, 12-31-2008>

### **Article 1 (Date of Enforcement)**

This Decree shall come into force on the day of its promulgation.

<conditional clause omitted>

### **Article 2 through 4 Omitted**

### **Article 5 (Amendment of other Acts)**

(1) through <169> Omitted

<170> Part of the Enforcement Decree of the Act on Consumer Protection in Electronic Commerce, etc. shall be amended as follows.

The wording “decree of the Ministry of Agriculture and Forestry” and “Minister of Maritime and Fishery Affairs” in Article 2-(1)-4 shall be amended to read “decree of the Ministry of Food, Agriculture, Forestry and Fisheries” and “Minister of Food, Agriculture, Forestry and Fisheries” respectively.

The wording “Financial Supervisory Commission” in Article 19.2-(1)-1 shall be amended to read “Financial Services Commissions”.

<171> through <175> Omitted

## 訪問買賣等法

[2007年10月20日施行]

[法令No. 8537, 2007年7月19日部分修正]

### 第一章 總則

#### 第1條 立法目的

本法目的係規範訪問買賣、電話行銷、多層次傳銷、特定持續性服務之要約、商業要約推銷的買賣交易等的商品或服務之公平交易，保障消費者權益，加強消費者對市場的信賴，進而促進國家經濟的良好成長。

#### 第2條 定義

本法主要所用名詞定義如下：

1. 訪問買賣：指個人(下稱「銷售企業經營者」)在其營業場所、代理人辦公室、或其他銷售據點(下稱「營業據點」)外的場所銷售(包括寄物托售以及仲介銷售，以下亦同)商品與服務(包括獲得使用某些設備或接受服務的權利，以下亦同；另商品與服務下稱「商品」)，所為銷售行為或是推銷銷售者主動要求進入銷售契約關係的行為(包括銷售人透過推銷或使用其他主管機關所定的方式，在非營業據點誘使消費者前往營業據點，而主動要求進入買賣契約關係。

## Door-to-Door Sales, etc. Act

[Enforced 10-20-2007]

[Act No 8537, Partially Amended 7-19-2007]

### Chapter 1 General Provisions

#### Article 1 (Purpose)

The purpose of this Act is to prescribe matters concerning the fair trading of goods and services in such transactions as door-to-door sales, telemarketing sales, Multilevel marketing transactions, specified continuous service offers and business offer solicitation sale translations, with a view toward protecting consumer rights and enhancing market reliability, thereby contributing to the sound development of the national economy.

#### Article 2 (Definitions) <Amended 7-19-2007>

Major terms used in this Act are defined as follows.

1. “Door-to-door Sale” means a sale of goods or services (hereinafter referred to as “Goods, etc”) in which a person (hereinafter referred to as a “Sales Business Operator”) who makes a living by selling (including consignment sales and mediated sales; the same shall apply hereinafter) goods and services (including rights to use certain facilities or receive services; the same shall apply hereinafter) solicits consumers to make an application for a sales contract or concludes a sales contract at a place other than his/her place of business, an agency’s office or other sales places (hereinafter referred to as “Place of Business”), (including cases in which the seller induces, by solicitation or other

2. 訪問買賣銷售人：指因進行訪問買賣，由組織或管理以及營運訪問買賣事業(下稱「訪問買賣企業經營者」)取得收入之個人，或代表訪問買賣企業經營者，進行訪問買賣之個人(下稱「訪問買賣銷售業務員」)。
  
3. 電話行銷：指透過電話或總理令所規定之其他方式，對消費者進行推銷，使其協議購買或簽訂商品的買賣契約。
  
4. 電話行銷人：指由組織或管理以及營運電話行銷的事業(下稱「電話行銷經營者」)，而從電話行銷取得收入之個人，或代表電話行銷經營者，進行電話行銷(下稱「電話行銷業務員」)之個人。
  
5. 多層次傳銷：商品銷售人藉由多層次銷售組織(包括總統令所規定之兩層次的組織，但實質是由三層次以上所營運或管理的組織)，募集個人為其業務員，形成多層次(三層或以上層次)網絡銷售販售商品，並透過契約約定，業務員可以透過從事以下活動取得收入(包括零售商品的利潤、多層次銷售組織給予的佣金，以下亦同)：

methods specified by a Prime Minister's decree, a consumer at a place other than his/her place of business to visit his/her place of business to make an application for a sales contract or to concludes a sales contract).

2. "Door-to-door Seller" means a person who receives income from door-to-door sales by organizing or managing and operating a door-to-door sales business (hereinafter referred to as a "Door-to-door Sales Business Operator") and a person who carries out door-to-door sales on behalf of a Door-to-door Sales Business Operator (hereinafter referred to as a "Door-to-door Sales Agent").
3. "Telemarketing" means the soliciting a consumer to make an agreement to purchase or sign a contract to purchase Goods, etc. using telephone communications or by any other methods specified by a Prime Minister's decree.
4. "Telemarketer" means a person who receives income from telemarketing by organizing or managing and operating a telemarketing business (hereinafter referred to as "Telemarketing Business Operator") or a person who carries out telemarketing on behalf of a Telemarketing Business Operator (hereinafter referred to as "Telemarketing Agent").
5. "Multilevel Marketing" means the practice of selling Goods, etc. through a multi-layered sales organization (including two-layered organizations specified by a presidential decree that are practically managed and operated as three or more layers) in which the seller recruits people as sales agents of a Multilevel network (forming three or more levels) under an agreement that they can receive income (including profits from retailing Goods, etc. to consumers and Commission paid to the seller by the Multilevel Marketing Business Operator; the same shall apply hereinafter) from engaging in the following activities.

- a. 直接銷售多層次銷售組織所提供的貨品予消費者。
  - b. 募集第(a)條之部份或全部之消費者，成為原業務員的直屬下線銷售員，並從事與原業務員相同的業務。
6. 多層次傳銷人：指因進行多層次傳銷，由組織或管理以及營運多層次傳銷事業(下稱「多層次傳銷企業經營者」)，取得收入之人，或是代表多層次傳銷事經營者，進行多層次傳銷之人(下稱「多層次傳銷業務員」)。
7. 佣金：無論以何種名稱稱呼，或是以何種形式呈現，如銷售佣金、募集佣金、激勵獎金或貢獻獎金，佣金係指因從事以下活動，多層次傳銷業務員從多層次傳銷企業經營者所取得之收入：
- a. 在多層次傳銷員監督下，管理且/或訓練銷售業務員的網絡。
  - b. 多層次傳銷員或受其監督之銷售業務員所銷售的商品數量。
8. 特定持續性服務之要約(Specified Continuous Service Offer)：指在總統令所規定之期間內，以契約為基礎，持續提供消費者服務的交易。該買賣契約包括限制退費，或消費者取消或提前終止契約評估罰金的條款。
9. 商業要約推銷的買賣交易(Business Offer Solicitation of a Sales Transaction)：指銷售員以可能增加收入機會為要約，推銷消費者購買的交易。

- a. selling products supplied by the Multilevel Marketing Business Operator directly to consumers
  - b. recruiting some or all of the consumers mentioned in subparagraph (a) as sales agents directly below the initial seller's level who then engage in the same activities as the initial seller
6. "Multilevel Marketer" means a person who receives income from Multilevel marketing by organizing, or managing and operating a Multilevel marketing business (hereinafter referred to as "Multilevel Marketing Business Operator") and a person who has joined such a Multilevel marketing business as a sales agent (hereinafter referred to as "Multilevel Marketing Agent").
7. "Commission," irrespective of what it is called and what form it takes, such as sales commission, recruiting commission, incentive or contribution, means income received by a Multilevel Marketing Agent from a Multilevel Marketing Business Operator for the following activities.
- a. managing and/or training a network of marketing agents under his/her supervision
  - b. the volume of Goods, etc. sold by the Multilevel Marketing Agent himself/herself or by the marketing agents under his/her supervision
8. "Specified Continuous Service Offer" means a contract-based sales transaction in which the seller supplies Goods, etc. to a customer continuously for a period of time specified by a presidential decree, in which the sales contract includes provisions for limiting refunds or assessing a penalty for a Cancellation or early termination of the contract.
9. "Business Offer Solicitation of a Sales Transaction" means a transaction in which the seller induces a customer to purchase by offering him/ her income-earning opportunities.

10. 消費者：指以消費目的，使用或利用銷售企業經營者所提供的商品者，或總統令所規定之人。
11. 控制股東：指符合下列任一範疇之人。
  - a. 股東或投資人，與依總統令規定之一位以上具其他特殊關係之人，持有股份總合為已發行股票的最多數，或超過公司所有實收資本的30%。
  - b. 對公司具有符合總統令規定之實質控制力之管理人。

### 第3條 本法不適用部分

- (1) 本法不適用於為商業目的，而購買商品的交易行之企業經營者(多層次傳銷業務員及以商業要約的買賣交易之相對人除外)。若企業經營者與一般消費者身分具相同條件並進行交易，則被認作是事實上(de facto)的消費者。
- (2) 本法第7、16、28條有關提供契約影本的要求，應不適用於其他法律另有規範的交易。
- (3) 本法並不適用於以下交易：
  1. 「商業保險法」第1-(1)條所規定，為簽訂保險契約與保險企業經營者所進行的交易。

10. “Consumer” means a person who uses or utilizes Goods, etc. supplied by a business operator for consumption purposes or a person specified by a presidential decree.
11. “Controlling Shareholder” is a person who falls under one of the following categories.
  - a. a shareholder or investor who, together with one or more other persons in special relationships specified by a presidential decree, owns the largest share of the outstanding stock or paid-in capital of a corporation, exceeding 30 percent of the total.
  - b. a person who exercises practical control over the management of a corporation, with the definition of “practical control” specified by a presidential decree

### **Article 3 (Non-applicability)**

- (1) This Act shall not apply to transactions in which a business operator (excluding Multilevel Marketing Agents and counterparties of business offer soliciting sale transactions) purchases Goods, etc. for commercial purposes; except when a business operator purchases under the same transactions conditions as a regular Consumer, thus, qualifying him/her to be considered a de facto Consumer.
- (2) The requirements in Article 7, 16 and 28 for issuance of a contract shall not apply to transactions for which other statutes prescribe different methods of issuing a contract from those prescribed by the provisions.
- (3) This Act shall not apply to the following transactions.
  1. transactions to enter into an insurance contract with an insurance business operator prescribed in Article 1-(1) of the Insurance Business Act

2. 總統令所規定，由獨立的個人提供商品的交易行為。

(4) 本法針對特定持續性服務要約規範的事項，若其他法令，包括「商業電信法」，有其他規定時，優先適用其他法令。

#### 第4條 本法與其他法律的關係

為確保消費者於訪問買賣、電話行銷、多層次傳銷、特定持續性服務要約，與商業要約推銷的買賣交易的保護，若本法與其他法律抵觸時，除適用其他法律將更有利於消費者外，應優先適用本法。

## 第二章 訪問買賣、電話行銷

#### 第5條 訪問買賣企業經營者等的申報義務

(1) 訪問買賣企業經營者或電話行銷經營者(以下統稱「訪問買賣企業經營者等」)，應向公平交易委員會或相關市長／郡長／首領(自治區的行政首長)，詳細申報名稱、地址、電話號碼、電子郵件地址(若為公司，則也須申報代表人的姓名、居民註冊號碼、住址)，以及其他總統令規定要求申報的資料。該要求不適用小規模的訪問買賣企業經營者、總統令規定之其他訪問買賣企業經營者，或依第13條規定所註冊的多層次傳銷企業經營者。(2005年3月31日修正)

2. transactions prescribed by a presidential decree, which involve the supply of Goods, etc. by independent individuals
- (4) In case of specified continuous service offers, if matters prescribed by this Act are regulated by other laws including the Telecommunications Business Act, those laws shall be applicable.

### **Article 4 (Relationship with other Laws)**

In the interest of ensuring consumer protection in door-to-door sales, telemarketing sales, Multilevel marketing transactions, specified continuous service offers and business offer solicitation of sale translations, if this Act conflicts with other laws, this Act shall take precedence; provided that other laws shall be applied if that is more advantageous for Consumers.

## **Chapter 2 Door-to-door Sales and Telemarketing Sales**

### **Article 5 (Reporting by Door-to-door sales Business Operator, etc.)**

- (1) A Door-to-door Business Sales Operator or Telemarketing Business Operator (hereinafter referred to as a “Door-to-door Sales Business Operator, etc.”) shall file a report with the Fair Trade Commission or the competent mayor/county governor/ward chief (chief executive of an autonomous ward) detailing his/her business title, address, telephone number, email address (including the name, residential registration number and address of the representative, in case of a corporation) and other items specified by a presidential decree; provided that this requirement shall not apply to small-sized

- (2)若訪問買賣企業經營者依第(1)條所申報的事項有所變更時，訪問買賣企業經營者應立即依總統令規定的方式，向相關主管機關申報。
- (3)若訪問買賣企業經營者依第(1)條進行申報後，暫停營業、終止業務，或於停業後復業，訪問買賣企業經營者等應立即依總統令所規定的方式，向相關主管機關申報。
- (4)公平交易委員會得依總統令所規範的方式，公告訪問買賣企業經營者等依第(1)條所申報的事項。

### 第6條 訪問買賣銷售業務員列表

- (1)訪問買賣企業經營者等應依總理令所規定的方式，準備訪問買賣銷售業務員列表，並保存於其營業據點。
- (2)訪問買賣企業經營者等為避免消費者受到損害，或幫助消費者損害救濟必要時，應准許消費者確認訪問買賣銷售業務員身分。
- (3)若訪問買賣銷售人或電話行銷人(以下統稱「訪問買賣銷售人等」)意圖銷售商品，必須於推銷前告知推銷對象，訪問買賣銷售人等的名稱、商品類型及內容，以及為推銷商品而進行訪問或來電的事實。

Door-to-door Sales Business Operators, etc. and other Door-to-door Sales Business Operators, etc. specified by a presidential decree and Multilevel Marketing Business Operators registered pursuant to Article 13. <Amended 3-31-2005>

- (2) If any change has occurred to the report filed pursuant to paragraph (1), a Door-to-door Sales Business Operator, etc. shall report it to the relevant authority in a manner specified by a presidential decree.
- (3) If a Door-to-door Sales Business Operator, etc. who has reported his/her business to the relevant authority pursuant to paragraph (1) suspends or terminates business or resumes business after a suspension, he/she shall report the facts to the relevant authority in a manner specified by a presidential decree.
- (4) The Fair Trade Commission may make public the information reported by Door-to-door Sales Business Operators, etc. pursuant to paragraph (1) in a manner specified by a presidential decree.

## **Article 6 (List of Door-to-Door Sales Agents)**

- (1) A Door-to-door Sales Business Operator, etc. shall, in a manner specified by a Prime Minister's decree, prepare a list of his/her Door-to-door Sales Agents and keep it on file at his/her Place of Business.
- (2) A Door-to-door Sales Business Operator, etc. shall, if deemed necessary for prevention of consumer injury or facilitation of remedies for injury, allow Consumers to ascertain the identity of his/her Door-to-door Sales Agents.
- (3) If a Door-to-door Seller or Telemarketer (hereinafter referred to as "Door-to-door Seller, etc.") intends to sell Goods, etc., he/she shall indicate to the person solicited, prior to the solicitation, the name of the Door-to-door Seller, etc. and the types and contents of the

## 第7條 締約前提供資訊條款及締約後提供契約影本的要求

- (1) 訪問買賣銷售人應在締約前向消費者說明下列事項，以使其了解契約之內容：
1. 訪問買賣銷售人之姓名、地址、聯絡電話及電子郵件信箱。  
(若為公司，則包括代表人之姓名)。
  2. 訪問買賣銷售業務員之姓名、地址、聯絡電話及電子郵件信箱。但直接與消費者締結買賣契約之訪問買賣企業經營者，不適用之。
  3. 商品之名稱、種類及數量。
  4. 商品之售價與付款方式。
  5. 交付商品之時間與方式。
  6. 買賣契約之解除，行使之期間限制、方法及效果，應填寫之表格，以及取回已支付之價金的詳細說明。
  7. 如商品係藉由電子媒介傳送，該商品之安裝與傳送技術要求事項。

Goods, etc. he/she wants to sell as well as the fact that the purpose of his/her visit or telephone call is to solicit a sale.

## **Article 7 (Requirements for Information Provision Prior to Conclusion of Contract and Issuance of a Copy of Contract upon Conclusion of Contract)**

- (1) A Door-to-door Seller, etc. shall, prior to concluding a contract, explain the following to the Consumer so that the Consumer can understand the details of the contract.
  1. the name, address, telephone number and email address of the Door-to-door Seller, etc. (the name of the representative, in case of a corporation)
  2. the name, address, telephone number and email address of the Door-to-door Sales Agent, etc.; provided that this requirement shall not apply when a the Door-to-door Sales Business Operator, etc. concludes a sales contract directly with a Consumer
  3. the name, type and amount of the Goods, etc.
  4. the sale price and method of payment for the Goods, etc.
  5. the timing and method of delivery of the Goods, etc.
  6. matters concerning withdrawal of an application for a sales contract or Cancellation of a sales contract (hereinafter referred to as “Withdrawal/Cancellation”), with elaboration on the time limit, method and effect of such actions, and forms to be filled out for exercising the rights to Withdrawal, etc. and obtaining a refund of the price paid
  7. technical matters required for setup and transmission of the Goods, etc., if the goods are deliverable through an electronic medium

8. 關於消費者之損害賠償、消費者客訴解決，以及企業經營者與消費者間之爭端解決事項。
  9. 契約條款。
  10. 其他可能影響消費者購買商品的決定，或補償總統令所規定的消費者損害之交易條件。
- (2) 訪問買賣銷售人應於締約時，給予消費者契約之影本。該影本應包括第(1)條規定事項之內容。
- (3) 與未成年人締約時，訪問買賣銷售人應取得其法定代理人之同意。訪問買賣銷售人應向未成年人說明，如未取得其法定代理人之同意，法定代理人得取消契約。
- (4) 於締結電話行銷契約時，第(1)條所規定之要求，得以傳真或電子文件傳送給消費者（依電子商務框架法第2-(1)條之規定；以下皆同）。若就傳真與電子文件的內容與送達發生爭議時，應由電話行銷人負舉證責任。
- (5) 訪問買賣企業經營者應誠實的遵循，所明示與依第(1)條規定所告知消費者的交易條件。

## 第8條 解除買賣契約

- (1) 經由訪問買賣或電話行銷（以下稱作訪問買賣）交易而訂立

8. matters concerning remedies for consumer injury and resolution of consumer complaints or disputes between Consumer and business operator
  9. provisions of the contract
  10. other terms of transaction likely to affect a Consumer's purchase decision or measures for redressing consumer injury, which are specified by a presidential decree
- (2) Upon concluding a contract for sale of Goods, etc., a Door-to-door Seller, etc. shall issue the Consumer a copy of the contract, which contains all of the information listed in the subparagraphs of paragraph (1).
  - (3) In concluding a sales contract with a minor, a Door-to-door Seller, etc. shall obtain consent of the minor's legal representative. In case of failure to obtain such consent, the Door-to-door Seller, etc. shall indicate to the minor that he/she or his/her legal representative can cancel the contract.
  - (4) In the case of Telemarketing sales contracts, the requirement of explaining the information listed in paragraph (1) to the Consumer may be fulfilled by sending the information by facsimile or in the form of an electronic document (pursuant to Article 2-(1) of the Framework Act on Electronic Commerce; the same shall apply hereinafter). If disputes arise over the contents as well as the arrival of the information sent by facsimile or in the form of an electronic document, the Telemarketer shall be liable to prove the facts.
  - (5) A Door-to-door Sales Business Operator, etc. shall comply in good faith with the conditions of transaction indicated or notified to a Consumer pursuant to paragraph (1).

## **Article 8 (Withdrawal/Cancellation)**

- (1) A Consumer who has entered into a contract to purchase Goods,

之買賣契約，除契約當事人事先有更長期限之約定外，消費者得於下列限制期間內解除之：

1. 依第7-(2)條之規定於收受契約影本之14日內。但商品交付於契約成立之後者，自商品交付日起算。
  2. 如消費者未收受第7-(2)條所規定之契約影本，且契約未記載訪問買賣企業經營者之地址，或因其地址之變更，而無法行使解除時，自消費者得知訪問買賣企業經營者的地址之14日內。
- (2)若有下列各款之情形者，消費者不得依第(1)條之規定，違反訪問買賣企業經營者之意願，解除買賣契約。但在第(2)及(4)條所規定之情形，訪問買賣銷售人未採取第(6)條之措施者，消費者得解除之：〈2009年1月19日修正〉
1. 商品之毀損、滅失係由消費者造成時。但為確定商品內容而毀損包裝者不在此限。
  2. 因使用或部分消耗商品，致使商品價值明顯下降時。
  3. 因時間經過，商品價值已明顯下降，且難以再次賣出。

etc. transacted through a Door-to-door Sale or Telemarketing (hereinafter referred to as “Door-to-door Sale, etc.”) may withdraw/cancel the contract within the time limits prescribed in the following subparagraphs (unless the contracting parties have agreed on a time limit longer than that set forth in the subparagraphs below, in which case the longer time limit shall apply).

1. within 14 days from the date on which a copy of the contract was received pursuant to Article 7-(2); provided that if the Goods, etc. was delivered later than the date of issuance of the contract, the 14-day time limit shall begin on the date of delivery.
  2. within 14 days from the date on which the Consumer came into knowledge of the address of the Door-to-door Seller, etc., in the event that the Consumer was not issued a copy of the contract pursuant to Article 7-(2), that the contract issued did not bear the address of the Door-to-door Seller, etc., or that the Consumer was not able to withdraw/cancel the contract due to a change of address of the Door-to-door Seller, etc.
- (2) A Consumer, in any of the situations listed in the following subparagraphs, may not withdraw/cancel a sales contract against the will of the Door-to-door Seller, etc. pursuant to paragraph (1); provided that if the Door-to-door Seller, etc. has failed to take measures prescribed in paragraph (6), the Consumer may be allowed to withdraw/cancel the contract even in the situation specified in paragraphs (2) and (4). <Amended 1-19-2009>
1. when the Goods, etc. has been lost or damaged by the Consumer, with the exception of only damaging the packaging to check the contents of the Goods, etc.
  2. when the value of the Goods, etc. has declined significantly through use or partial consumption
  3. when the value of the Goods, etc. has declined significantly due

4. 可複製的商品之包裝被毀損者。
  5. 其他依總統令規定，為交易安全的利益之情形。
- (3) 不論第(1)及(2)條之情形，若商品之內容不符於標示或廣告，消費者得於商品交付後三個月內，或於發現商品內容不符之30日內解除買賣契約。
- (4) 消費者依第(1)或(3)條之規定，以書面明示解除契約之意願時，買賣契約自文件寄出之日起失其效力。
- (5) 於適用第(1)或(3)條之情形時，若就消費者是否應就毀損滅失負責、契約訂立之事實與時點、商品交付之事實與時點，或契約影本交付之事實與時點，發生爭議時，應由訪問買賣銷售人負舉證責任。
- (6) 當買賣契約為依第(2)-2或(4)條不得解除之情形時，訪問買賣銷售應採取確保消費者之契約解除權不受限制之措施，將該事實明示於包裝或其他容易為消費者所辨識之處，或提供樣品 (sample)。<2007年1月19日修正>

## 第9條 解除契約之效果

- (1) 消費者依據第8-(1)條-(3)條之規定解除契約後，應退還其已

- to the passage of time to the point of making it difficult to be resold
4. when the packaging of duplicable Goods, etc. has been damaged
  5. in other cases specified by a presidential decree in the interest of the security of transactions
- (3) Notwithstanding paragraph (1) or (2), if the contents of the Goods, etc. are different from those indicated in labeling or as advertised, a Consumer may withdraw/cancel a sales contract within 3 months from the date of delivery of the Goods, etc., or 30 days from the date on which he/she discovered the difference.
- (4) If a Consumer withdraws/cancels a sales contract pursuant to paragraph (1) or (3) by indicating such an intention in writing, the rescission of the contract shall take effect on the date the document is sent out.
- (5) In the case of applying paragraph (1) or (3), if disputes arise over whether the Consumer is responsible for loss or damage or not, facts or dates relating to the conclusion of the sales contract, facts or dates relating to the delivery of the Goods, etc., or facts or dates relating to the issuance of a copy of the contract, the burden of proof shall lie with the Door-to-door Seller, etc.
- (6) In the case of Goods, etc. for which a sales contract cannot be withdrawn/canceled pursuant to paragraph (2)-2 or (4), the Door-to-door Seller, etc. shall take measures to ensure that the Consumer's right to withdraw/cancel a sales contract is not restricted, by indicating the fact on the packaging or in other places easily noticeable by Consumers or providing samples. <Amended 1-19-2007>

## **Article 9 (Effect of Withdrawal/Cancellation)**

- (1) If a Consumer withdraws/cancels a sales contract pursuant to

收受之商品。

- (2) 訪問買賣銷售人(包括收受價金或與消費者訂立契約之人，皆應適用第-(2)及-(8)條之規定)應於收受所退還商品之日起3日內，退還其價金。若訪問買賣銷售人遲延退款，則應給付消費者遲延退款之利息(下稱遲延賠償金)，該遲延賠償金依總統令規定計算之，其利率應考量經濟指數之變化，包括金融機構依據「銀行法」對遲延賠償金所適用之利率，且年利率最高不得過40%。〈2007年1月19日修正〉
- (3) 依據第(1)及(2)條所為之退款，若係透過信用卡或其他支付工具(以下稱之為信用卡)所為之付款，或應立即請求信用卡或提供其他支付工具之服務提供者(下稱之為付款服務提供者)停止交易付款之進行或取消付款。但若交易已完成，或已取得商品之付款，訪問買賣銷售人應立即退還該付款及通知消費者已付款之事實。
- (4) 若依第(3)項但書之規定為退款時，付款服務提供者應立即退還付款與消費者或採取必要之退款措施。

- Article 8-(1) or -(3), he/she shall return the Goods, etc. already delivered to him/her.
- (2) A Door-to-door Seller, etc. (including the person who has received the payment for the Goods, etc. sold or the person who has concluded the sales contract with a Consumer; The same shall apply to paragraph (2) or (8)) shall refund the payment for returned Goods, etc. within 3 days from the date of its arrival. If a Door-to-door Seller, etc. delays a refund, he/she shall pay the Consumer interest on the delayed refund (hereinafter referred to as “Compensation for Delayed Payment”), with the annual interest rate used for calculating such compensation specified by a presidential decree by considering various economic indices including the interest rates used by financial institutions for delayed payments under the Banking Act, provided that the annual interest rate shall not exceed 40 percent. <Amended 7-19-2007>
- (3) In refunding the payment for Goods, etc. pursuant to paragraph (1) or (2), if the payment was made by credit card or other instruments of payment specified by a presidential decree (hereinafter referred to as “Credit Card, etc.”), the Door-to-door Seller, etc. shall without delay request the business operator who provided the credit card or other payment services (hereinafter referred to as “Payment Service Provider”) stop the process of charging the transaction or cancel the charge, if already made; provided that if a Door-to-door Seller, etc. has already received payment for Goods, etc. from the Payment Service Provider, he/she shall return the payment without delay and notify the Consumer of the fact.
- (4) A Payment Service Provider, upon being refunded a payment for Goods, etc. from a Door-to-door Seller, etc. pursuant to the conditional clause in paragraph (3), shall without delay refund the payment to the Consumer or take necessary measures for refunding.

- (5)若訪問買賣銷售人依第(3)條但書之規定為退款，但因遲延退款導致消費者需為付款時，訪問買賣銷售人應賠償消費者遲延期間所生之遲延賠償金。
- (6)若訪問買賣銷售人未有合理事由而未為退款時，消費者就退款金額之限度內，得請求付款服務提供者抵銷(offset)其對訪問買賣銷售人之債務。付款服務提供者得依據總統令規定之方式，行使抵銷。
- (7)若付款服務提供者因疏忽而無正當事由而未為第(6)條之抵銷時，消費者得拒絕支付其對付款服務提供者之債務。於此情形，訪問買賣銷售人與付款服務提供者不得因消費者拒絕付款，而採取任何可能傷害消費者之手段，包括將消費者列為債信不良者。〈2007年1月19日修正〉
- (8)若在第(1)條之情形消費者已使用或消耗部分商品，訪問買賣銷售人於總統令規定之範圍內，得向消費者收取相當於使用該商品所獲得之經濟利益，或請求提供該商品所支出之成本。
- (9)依第8-(1)或-(3)條解除買賣契約時，訪問買賣銷售人應承擔回收商品之成本，且不得向消費者請求任何罰金或損害賠償。
- (10)若訪問買賣銷售人中，收受付款與訂立契約之人非屬同一人，於依第8-(1)及(3)條規定而解除買賣契約時，就本條第

- (5) If the conditional clause in paragraph (3) applies to a Door-to-door Seller, etc. when he/she delays a refund, thereby causing the Consumer to settle the charge, he/she shall pay the Consumer Compensation for Delayed Payment for the delayed period.
- (6) If the Door-to-door Seller, etc. does not make a required refund without just cause, the Consumer may request the Payment Service Provider offset his/her other debt owed to the Door-to-door Seller, etc. against the amount of the payment to be refunded. In such case, the Payment Service Provider may execute the debt offset in a manner specified by a presidential decree.
- (7) If a Payment Service Provider has neglected to offset a debt pursuant to paragraph (6) without just cause, the Consumer may refuse to settle the charge owed to the Payment Service Provider. In such case, a Door-to-door Seller, etc. or Payment Service Provider shall not take any harmful actions against the Consumer for his/her refusal to pay, including declaring the Consumer as a debt payment delinquent. <Amended 1-27-2005>
- (8) In the case of paragraph (1), if the Goods, etc. has already been used or partially consumed, the Door-to-door Seller, etc. may charge the Consumer an amount of money equivalent to the economic gains made through the use or partial consumption of the Goods or to the money that it cost the Door-to-door Seller, etc. to supply the Goods, etc. to the Consumer, within limits specified by a presidential decree.
- (9) In the case of Withdrawal/Cancellation of a sale contract pursuant to Article 8-(1) or -(3), the Door-to-door Seller, etc. shall bear the cost of recollecting the Goods, etc., and the Door-to-door Seller, etc. may not charge the Consumer a penalty or claim damages against the Consumer.
- (10) If the Door-to-door Seller, etc. who received the payment from the Consumer and the person who concluded the sales contract

(1)及(9)條所應負之退款義務共同負責。

### 第10條 損害賠償之限制

(1)因可歸責於消費者之事由而取消契約時，訪問買賣銷售人對消費者所得請求之損害賠償及遲延賠償金不應超過下列之總額：

1. 商品已退還時，以下列較高者定之：

- a. 通常使用該商品所應支付之價額，或因使用該商品所獲得之經濟利益。
- b. 商品之原本售價扣除其於退還時之售價。

2. 商品未退還時，依商品之售價定之。

(2)為促進訪問買賣銷售人與消費者間爭端解決之必要，公平交易委員會得訂定計算損害賠償之公開標準。

### 第11條 禁止行為

(1)訪問買賣銷售人不得從事下列行為：

with the Consumer are not the same person, they shall be collectively responsible for fulfilling the obligations prescribed in paragraph (1) and (9) regarding refund of payment resulting from Withdrawal/Cancellation of a sales contract pursuant to Article 8-(1) and -(3).

### **Article 10 (Limits on Damage Claims, etc.)**

- (1) If a Door-to-door Seller, etc. claims damages for a sales contract canceled due to fault on the Consumer's part, the damages claimed shall not exceed the sum of the amount prescribed in the following subparagraphs plus Compensation for Delayed Payment.
  1. the larger of the amounts specified in the following subparagraphs, if the delivered Goods, etc. has been returned,
    - a. an amount equivalent to the usual charge for using the Goods, etc. returned or to the economic gains usually gained through its use
    - b. an amount calculated by deducting the selling price of the Goods, etc. at the time of its return from the its original selling price
  2. an amount equivalent to the selling price of the Goods, etc. if the delivered Goods, etc. has not been returned,
- (2) The Fair Trade Commission, if it is deemed necessary for smooth resolution of disputes between Door-to-door Seller, etc. and Consumer over damage claims, may establish and make public criteria for calculating damages.

### **Article 11 (Prohibited Acts)**

- (1) A Door-to-door Seller, etc. shall not engage in any of the following acts.

1. 強制消費者訂定買賣契約，或脅迫消費者不得解除契約。
2. 為虛偽或誇張之事實陳述，或以欺騙之手段誘使消費者訂定契約，或妨礙消費者解除買賣契約之行為。
3. 不問其收取之費用名稱為會費、買賣輔助品、個人銷售分配額或訓練費，而課與訪問買賣銷售業務員，或希望成為訪問買賣銷售業務員之人，支付超過總統令所規定的金額或購買商品之義務，以作為其維持代理人資格之條件。
4. 課與訪問買賣銷售業務員負有募集其他訪問買賣銷售業務員之義務。
5. 為避免消費者解除買賣契約，而變更其地址或電話。
6. 未在相當期間內設置處理紛爭或申訴之必要人力或設備，而致生損害於消費者。
7. 未經消費者之要約，而對之交付商品並要求付款。
8. 透過電話、傳真或電腦媒介之方式，強制消費者購買其明示不欲購買之商品或服務。

1. coercing a Consumer to enter into a sales contract or intimidating a Consumer to prevent him/her from withdrawing/canceling a sales contract
2. misrepresenting or exaggerating facts, luring a Consumer or soliciting a sales contract by deceptive practices or conducting acts aimed at preventing a Consumer from withdrawing/canceling a sales contract
3. imposing certain obligations on a Door-to-door Sales Agent, etc. or a person wanting to become one as a condition for maintaining his/her status as a Door-to-door Sales Agent, etc or for becoming one, such as compelling such a person to pay a certain amount of money beyond a limit specified by a presidential decree, no matter what it is called - a membership fee, a charge for sales supporting items, a charge for an individual quota of sales or a charge for education or training - or making him/her purchase Goods, etc.
4. imposing on a Door-to-door Sales Agent, etc. the obligation of recruiting other Door-to-door Sales Agents, etc.
5. altering his/her own address or telephone number for the purpose of preventing a Consumer from withdrawing/canceling a sales contract
6. leaving unattended for a considerable period of time deficiencies in personnel or facilities needed to handle complaints or disputes from a Consumer, thereby causing harm to the Consumer
7. delivering Goods, etc. to a Consumer and demanding payment for it, when there has been no application from the Consumer for a sales contract
8. coercing a Consumer by telephone, facsimile or computer communications to purchase goods or services, although he/she has indicated that he/she has no intention to purchase such goods or services

9. 除下列情形外，未經消費者之同意或逾其同意範圍而使用消費者之資訊（以下皆包括提供此資訊與第三者之情形）：

a. 依據總統令規定，為寄送商品予消費者，以實現買賣契約所需使用之情形。

b. 為支付商品貨款所需之情形。

c. 依據總統令規定，為避免消費者身分被盜用之情形。

d. 其他法律特別規定之情形。

(2) 為避免違反本法與消費者受到損害，公平交易委員會得訂定訪問買賣銷售人應遵守之公開標準。

## 第12條 停業期間買賣契約之解除

(1) 訪問買賣銷售人因自行停業或勒令停業之期間，仍應依據第8-(1)、-(3)或第9-(1)至-(3)條之規定，行使關於解除契約之業務。

(2) 訪問買賣企業經營者因宣告破產，而被認定無法實際進行業務，而未通報相關主管機關時，公平交易委員會、市長／郡長／首領等，依第5-(1)條接受申報之有權主管機關得依職權撤銷其登記。〈2005年3月31日修正〉

9. using information about a Consumer without his/her permission or for purposes outside the scope of use the Consumer has consented to, except for the following cases (including supplying such information to a third party; the same shall apply hereinafter)
  - a. cases specified by a presidential decree, in which consumer information is needed to fulfill a sales contract with a Consumer as in shipping the purchased Goods, etc.,
  - b. cases in which consumer information is needed to settle payment for transacted Goods, etc.
  - c. cases specified by a presidential decree, in which consumer information is needed to verify the identity of the Consumer in order to prevent identity theft
  - d. cases in which consumer information is needed for other requirements pursuant to statutory regulations
- (2) The Fair Trade Commission may establish and make public criteria to be observed by Door-to-door Sellers, etc. in order to prevent violations of this Act and injury to Consumers.

## **Article 12 (Withdrawal/Cancellation of Sales Contracts during Business Suspension, etc.)**

- (1) A Door-to-door Seller, etc. shall, during a voluntary or judicially imposed suspension of business, continue to operate business relating to the Withdrawal/Cancellation of sales contracts pursuant to Article 8-(1) or (3) or to Article 9-(1) or -(3).
- (2) If a Door-to-door Sales Business Operator, etc. is judged practically incapable of continuing his/her business, such as when he/she has been declared bankrupt without having reported the business as terminated to relevant authorities, the Fair Trade Commission or

### 第三章 多層次傳銷

#### 第13條 多層次企業經營者之登記

- (1)多層次傳銷企業經營者應依總統令所規定之方式，提交下列文件，向有權之特別市市長、市長或省長（下稱市長/首長）登記其事業：〈2005年5月31日修正〉
1. 申請表格應記載商業名稱、地址、電話號碼、電子郵件地址（若為公司，應包括代表人的姓名、居民登記號碼、住址）。
  2. 依據總統令規定所定，實收資本超過3億韓元以上之證明文件。
  3. 依第34條之規定，對於消費者之損害投保責任保險之證明文件。
  4. 佣金計算與支付標準之說明文件。
  5. 營業說明文件（包括庫存商品管理及佣金支付）。
  6. 其他依據總理令規定，為確認多層次企業經營者身分之文

the mayor/county governor/ward chief who received the original report of business initiation from the Door-to-door Sales Business Operator, etc. pursuant to Article 5-(1) may, by virtue of his/her office, delete his/her records. <Amended 3-31-2005>

## **Chapter 3 Multilevel Marketing Sales**

### **Article 13 (Registration of Multilevel Business Operator, etc.)**

- (1) A Multilevel Marketing Business Operator shall register his/her business with the competent Special Metropolitan City Mayor, Metropolitan City Mayor or Province Governor (hereafter referred to as “Mayor/Governor”) by submitting the following documents in a manner specified by a presidential decree. <Amended 5-31-2005>
1. an application form bearing his/her business title, address, telephone number, email address (the name, residential registration number and address of the representative, in case of a corporation)
  2. a document proving that its paid-in capital exceeds a level specified by a presidential decree, which is above 300 million won
  3. documents proving the existence of insurance policy contracts covering liability for consumer injury pursuant to Article 34
  4. a document explaining criteria for calculating and paying Commission
  5. a document explaining business operations including inventory management and commission payment
  6. other documents specified by a Prime Minister’s decree, which

件。

- (2)若依第(1)條規定之登記事項發生更動時，多層次傳銷企業經營者應依總統令之規定，通報相關主管機關。
- (3)多層次傳銷企業經營者停業、結束營業，或復業時，應將此事實依總統令之規定，通報相關主管機關。如多層次傳銷企業經營者已通報其結束營業時，應撤銷依第(1)條所為之登記。
- (4)公平交易委員會得依據總統令規定之方式，公開多層次傳銷企業經營者關於下列之事項；但涉及營業秘密、可能損及當事人之重大利益，或涉及個人資訊而可能侵害個人隱私或自由時，不得公開之：〈2007年1月19日修正〉

1. 依據第(1)條所登記之資訊。
2. 其他為了建立公平交易及保障消費者所必要揭露之資訊。

- (5)公平交易委員會認定有必要依據第(4)條之規定揭露資訊時，得要求多層次傳銷企業經營者提供相關之資訊與資料。多層次傳銷企業經營者，除有正當事由外，不得拒絕之。〈2007年1月19日增訂〉

- are necessary to verify the identity of the Multilevel Marketer
- (2) If any change has occurred to the details registered pursuant to paragraph (1), a Multilevel Marketing Business Operator shall report it to the relevant authority in a manner specified by a presidential decree.
  - (3) If a Multilevel Marketing Business Operator, etc. suspends or terminates business or resumes business after a suspension, he/she shall report the facts to the relevant authority in a manner specified by a presidential decree. In case a Multilevel Marketing Business Operator, etc. has reported the termination of his/her business, the registration made pursuant to paragraph (1) shall be invalidated.
  - (4) The Fair Trade Commission may make public information about a Multilevel Marketing Business Operator that falls under any of the following categories, in a manner specified by a presidential decree; provided that such disclosure shall not be permitted when the information concerns management and business secrets, the disclosure of which may risk harming the person's interests seriously or when the information is personal in nature, the disclosure of which may risk infringing on the person's privacy or freedoms. <Amended 1-19-2007>
    1. information registered pursuant to paragraph (1)
    2. other information, the disclosure of which is judged necessary for establishing an order of fair trade and protecting Consumers
  - (5) The Fair Trade Commission, when deemed necessary for the purpose of information disclosure pursuant to paragraph (4), may demand that a Multilevel Marketing Business Operator submit relevant information and data. In such case, the Multilevel Marketing Business Operator shall comply with the demand unless he/she has justifiable reason for refusing to do so. <Newly Added 1-19-2007>

### 第14條 消極資格

自然人或法人有下列之情形者，不得依據前條第(1)條之規定，登記為多層次傳銷企業經營者：〈2007年7月19日修正〉

1. 自然人或公司負責人有下列之情形者：
  - a. 受法院監護宣告、輔助宣告或為未成年人。
  - b. 受破產之宣告，尚未復權者。
  - c. 犯本法規定之罪，經有罪判決確定，服刑期滿尚未逾五年者，或緩刑確定期滿尚未逾五年者。
  - d. 犯本法規定之罪受緩刑宣告，而於緩刑期間者。
1. 2公司之控制股東有下列之情形者：
  - a. 犯本法規定之罪，經有罪判決確定，服刑期滿尚未逾五年者，或緩刑確定期滿尚未逾五年者。
  - b. 犯本法規定之罪受緩刑宣告，而於緩刑期間者。
2. 依第42-(4)條之規定被撤銷記尚未逾五年之自然人或法人。
3. 公司負責人或控制股東曾因第二項規定被撤銷登記之法人。

## **Article 14 (Disqualifications)**

An individual or corporation falling under any of the following categories shall not register as a multi-marketing business operator pursuant to paragraph (1). <Amended 7-19-2007>

1. an individual falling under any of the following categories or the corporation with which he/she is an officer
  - a. a person judged by the court to be incompetent or quasi-incompetent, or a minor
  - b. a person who has been declared bankrupt and not reinstated
  - c. a person who is within a 5 year period following the end of the execution of an imprisonment sentence for violation of this Act or a final decision to suspend the execution of such a sentence (including cases in which the execution of such a sentence is considered to have ended)
  - d. a person who is in a probation period following a suspended sentence for violation of this Act
- 1.2 a corporation whose controlling shareholder falls under any of the following categories
  - a. a person who is within a 5 year period following the end of the execution of an imprisonment sentence for violation of this Act or a final decision to suspend the execution of such a sentence (including cases in which the execution of such a sentence is considered to have ended)
  - b. a person who is in a probation period following a suspended sentence for violation of this Act
2. an individual who, or a corporation which, is within a 5-year period following a revocation of his/her/its business registration pursuant to Article 42-(4)
3. a corporation whose officer or controlling shareholder was an officer or the controlling shareholder of an individual or a

### 第15條 多層次傳銷業務員

- (1) 欲加入多層次傳銷組織以成為多層次傳銷業務員者，應依總理令所規定之方式，向管理、營運多層次傳銷企業經營者登記之。
- (2) 有下列之情形不得登記為多層次傳銷業務員：〈2007年1月18日修正〉
  1. 中央或地方政府之公務員、州立之教師或私立學校法所規定之教師。
  - 1.2 未成年人。但已得法定代理人之同意，且無第(3)及(4)條之事由者不在此限。
  2. 法人。
  3. 其他多層次傳銷企業經營者之控制股東或負責人。
  4. 依據總統令之規定，違反本法之規定者。
- (3) 多層次企業經營者應依據總理令所規定之方式，交付多層次傳銷業務員其所管理、經營組織之登錄證。
- (4) 多層次企業經營者應依據總理令所規定之方式，登記多層次傳銷業務員之資料，並為避免消費者受到損害或於救濟消費者之必要時，使消費者能取得該資訊，以確定多層次傳銷業務員之身分。

corporation when he/she/it had his/her/its business registration canceled pursuant to paragraph (2)

## **Article 15 (Multilevel Marketing Agent)**

- (1) A person who intends to join a Multilevel marketing organization as its marketing agent shall register, in a manner specified by a Prime Minister's decree, with the Multilevel Marketing Business Operator who manages and operates said organization.
- (2) A person falling under any of the following categories may not register as a Multilevel Marketing Agent. <Amended 1-18-2007>
  1. a central government official, a regional government official, a state-employed teacher or a teacher specified by the Private School Act
  - 1.2. a minor, except when a minor has the consent of his/her legal representative who does not fall either under paragraph (3) or (4)
  2. a corporation
  3. the controlling shareholder or an officer of another Multilevel Marketing Business Operator
  4. a person specified by a presidential decree, who has contravened this Act
- (3) A Multilevel Marketing Business Operator shall issue to the Multilevel Marketing Agents belonging to the organization that he/she manages and operates a registration card in a manner specified by a Prime Minister's decree.
- (4) A Multilevel Marketing Business Operator shall make a registration record of his/her Multilevel Marketing Agents in a manner specified by a Prime Minister's decree, and he/she shall make such a record available for viewing by a Consumer to verify the identity of a Multilevel Marketing Agent when such information

(5)多層次企業經營者應對於依第(1)條所登記之業務員，發給多層次傳銷手冊，並應包含以下之內容：

1. 佣金之計算與支付標準。
2. 線上之招募及佣金之支付。
3. 關於商品之退還，及組織之退出。
4. 多層次傳銷業務員應遵守之事項。
5. 其他總理令之規定。

## 第16條 締約前提供契約條款資訊，及締約時交付契約影本義務

經由多層次傳銷所訂立之買賣契約，準用第(7)條之規定，該規定之「訪問買賣銷售人」、「訪問買賣企業經營者」及「訪問買賣銷售業務員」，為本法之「多層次傳銷人」、「多層次企業經營者」及「多層次傳銷業務員」。

## 第17條 解除契約

(1)經由多層次傳銷所訂立之買賣契約準用第(8)條之規定，該規定之「訪問買賣銷售人」為本法之「多層次傳銷人」。如消費者與多層次傳銷業務員已訂立買賣契約，得請求多層次傳

is considered critical for preventing consumer injury or remedying consumer injury.

- (5) A Multilevel Marketing Business Operator shall issue to a Multilevel Marketing Agent registered pursuant to paragraph (2) an agent's manual with the following contents.
1. criteria for calculation and payment of Commission
  2. matters relating to recruitment of, and Commission payment to, marketing agents under his/her supervision
  3. matters relating to return of Goods, etc. and withdrawal from the organization
  4. matters to be observed by Multilevel Marketing Agents
  5. other matters specified by a Prime Minister's decree

## **Article 16 (Requirements for Information Provision Prior to Conclusion of Contract and Issuance of a Copy of Contract upon Conclusion of Contract)**

Article 7 shall apply mutatis mutandis to conclusion of a sales contract by means of Multilevel marketing, with “Door-to-door Seller”, “Door-to-door Sales Business Operator” and “Door-to-door Sales Agent” construed as meaning “Multilevel Marketer”, “Multilevel Marketing Business Operator” and “Multilevel Marketing Agent” respectively.

## **Article 17 (Withdrawal/Cancellation)**

- (1) Article 8 shall apply mutatis mutandis to Withdrawal/Cancellation of an application for a contract to purchase Goods, etc. by means of Multilevel marketing, with “Door-to-door Seller” construed

銷業務員解除該契約。但為總統令規定無法找到多層傳銷業務員原因，而無法解除契約或有所困難時，其請求提供商品之多層次企業經營者解除該契約。

- (2) 多層次傳銷業務員得在與多層次企業經營者簽訂買賣契約的三天內，解除之。但若因其本身錯誤之回報過多商品存貨，而造成商品毀損超過其再販售之價值，或其他總統令所規定之情形時，不在此限。
- (3) 若就契約訂立之事實及時點、商品交付之事實與時點，或主張商品毀損及何人應負責之事實發生爭議，應由銷售商品之人負舉證責任。

### 第18條 解除契約之效力

- (1) 若買方（多層次傳銷業務員向另一多層次傳銷業務員購買，或經常性購買的消費者）依第17-(1)及-(2)條之規定，解除多層次傳銷買賣契約後，應退還其已受領之商品。
- (2) 多層次傳銷人（包括收受價金或與買方訂立契約之人，皆應

as meaning “Multilevel Marketer.” If a Consumer has concluded a sales contract with a Multilevel Marketing Agent, he/she may request the Multilevel Marketing Agent for Withdrawal/Cancellation of the contract; provided that in cases in which it is not possible to do so for reasons specified by a presidential decree such as difficulty in locating the whereabouts of the Multilevel Marketing Agent, the Consumer may request the Multilevel Marketing Business Operator who supplied the purchased Goods, etc. for Withdrawal/Cancellation of the contract.

- (2) A Multilevel Marketing Agent may withdraw/cancel a sales contract with a Multilevel Marketing Business Operator within 3 days of conclusion of such contract, except in cases in which he/she holds an excessive inventory of Goods, etc. as a result of false inventory reporting to the Multilevel Marketing Business Operator, when he/she has damaged Goods, etc. beyond their resale value or other cases specified by a presidential decree.
- (3) If disputes arise over facts or dates relating to the conclusion of a sales contract, facts or dates relating to the delivery of Goods, etc., or allegations of damage to the Goods, etc. and responsibility for such damage, the burden of proof shall lie with the person who sold the Goods, etc.

## **Article 18 (Effect of Withdrawal/Cancellation)**

- (1) If the Purchasing Party to a Multilevel marketing sales contract (who is either a Multilevel Marketing Agent who purchased from another Multilevel Marketing Agent or a regular Consumer; The same shall apply hereinafter) withdraws/cancels the contract under Article 17-(1) or -(2), he/she shall return the Goods, etc. already delivered to him/her.
- (2) A Multilevel Marketer (including the person who has received

適用第-(2)及-(8)條之規定)應於收受退還商品之日起3日內,退還價金。當多層次企業經營者退款給多層次傳銷業務員時,得依總統令之規定,扣除一定的費用。且訪問買賣銷售人遲延退款時,應給付買方遲延退款之利息。

(3)第(1)條所規定之退款,係透過信用卡或其他支付工具(下稱信用卡)所支付,多層次傳銷人應立即請求信用卡或提供其他支付工具之服務提供者(下稱付款服務提供者),停止交易付款之進行或取消付款。若交易已完成或已取得貨款,多層次傳銷人應立即退還該款項,及通知買方已付款之事實。若多層次傳銷人於遲延退款,致買方需為付款時,應賠償消費者於遲延期間所生之遲延賠償金。

(4)若多層次傳銷人依第(3)項之情形為退款時,付款服務提供者應立即退款給買方,或採取必要之退款措施。若多層次傳銷人未有合理事由,未為要求付款服務提供者退款時,買方就退款金額之限度內,得請求付款服務提供者抵銷其對多層次傳銷人之債務。付款服務提供者得依據總統令規定行使抵銷。

the payment for Goods, etc. or the person who has concluded the sales contract with the purchasing party; The same shall apply to paragraph (2) or (8)) shall refund the payment for returned Goods, etc. within 3 days from the date of its arrival; provided that when a Multilevel Marketing Business Operator refunds payment for Goods, etc. to a Multilevel Marketing Agent, he/she may deduct from the refunded money expenses up to a limit specified by a presidential decree, and that when a Multilevel Marketer delays a refund of the payment for Goods, etc., he/she shall pay Compensation for Delayed Payment to the Purchasing Party.

- (3) When refunding the payment for Goods, etc. pursuant to paragraph (1), if the payment was made by Credit Card, etc., a Multilevel Marketer shall without delay request the Payment Service Provider to stop the process of charging the transaction or cancel the charge, if already made; provided that if a Multilevel Marketer, etc. has already received the payment for Goods, etc. from the Payment Service Provider, he/she shall return the payment without delay and notify the Purchasing Party of the fact. In case a Multilevel Marketer delays a refund, thereby causing the Purchasing Party to settle the charge, he/she shall pay the Purchasing Party Compensation for Delayed Payment for the delayed period counted from the date on which the charge was settled.
- (4) A Payment Service Provider, upon being refunded a payment for Goods, etc. from a Multilevel Marketer under paragraph (3), shall without delay refund the payment to the Purchasing Party or take necessary measures for refund. If a Multilevel Marketer does not make a required refund to a Payment Service Provider without just cause, the Purchasing Party may request the Payment Service Provider to offset his/her other debt owed to the Multilevel Marketer against the amount of the payment to be refunded. In such case, the Payment Service Provider may execute the debt

- (5)若付款服務提供者因疏忽，且不具正當事由，而未為第(4)條之抵銷時，買方得拒絕支付其對付款服務提供者之債務。於此情形，多層次傳銷人與付款服務提供者不得因消費者拒絕付款，而採取任何可能傷害消費者之手段，包括宣告消費者為呆帳者、黑名單、債信不良者。〈2005年1月27日修正〉
- (6)若多層次企業經營者已依第17條之規定退款，而所退款項多於多層次傳銷業務員所提供之商品價值時，得向多層次傳銷業務員請求該價差。
- (7)若在第(1)條之情形，買方已使用或消耗部分商品時，多層次傳銷人得向買方收取其因使用該商品所獲得之經濟利益，或請求為提供該商品所支出之成本。
- (8)依第8-(1)或-(3)條解除買賣契約時，適用第17-(1)條規定之多層次傳銷人應承擔回收商品之成本，且不得向買方請求任何之違約金或損害賠償。
- (9)若多層次傳銷人中，收受付款與訂立契約之人非屬同一人，於依第17條規定而解除買賣契約時，就本條第-(1)、-(5)與-(8)條所應負之退款義務，應共同負責。

offset in a manner specified by a presidential decree.

- (5) If a Payment Service Provider has neglected to offset the debt pursuant to paragraph (4) without just cause, the Purchasing Party may refuse to settle the charge owed to the Payment Service Provider. In such case, a Multilevel Marketer or Payment Service Provider shall not take any harmful actions against the Purchasing Party for his/her refusal to pay, including declaring the Purchasing Party as a debt payment delinquent. <Amended 1-27-2005>
- (6) If a Multilevel Marketing Business Operator has refunded payment for Goods, etc. pursuant to Article 17, when the refunded amount exceeds the value of the Goods, etc. he/she supplied to a Multilevel Marketing Agent, he/she may demand payment of the difference from the Multilevel Marketing Agent.
- (7) In the case of paragraph (1), if the Goods, etc. has already been partially used or consumed, the Multilevel Marketer may charge the Purchasing Party an amount of money equivalent to the economic gains made through the use or partial consumption of the Goods, etc. or to the money that it cost the Multilevel Marketer to supply the Goods, etc. to the Purchasing Party.
- (8) In the case of Withdrawal/Cancellation of a sales contract pursuant to Article 8-(1) or -(3) as applied by Article 17-(1), the Multilevel Marketer shall bear the cost of recollecting the Goods, etc., and the Multilevel Marketer shall not charge the Purchasing Party a penalty or claim damages against the Purchasing Party.
- (9) If the Multilevel Marketer and the person who received the payment from the Purchasing Party or the person who concluded the sales contract with the Purchasing Party are not the same person, they shall be collectively responsible for fulfilling the obligations prescribed in paragraph (1), (5) and (8) regarding refund of payment resulting from Withdrawal/Cancellation of a sales contract pursuant to Article 17.

### 第19條 損害賠償請求金額之限制

本法第10條之規定，準用多層次傳銷人之解除契約之情形（排除第17條規定解除買賣契約之情形），該規定之「訪問買賣銷售人」及「消費者」為此處之「多層次傳銷人」及「買方」。

### 第20條 佣金的支付標準

- (1)多層次企業經營者不應以不符合已通知多層次傳銷業務員之計算及支付標準，或其他不公平歧視銷售員之方式支付佣金。
- (2)多層次企業經營者應建立客觀及明確之佣金計算及支付標準，該標準之修改應符合總統令之規定。
- (3)多層次傳銷人支付多層次傳銷業務員之佣金，不得超過多層次傳銷人提供多層次傳銷業務員商品價格的35%（以下稱為總價），且詳細總價或佣金之計算方式，包括下列事項，應以總統令規定之：
  1. 以交付商品之日計算總價。
  2. 佣金應於發生支付原因時計算之。

## **Article 19 (Limits on Damage Claims, etc.)**

Article 10 shall apply mutatis mutandis to cancellation of a sales contract for Goods, etc. with a Multilevel Marketer (excluding Withdrawal/Cancellation pursuant to Article 17), with “Door-to-door Seller” and “Consumer” construed as meaning “Multilevel Marketer” and “Purchasing Party” respectively.

## **Article 20 (Criteria for Payment of Commission, etc.)**

- (1) A Multilevel Marketing Business Operator shall not pay Commission to a Multilevel Marketing Agent in a manner inconsistent with the criteria for calculation and payment of Commission notified to the Multilevel Marketing Agent or discriminate against a Multilevel Marketing Agent in any other unjust ways.
- (2) A Multilevel Marketing Business Operator shall establish objective and clear criteria for calculation and payment of Commission, and any modifications to such criteria shall be made pursuant to procedures specified by a presidential decree.
- (3) The total amount of Commission a Multilevel Marketer can pay to a Multilevel Marketing Agent shall not exceed 35/100ths of the sum of the prices of the Goods, etc.(hereinafter referred to as “Price Sum”) supplied to the Multilevel Marketing Agent by the Multilevel Marketer (including valueadded taxes), and specific methods of calculating Price Sums or Commission including the matters in the following paragraphs shall be specified by a presidential decree. <Amended 1-19-2007>
  1. Price Sums shall be calculated as of the date of delivery
  2. Commission shall be calculated as of the moment the cause for payment of the Commission occurred.

3. 總價與佣金應以年度基礎計算之。但多層次企業經營者其經營期間不到一年者，應在該期間內完成之。
  4. 多層次企業經營者以移轉所有權之方式，提供商品予委託多層次傳銷業務員販賣時，應以其所提供之價格計算總價。若多層次企業經營者提供商品予多層次傳銷業務員而以仲介之方式販賣商品時，應以其所收取之服務費計算總價。
- (4) 多層次企業經營者應同意多層次傳銷業務員，向其請求查閱佣金計算與支付之記錄。
  - (5) 多層次企業經營者不得僅因業務員有招募或贊助更多下線，不考量其銷售額，而對於多層次傳銷業務員之佣金有不同而有所區別。

## 第21條 佣金之通知與廣告

- (1) 多層次企業經營者不應提供，關於獲利之不實資訊予多層次傳銷業務員，或希望成為銷售員之人。
- (2) 多層次企業經營者應依總理令規定所定之條件，告知多層次傳銷業務員或希望成為業務員之人，關於其目前所登記之佣金平均支付情況。

3. Price Sums and Commission shall be calculated on a yearly basis; provided that such calculations shall be done for the period of time during which a Multilevel Marketing Business Operator has been in business if that period is less than a year.
4. If a Multilevel Marketing Business Operator supplies Goods, etc. to a Multilevel Marketing Agent as a seller for another supplier on a consignment basis, the prices for which the Multilevel Marketing Business Operator sold the Goods, etc. to the Multilevel Marketing Agent shall be the basis for calculating Price Sums, and if a Multilevel Marketing Business Operator supplies Goods, etc. to a Multilevel Marketing Agent as a sales mediator for another supplier, the service fees he/she receives from the supplier shall be the basis for calculating Price Sums.
- (4) A Multilevel Marketing Business Operator shall, upon a request from a Multilevel Marketing Agent, allow the Multilevel Marketing Agent to view his/her records of calculated and paid Commissions.
- (5) A Multilevel Marketing Business Operator shall not differentiate the Commission paid to his/her Multilevel Marketing Agents by tying it to a condition that one recruits or sponsors a specific number of marketing agent under his/her supervision, irrespective of the sales they make.

## **Article 21 (Notification/Advertising concerning Commission, etc.)**

- (1) A Multilevel Marketing Business Operator shall not provide a Multilevel Marketing Agent or a person wanting to become one with false information about the profits he/she can expect to make.
- (2) A Multilevel Marketing Business Operator shall, according to terms specified by a Prime Minister's decree, notify a Multilevel Marketing Agent or a person wanting to become one of information

- (3)多層次企業經營者不應散佈，就其組織運作與活動有關之不實或誇張資訊。

## 第22條 多層次傳銷業務員之登記與撤銷

- (1)多層次企業經營者不應課與訪問買賣銷售業務員，或希望成為多層次傳銷業務員之人，負有超過總統令所規定，購買一定商品數量之義務，以作為其業務員登記、維持業務員資格或取得更優渥佣金資格之條件。
- (2)多層次企業經營者不應課業務員有招募一定下線，或未經他人同意而登記其為銷售員之義務。
- (3)多層次企業經營者應於第15條所列之情形，取消多層次傳銷業務員之資格。
- (4)多層次傳銷企業銷售員得隨時通知多層次企業經營者之退出網絡之意思表示，多層次企業經營者不得對該撤銷加以任何之限制。
- (5)多層次企業經營者應採取必要之措施，以避免因銷售員銷售

about the current status of Commission payment including the average level of Commission paid to the Multilevel Marketing Agents registered with him/her.

- (3) A Multilevel Marketing Business Operator shall not disseminate false or exaggerated information about the operation and activities of his/her Multilevel Marketing organization.

## **Article 22 (Registration and Withdrawal of Multilevel Marketing Agent)**

- (1) A Multilevel Marketing Business Operator shall not impose on a Multilevel Marketing Agent or a person wanting to become one economic obligations beyond a level specified by a presidential decree such as compelling him/her to purchase an excessive amount of Goods, etc., as a condition for him/her to register as a Multilevel Marketing Agent or maintain his/her status as such or for him/her to qualify for a more advantageous standard of Commission payment. <Amended 7-19-2007>
- (2) A Multilevel Marketer shall not obligate a Multilevel Marketing Agent to recruit a certain number of marketing agents under his/her supervision or register a person as his/her marketing agent without that person's consent.
- (3) A Multilevel Marketing Business Operator shall discharge a Multilevel Marketing Agent if he/she falls under any of the disqualification categories listed in Article 15.
- (4) A Multilevel Marketing Agent may withdraw from a Multilevel Marketing organization at any time by notifying the Multilevel Marketing Business Operator of his/her intention to withdraw, and the Multilevel Marketing Business Operator shall not impose any conditions on his/her withdrawal.
- (5) A Multilevel Marketing Business Operator shall take necessary

之行為，造成消費者損害，並應取回其銷售手冊。

### 第23條 禁止行為

(1)多層次傳銷人不得為下列之行為：

1. 強制買方訂定買賣契約，或脅迫消費者不得解除契約。
2. 為虛偽或誇張之事實陳述，或以欺騙之手段誘使買方訂定契約，或妨礙買方撤銷或解除買賣契約之行為，或提供關於價格與品質之錯誤資訊，或使買方誤以為該商品之品質高於其實際之品質。
3. 不問其收取之費用名稱為會費、買賣輔助品、個人銷售分配額或訓練費，課與多層次傳銷業務員或希望成為多層次傳銷業務員之人負有支付100,000含員以下，而超過總統令規定所定金額或購買商品之義務，或以其他任何藉口要求其支付金錢。
4. 為招募下線而給予多層傳銷業務員經濟上之利益，或無正當理由而提供佣金以外之其他經濟利益。

measures to prevent a withdrawn Multilevel Marketing Agent from inflicting injury on Consumers by continuing his/her marketing activities, including retrieval of the agent's manual from that person.

## **Article 23 (Prohibited Acts)**

- (1) A Multilevel Marketer shall not engage in any of the following acts.
1. coercing a Purchasing Party to enter into a sales contract or intimidating a Purchasing Party in order to prevent him/her from withdrawing/canceling a sales contract
  2. misrepresenting or exaggerating facts, soliciting a sales contract from a Purchasing Party by deceptive practices or conducting acts aimed at preventing a Purchasing Party from withdrawing/canceling a sales contract, providing false information about the price or quality of Goods, etc., or misleading a Purchasing Party into believing that Goods, etc. are of higher quality than they actually are
  3. imposing certain obligations on a Multilevel Marketing Agent or a person wanting to become one as a condition such as compelling such a person to pay a certain amount of money beyond a limit under 100,000 won specified by a presidential decree, no matter what it is called – a new membership fee, a charge for sales supporting items, a charge for an individual quota of sales or a charge for education or training - or making such a person pay money under any other pretexts
  4. paying economic benefits to a Multilevel Marketing Agent for recruiting marketing agents under his/her supervision or providing him/her with economic gains other than Commission without justifiable reason

5. 為避免消費者撤銷或解除買賣契約，而變更其地址或電話。
6. 未在相當期間內設置必要之人力，或設備處理紛爭或申訴，而致生損害於消費者。
7. 未經買方之要約，而對之交付商品並要求付款；或強制買方或其下線購買商品或服務。
8. 透過電話、傳真或電腦媒介之方式，強制消費者購買其明示不欲購買之商品或服務。
9. (在多層次傳銷業務員之情形)，利用其社會地位，強制他人成為其下線，或強迫其下線購買商品或服務。
10. 強迫多層次傳銷業務員，或希望成為業務員之人參加訓練或集體集會。
11. 雇用未登記之多層次傳銷業務員為其代表，或允許未登記之銷售員於其下線運作。
12. 未依第34條之規定，對於消費者之傷害投保而執行業務。
13. 以高於總統令規定限制之價格販賣商品予買方。
14. 除下列情形外，未經消費者之同意，或逾其同意範圍而使用消費者之資訊：

5. altering one's address or telephone number for the purpose of preventing a Purchasing Party from withdrawing/canceling a sales contract
6. leaving unattended for a considerable period of time deficiencies in personnel or facilities needed to handle consumer complaints or disputes, thereby causing harm to a Purchasing Party
7. delivering Goods, etc. to a Purchasing Party and demanding payment for it, when there has been no application from the Purchasing Party for a sales contract or coercing a Purchasing Party or a marketing agent under one's supervision to purchase goods or services.
8. coercing a Purchasing Party by telephone, facsimile or computer communications to purchase goods or services, although he/she has indicated that he/she has no intention to purchase such goods or services
9. (in case of a Multilevel Marketing Agent), using one's social status to force a person to register as a marketing agent under his/her supervision or coercing a marketing agent under his/her supervision to purchase goods or services.
10. coercing a Multilevel Marketing Agent or a person wanting to become one to participate in training or collective boarding against his/her will
11. representing an unregistered Multilevel Marketing Agent as one in his/her employment or allowing an unregistered Multilevel Marketing Agent to work under one's supervision
12. conducting business in the absence of an insurance policy to protect against consumer damage pursuant to Article 34
13. selling Goods, etc. to a Purchasing Party for a price higher than a limit specified by a presidential decree
14. using information about a Consumer without his/her permission or for purposes other than those the Consumer has consented to,

- a. 依據總統令規定，為寄送商品予消費者以實現買賣契約所需使用之情形。
  - b. 為支付商品貨款所需之情形。
  - c. 依總統令之規定，為避免消費者身分被盜用之情形。
  - d. 其他法律特別規定之情形。
15. 除繼承多層次傳銷業務員之狀態或業務移轉、取得或合併外，不得移轉或取得多層次傳銷組織，或多層次傳銷業務員之狀態。
- (2) 任何人不得利用多層次傳銷組織或類似之組織，建立多層次之買賣銷售員，以進行財產之分配而未為商品之交易，或將財產之分配掩飾為商品交易。實際上為分配財產而掩飾為商品交易者，應依總統令之規定終止之。(2007年1月19日修正)
- (3) 多層次企業經營者不應誘使多層次傳銷業務員為第-(1)或-(2)條之情形，或使其協助經營者為之。
- (4) 為避免消費者受到損害，公平交易委員會得訂定多層次傳銷人應遵守之公開標準。

## 第24條 停止侵害消費者利益之請求

- except for the following cases
- a. cases specified by a presidential decree, in which consumer information is needed to perform a sales contract with a Consumer as in shipping the purchased Goods, etc.,
  - b. cases in which consumer information is needed to settle payment for transacted Goods, etc.
  - c. cases specified by a presidential decree, in which consumer information is needed to verify the identity of the Consumer in order to prevent identity theft
  - d. cases in which consumer information is needed for other inevitable purposes pursuant to statutory regulations
15. transferring or acquiring a Multilevel Marketing organization or the status of a Multilevel Marketing Agent, except when one is inheriting the status of a Multilevel Marketing Agent or in the case of business transfer, acquisition or merger
- (2) No one shall use a Multilevel Marketing organization or a similar organization made of multiple levels of sales agents to conduct financial transactions without trading Goods, etc. or disguising what is actually a financial transaction as a transaction in Goods, etc. Specific cases of disguising a practically financial transaction as a transaction in Goods, etc. shall be determined by a presidential decree. <Amended 1-19-2007>
- (3) A Multilevel Marketing Business Operator shall not induce a Multilevel Marketing Agent to engage in prohibited acts as specified in paragraph (1) or (2) or assist him/her in doing so.
- (4) The Fair Trade Commission may establish and make public criteria to be observed by Multilevel Marketers in order to prevent violations of this Act and injury to Consumers.

## **Article 24 (Request for Stopping an Act of**

消費者之利益，因多層次企業經營者或依總統令規定所定之消費者組織，從事第23條所禁止之行為，而受侵害或有受侵害之虞者，於終止該等行為會造成或可能造成嚴重損害時，得依據總統令之規定，請求公平交易委員會採取停止該等行為之相關措施。

## 第25條 停業期間之解除權

- (1)多層次企業經營者於自願或因司法所造成之停業期間，仍應依據第8-(1)或-(3)條之規定，行使關於第17-(1)、18-(1)或-(3)條之規定解除契約之業務。
- (2)若多層次企業經營者已停止其營業或撤銷其營業登記，當多層次傳銷業務員已賣出商品，停止營業或撤銷營業登記時多層次企業經營者庫存之商品，多層次傳銷業務員應於解除買賣契約時退還該商品，並在收受退還商品之日起3日內退款。
- (3)已向公平交易委員會、市長/首長等依第13-(1)條之有權主管機關登記之多層次企業經營者，若因宣告破產而被認定無法實際進行業務而登記仍存在時，相關有權主管機關得撤銷其

## **Infringement on Consumer's Interests)**

A Consumer whose interests are infringed on or in danger of being infringed on by a Multilevel Marketing Business Operator engaged in any of the prohibited acts prescribed in Article 23 or a consumer organization specified by a presidential decree, upon determination that such an act is inflicting or is likely to inflict serious injury on the person, may request the Fair Trade Commission take measures to stop the act of infringement in a manner specified by a presidential decree.

### **Article 25 (Withdrawal/Cancellation of Sales Contracts during Business Suspension, etc. )**

- (1) A Multilevel Marketing Business Operator shall, during a voluntary or judicially imposed suspension of business, continue to operate his/her business relating to Withdrawal/Cancellation of sales contracts pursuant to Article 8-(1) or -(3) as applied by Article 17-(1) or Article 18-(1) or -(3).
- (2) If a Multilevel Marketing Business Operator has terminated his/her business or has had his/her business registration canceled, when a Multilevel Marketing Agent has sold the Goods, etc. left in the Multilevel Marketing Business Operator's inventory at the time of business termination or registration cancellation, the Multilevel Marketing Agent shall take returns of the Goods, etc., upon Withdrawal/Cancellation of a sales contract and refund the payment received within 3 days after the date of the arrival of the returned Goods, etc.
- (3) If a Multilevel Marketing Business Operator registered with the Fair Trade Commission or a Mayor/Governor pursuant to Article 13-(1) is judged practically incapable of carrying on business, as

登記。

## 第26條 變更地址之公告

若多層次企業經營者就下列事項發生變更時，公平交易委員會、市長/首長等相關有權主管機關，應依據總理令之方式公告之：

1. 變更其主要營業處所之商業名稱、地址、電話號碼。
2. 依據第13-(3)條自願之停業或休業。
3. 依據第42-(4)條之規定，受司法所造成之停業或撤銷登記。

## 第27條 多層次企業經營者之責任

- (1) 多層次企業經營者應以信件或電子郵件，通知多層次傳銷銷售員第23-(3)條所禁止之行為，以避免其於招募下線或販賣商品時對消費者違反該等規定。
- (2) 若因多層次企業經營者之過失，而未盡第一項之通知義務時，其應就多層次傳銷業務員因違反第23條所禁止之行為，而造成其他多層次傳銷業務員或消費者之損害負賠償責任。
- (3) 第-(2)條之賠償之判斷標準，應依總統令定之，第-(2)條之

when he/she has been declared bankrupt with his/her registration still active, the relevant authority may cancel his/her registration.

## **Article 26 (Public Notice of Change of Address, etc.)**

If any of the following changes has occurred to the status of a Multilevel Marketing Business Operator, the Fair Trade Commission or Mayor/Governor shall give public notice of the facts in a manner specified by a Prime Minister's decree.

1. change of his/her business title or the address/telephone number of his/her main place of business
2. a voluntary suspension or termination of business reported pursuant to Article 13-(3)
3. a judicially imposed suspension or business or a registration cancellation pursuant to Article 42-(4)

## **Article 27 (Responsibilities of Multilevel Marketing Business Operators)**

- (1) A Multilevel Marketing Business Operator shall notify, by letter or email, his/her Multilevel Marketing Agents of provisions of Article 23 prescribing prohibited acts to prevent violating said provisions in recruiting marketing agents under their supervision or selling Goods, etc. to Consumers.
- (2) If a Multilevel Marketing Business Operator has neglected the obligation of notification prescribed in paragraph (1), he/she shall be liable for the damage a Multilevel Marketing Agent has caused to another Multilevel Marketing Agent or a Consumer in violation of the provisions of Article 23 prescribing prohibited acts.
- (3) Criteria for assessing compensation pursuant to paragraph (2) shall

規定不限制多層次傳銷企業經營者向多層次傳銷業務員之求償權。

## 第四章 特定持續性服務要約

### 第28條 締約前提供資訊，及締約時交付契約影本的義務

透過特定持續性服務要約，或以商業要約推銷的買賣交易（下稱為特定持續性服務要約）收取報酬之人（下稱為「特定持續性服務要約企業經營者」），與消費者訂立之特定持續性服務要約，超過總統令規定所訂定之價值與期間之限制時，應在締約前向消費者說明下列事項，以使其了解契約之內容，並應發給消費者包括下列事項之契約影本：

1. 特定持續性服務要約企業經營者之事業名稱、地址、聯絡電話及電子郵件信箱。（倘係以公司型態存在，應包括代表人之姓名）
2. 透過特定持續性服務要約，或以商業要約推銷的買賣交易之商品名稱、種類及內容（包括其他於需要時，分別透過特定持續性服務要約契約所購買之商品）。

be specified by a presidential decree, the provision of paragraph (2) shall not restrict a Multilevel Marketing Business Operator's right to indemnity against a Multilevel Marketing Agent.

## **Chapter 4 Specified Continuous Service Offers, etc.**

### **Article 28 (Requirements for Information Provision Prior to Conclusion of Contract and Issuance of a Copy of Contract upon Conclusion of Contract)**

A person (hereinafter referred to as “Continuous Service Offers Business Operator”) who receives income from specified continuous service offers or business offer soliciting transactions (hereinafter referred to as “Continuous Service Offer, etc.”), in case he/she concludes a Continuous Service Offers, etc. contract with a Consumer for a value and duration exceeding limits specified by a presidential decree, shall explain the following items to the Consumer so that the Consumer will understand the contents of the contract and issue to the Consumer a copy of a sales contract containing the following items.

1. the name of the Continuous Service Offers Business Operator (or the name of the representative, in case of a corporation), his/her business title, address, telephone number and email address
2. the names, types and contents of Goods, etc. sold through Continuous Service Offers (including other Goods, etc. that need to be purchased separately in connection with a Continuous Service Offer, etc., if there is a such need) or of Goods, etc. sold

3. 該商品所應支付之金額（不論稱為介紹費、安裝費或其他名稱，就該商品之交易所應支付之金錢）、付款時間與付款方法。
  4. 交易商品之方法、期間及日期。
  5. 依總統令之規定，於以商業要約推銷的買賣交易時，關於增加收入（提供事業）之交易條件。
  6. 依第29條廢止契約時，就該權利所得行使之方法及效果；行使該權利所應填寫之表格。
  7. 關於消費者之損害賠償、企業經營者與消費者間之訴訟及紛爭解決。
  8. 契約條款。
  9. 其他依總統令之規定，足以影響消費者決定購買商品之交易條件或其他關於救濟消費者損害之必要事項。
- (2) 依第1項之規定與未成年人締約時，於必要之範圍內準用第7-(3)條之規定。
- (3) 持續性服務要約之企業經營者應稟持誠信原則，遵守明示之交易條件與通知消費者第(1)條之事項。

### 第29條 契約之終止

與特定持續性服務要約企業經營者，訂立特定持續性服務要約之消費者，得隨時於期間內終止契約。但於其他法規有特別之規定，或依總統令規定而為了交易安全時，不適用本條之規定。

- through Business Offer Soliciting Transactions.
3. the amount of money payable for Goods, etc, (which is the amount of money paid for the transaction of the Goods, etc., no matter what it is called – induction fee, installation fee, etc.) and payment date and method
  4. method, duration and dates of transaction of Goods, etc
  5. terms of transaction regarding the business offered, which are specified by a presidential decree, in the case of Business Offer Soliciting Transactions
  6. matters concerning rescission of a contract under Article 29, its method and effect, and forms to be filled out for exercising the right to rescission of a contract
  7. matters concerning remedies for consumer injury and resolution of consumer complaints or disputes between Consumer and business operator
  8. provisions of the contract
  9. other conditions of transactions that affect a Consumer's decision-making or matters necessary for remedies for consumer injury as specified by a presidential decree
- (2) If a Continuous Service Offers Business Operator, etc. enters into a contract with a minor pursuant to paragraph (1), Article 7-(3) shall apply *mutatis mutandis*.
- (3) A Continuous Service Offers Business Operator, etc. shall comply in good faith with the conditions of the transaction as indicated or notified to a Consumer pursuant to paragraph (1).

## **Article 29 (Termination of Contract)**

A Consumer who has entered into a Continuous Service Offer, etc. contract with a Continuous Service Offers Business Operator, etc. may terminate the contract at any time during the duration of the contract;

### 第30條 終止或廢止契約之效果與違約金

- (1) 若特定持續性服務要約契約提早被終止或廢止而特定持續性服務要約企業經營者無過失時（不包括依據第八條與第十七條之規定撤回買賣契約要約者情形），特定持續性服務要約企業經營者不得向消費者收取遠超過終止或廢止契約所造成損害之違約金，且就超過其所提供商品價值之部分，不論所支付之款項名稱為簽名費、註冊費或任何名稱，不得拒絕退款於消費者。
- (2) 若特定持續性服務要約契約提早被終止或取消時，消費者得可返退還於特定持續性服務要約企業經營者商品之任何部分，特定持續性服務要約企業經營者就商品之退還應採取退款或減少違約金之處置以償還消費者。
- (3) 若特定持續性服務要約契約提早被終止或取消，而特定持續性服務要約企業經營者有過失時，當依契約所收取之全部付款，超過其所提供商品之總價與已收取之違約金（包括可返還之商品數量），特定持續性服務要約企業經營者應向消費者返還價差。當退款有所遲延時，應就該遲延期間之遲延付款依據總統令規定加計遲延賠償金。

provided that this provision shall not apply to cases stipulated differently by other statutes or specified by a presidential decree for the security of transaction.

### **Article 30 (Effect of Termination or Cancellation of Contract & Penalties)**

- (1) If a Continuous Service Offer, etc. contract is canceled or terminated early due to no fault on the part of a Continuous Service Offers Business Operator, etc. (excluding the cases of withdrawn applications for a sales contract pursuant to Article 8 and 17), the Continuous Service Offers Business Operator, etc. shall not charge the Consumer a penalty greatly in excess of the losses incurred from the cancellation or termination, nor shall he/she deny the Consumer a refund of the payments already received that exceed the value of the Goods, etc. supplied, irrespective of what the payments are called – sign-up fee, registration fee, etc.
- (2) If a Continuous Service Offer contract, etc. is canceled or terminated early, the Consumer may return whatever parts of the Goods, etc. that are returnable to the Continuous Service Offers Business Operator, etc., and the Continuous Service Offers Business Operator, etc. shall take measures to reimburse the Consumer for the returned Goods, etc. by refunding payment or reducing the penalty.
- (3) If a Continuous Service Offer, etc. contract is canceled or terminated early due to no fault on the part of a Continuous Service Offers Business Operator, etc., when the total payments received under the contract exceed the sum of the value of the Goods supplied to the Consumer and the penalty assessed (including the refundable amount for returned Goods, etc.), the Continuous Service Offers Business Operator, etc. shall refund the difference

- (4)若就消費者提早終止契約或取消契約之可歸責性、依據第(1)條所為之退款或契約訂立之事實及時點、商品交付之事實與時點，應由特定持續性服務要約契約企業經營者負舉證責任。
- (5)公平交易委員會得就依第-(1)條所收取之違約金，或依第-(2)條規定之退款與違約金之酌減建立公開標準，以避免就該等事項發生爭議。

### 第31條 交易記錄之閱覽

特定持續性服務要約企業經營者應記錄商品之交易，並提供消費者依總統令規定之方式，取得以檢閱之。

### 第32條 禁止行為

- (1)特定持續性服務要約企業經營者不得為下列之行為：
1. 強制消費者訂定買賣契約，或脅迫消費者不得終止或取消契約。
  2. 為虛偽或誇張之事實陳述，或以欺騙之手段誘使消費者訂定契約，或妨礙消費者終止或取消買賣契約之行為。

to the Consumer. When a refund is delayed in such a case, Compensation for Delayed Payment shall be added to the refund for the delayed period in a manner specified by a Prime Minister's decree.

- (4) If disputes arise over a Consumer's accountability for a cancellation or early termination of a contract or refund of payment pursuant to paragraph (1), facts and dates relating to the conclusion of a contract, and facts and dates relating to the delivery of Goods, etc., the burden of proof shall lie with the Continuous Service Offers Business Operator, etc.
- (5) The Fair Trade Commission may establish and make public criteria for assessing penalties pursuant to paragraph (1) and refunds or reductions in penalties pursuant to paragraph (2) in order to prevent disputes over such matters.

### **Article 31 (Viewing of Transaction Records, etc.)**

A Continuous Service Offers Business Operator, etc. shall make his/her records of transactions of Goods, etc. available for inspection by a Consumer in a manner specified by a presidential decree.

### **Article 32 (Prohibited Acts)**

- (1) A Continuous Service Offers Business Operator, etc. shall not engage in any of the following acts.
  1. coercing a Consumer to enter into a contract or intimidating a Consumer in order to prevent him/her from terminating or canceling a sales contract
  2. misrepresenting or exaggerating facts, soliciting a contract from a Consumer by deceptive practices or conducting acts aimed at preventing a Consumer from terminating or canceling a contract

3. 依契約以遠高於通常交易之價格，強迫消費者購買商品。
  4. 當消費者取消或廢止契約時，遲延或拒絕採取進一步之必要處置。
  5. 為避免消費者撤銷或解除買賣契約，而變更其地址或電話。
  6. 未在相當期間內，設置必要之人力或設備處理紛爭或申訴，而致生損害於消費者。
  7. 未經消費者之要約，而對之交付商品並要求付款。
  8. 透過電話、傳真或電腦媒介之方式，強制消費者購買其明示不欲購買之商品或服務。
- (2) 為避免因違反本條之規定而使消費者受到損害，公平交易委員會得訂定特定持續性服務要約企業經營者應遵守之公開標準。

## 第五章 消費者權益之保障

### 第33條 消費者保護準則之建立

- (1) 公平交易委員會得就訪問買賣、多層次傳銷及特定持續性服務要約契約（下稱為特種買賣），建立保護消費者權利之準則（下稱「消費者保護準則」），並透過聽取主要股東及相關組織之意見，及勸導企業經營者，以自治之模式遵守該準

3. compelling a Consumer to purchase Goods, etc. under a contract at prices far higher than the
  4. delaying, or refusing to implement, measures necessary to follow up on a termination or cancellation of a contract by a Consumer
  5. altering one's address or telephone number for the purpose of preventing a Consumer from terminating or canceling a contract
  6. leaving unattended for a considerable period of time deficiencies in personnel or facilities needed to handle consumer complaints or disputes, thereby causing harm to a Consumer
  7. delivering Goods, etc. to a Consumer and demanding payment for it, when there has been no application from the Consumer for a sales contract
  8. coercing a Consumer by telephone, facsimile or computer communications to purchase goods or services, although he/she has indicated that he/she has no intention to purchase such goods or services
- (2) The Fair Trade Commission may establish and make public criteria to be observed by Continuous Service Offers Business Operators, etc. in order to prevent violations of this Act and injury to Consumers.

## **Chapter 5 Protection of Consumer Rights**

### **Article 33 (Establishment of Consumer Protection Guidelines, etc.)**

- (1) The Fair Trade Commission may set up guidelines for protecting consumer rights (hereinafter referred to as “Consumer Protection Guidelines”) in Door-to-door Sales, Telemarketing, Multilevel Marketing and Specified Continuous Service Offers (hereinafter

則，以建立交易市場之正常秩序。

- (2) 透過特種買賣獲得報酬之人（下稱為「特種買賣企業經營者」），就任何較不利於消費者保護準則之契約條款，應以容易加以辨識之方式明示或通知消費者。

### 第34條 消費者賠償保險契約

- (1) 多層次傳銷人欲依據第13-(1)條登記其事業者，應締結下列之契約（下稱為消費者賠償保險契約）：
1. 就消費者之損害賠償與保險公司訂定保險契約。
  2. 就債務與銀行訂定保證契約，以保障消費者遲延損害之賠償權利。
  3. 依第35條建立之互助合作社，訂定契約。
- (2) 公平交易委員會應積極鼓勵訪問買賣、多層次傳銷及特定持續性服務要約之企業經營者，訂立消費者賠償保險契約。
- (3) 消費者賠償保險契約之範圍，應足以賠償因違反本法而致消費者所受之損害。該契約之具體標準應依總統令之規定定

referred to as “Special Sales”) by listening to major stakeholders, relevant organizations and induce business operators to observe the guidelines on an autonomous basis with a view to establishing a sound order of trade in those markets.

- (2) A person who receives income from Special Sales (hereinafter referred to as a “Special Sales Business Operator”) shall indicate or notify to a Consumer, in a manner easily noticeable by the Consumer, any provisions in the contract he/she uses, which are more disadvantageous to Consumers than what is recommended by the Consumer Protection Guidelines.

### **Article 34 (Consumer Indemnity Insurance Contract, etc.)**

- (1) A Multilevel Marketer, who wants to register his/her business pursuant to Article 13-(1), shall conclude all of the following contracts (hereinafter referred to as “Consumer Indemnity Insurance Contract, etc.”)
  1. a contract with an insurance company for payment of indemnity for consumer injury
  2. a debt payment guarantee contract with a bank, aimed at protecting consumers against delayed payment of redress for injury
  3. a contract with a mutual aid cooperative established pursuant to Article 35
- (2) The Fair Trade Commission may strongly encourage business operators in Door-to-door Sales, Telemarketing and Continuous Service Offers to enter into a Consumer Indemnity Insurance Contract, etc..
- (3) A Consumer Indemnity Insurance Contract, etc. shall be of sufficient size to cover redress for consumer injury occurring from

之。

- (4)依消費者賠償保險契約應負賠償責任之一方，一旦賠償原因發生，應立即賠償消費者。若遲延付款，應給付遲延賠償金。
- (5)企業經營者不得提供消費者，就消費者賠償保險契約不實之資訊以締結契約。
- (6)企業經營者已投保消費者賠償保險契約者，得使用標章以告知此一事實。
- (7)企業經營者未投保消費者賠償保險契約者，不得使用第六項之標章，亦不得使用偽造之標章。

### 第35條 互助合作社之建立

- (1)企業經營者已分別依第5及13條之規定通知或登記，得依公平交易委員會之核准建立互相援助之合作社（以下稱之為互助合作社），以實行第34-(1)-3條之合作社活動，其包括給付消費者損害賠償之保險事業。關於互助合作社之同意標準，應依據總統令之規定定之。
- (2)互助合作社應為法人之型態，並在其主要營業處所公開登記設立之。

- violations of this Act. Specific criteria for such contracts shall be specified by a presidential decree.
- (4) A party liable to pay redress to a Consumer under a Consumer Indemnity Insurance Contract, etc. shall make payment without delay once a cause for it arises. In the event of a delay in such payment, the payer shall pay Compensation for Delayed Payment as well.
  - (5) A business operator shall not provide false information about his/her business such as sales figures to suppliers of a Consumer Indemnity Insurance Contract, etc. to enter into or maintain such contracts. <Amended 1-19-2007>
  - (6) A business operator covered by a Consumer Indemnity Insurance Contract, etc. may use a mark announcing that fact.
  - (7) A business operator not covered by a Consumer Indemnity Insurance Contract, etc. shall not use a mark prescribed in paragraph (6), nor shall he/she make or use a fake mark.

### **Article 35 (Establishment of Mutual Aid Cooperatives)**

- (1) A business operator who has reported or registered his/her business pursuant to Article 5 and 13 respectively may, upon approval by the Fair Trade Commission, establish a mutual aid cooperative (hereinafter referred to as “Mutual Aid Cooperative”) to conduct co-op activities prescribed in Article 34-(1)-3, including an insurance business for paying injury damages to Consumers. Specific criteria for approval of a Mutual Aid Cooperative shall be determined by a presidential decree.
- (2) A Mutual Aid Cooperative shall be a corporation, and it shall come into existence by registering its business with the public registry of the region in which its main office is located.

- (3)互助合作社之成員，應繳納必要之資金以供互助合作活動之進行。
- (4)互助合作社之資產原則上來自成員之投資；但政府得投資或設立一定之預算以提供財務支援。
- (5)關於互助合作社會員之資格、資本之提供與標準應由設立章程中定之。
- (6)關於建立互助合作社之同意程序、項目應於設立章程中定之，而互助合作社之運作應依據總統令定之。〈2005年12月29日修正〉
- (7)若互助合作社欲依第(1)條之規定進行互助事業，應得公平交易委員會之同意準備事業章程(business regulation)，其後之變更亦應得公平交易委員會之同意。
- (8)依第(7)條訂立之商業章程，應就營業事業規定包含融資事業活動之營業範圍、報酬率、責任限制等。
- (9)其他本法未規定之事項，應依照民法法人之規定。
- (10)本法之互助合作社不適用商業保險法之規定。

### 第35.2條 互助合作社之監督

- (3) A member of a Mutual Aid Cooperative shall make the required capital contribution to the Cooperative, which is used to finance co-op activities.
- (4) The basic assets of a Mutual Aid Cooperative will principally come from the capital investments made by its members; provided that the Government may invest in, or provide financial assistance, to a Mutual Aid Cooperative, within a budget set for such purpose.
- (5) Matters concerning the qualifications of co-op members, officers and criteria for capital investments shall be specified by the articles of incorporation.
- (6) Matters concerning procedures of approval for establishment of a Mutual Aid Cooperative, items to be included in the articles of incorporations and operation of a Mutual Aid Cooperative shall be specified by a presidential decree. <Amended 12-29-2005>
- (7) If a Mutual Aid Cooperative wants to undertake mutual aid business pursuant to paragraph (1), it shall prepare business regulations, which shall be subject to approval by the Fair Trade Commission, as shall any later modifications to the regulations.
- (8) The business regulations drawn up pursuant to Article 7 shall prescribe key issues relating to the operation of business such as the scope of business, premium rates and responsibility reserves for financing business activities, etc.
- (9) Other matters relating to Mutual Aid Cooperatives that are not specified by this Act shall be subject to the provisions of the Civil Act pertaining to corporations.
- (10) The Insurance Business Act shall not be applicable to the business undertaken by Mutual Aid Cooperatives pursuant to this Act.

## **Article 35.2 (Supervision of Mutual Aid Cooperatives)**

- (1) 公平交易委員會於必要時，得要求互助合作社提交其營業報告，或採取其他必要之手段，或要求公務員查核該互助合作社，或檢驗營業記錄與包含帳簿之文件。
- (2) 公平交易委員會得要求互助合作社糾正其矛盾之活動狀態，或設立之章程或要求其採取必要之行為，以救濟消費者之損害。
- (3) 公務員依據第(1)條之規定執行查核或檢驗時，應於隨同當事人並出示其有權實施查核或檢驗之相關證明文件。

<2005年12月29日增訂>

### 第36條 特種買賣消費者組織之財務援助

為了建立公平交易市場，與保障消費者於特種買賣之權利，公平交易委員會得設立一定之預算以提供機構或組織財務支援。

## 第六章 調查與監督

### 第37條 違法行為之調查

- (1) 若公平交易委員會、市長／首長、或市長／郡長／首領有充分之理由懷疑有違反本法之情形，得依職權調查之；但關於

- (1) The Fair Trade Commission may, if deemed necessary, order a Mutual Aid Cooperative to submit a report on its business or take other necessary actions or have public officials inspect the business of a Mutual Aid Cooperative or examine business records and documents including its account books.
  - (2) The Fair Trade Commission may order a Mutual Aid Cooperative to rectify activities that contradict statutes or its own articles of incorporation and demand that it take necessary actions to remedy consumer injury.
  - (3) A public official conducting inspections or examinations under paragraph (1) shall carry with him/her and present to the relevant counterparty a proof of his/her authority to undertake such actions.
- [This Article Newly Added 12-29-2005]

### **Article 36 (Financial Assistance to Consumer Organizations related to Special Sales, etc.)**

The Fair Trade Commission may provide financial assistance to agencies or organizations involved in activities aimed at establishing the fairness of trade and protecting consumer rights in Special Sales, within a budget set for such purpose.

## **Chapter 6 Investigations & Supervision**

### **Article 37 (Investigation of Violations)**

- (1) If the Fair Trade Commission, Mayor/Governor, or mayor/county governor/ward chief has sufficient grounds for suspecting a violation of this Act, he/she may, by virtue of his/her office,

違反多層次傳銷之情形，僅公平交易委員會與市長／首長得為調查。〈2005年3月31日修正〉

- (2)若市長／首長、或市長／郡長／首領如依據第一項之規定發動調查，應通報公平交易委員會。若公平交易委員會已先為調查時得要求市長／首長、或市長／郡長／首領停止其調查。除有充分正當事由外，市長／首長、或市長／郡長／首領應停止其調查。〈2005年3月31日修正〉
  
- (3)若市長／首長、或市長／郡長／首領已依第(1)及(2)條之規定進行調查，其應給予被調查之一方關於調查結果之書面通知。〈2005年3月31日修正〉
  
- (4)若有任何違反本法之情形，應報告公平交易委員會、市長／首長、或市長／郡長／首領；但關於違反多層次傳銷之情形，僅得通報公平交易委員會與市長／首長。〈2005年3月31日修正〉
  
- (5)若違反本法已超過五年，公平交易委員會不得為第42條之糾正措施，或第44條之罰則。

### 第38條 不當行為資訊之揭露

- initiate an investigation into the matter; provided that as for violations of the provisions concerning Multilevel Marketing, only the Fair Trade Commission or Mayor/Governor may initiate an investigation.<Amended 3-31-2005>
- (2) If a Mayor/Governor or mayor/county governor/ward chief intends to initiate an investigation pursuant to paragraph (1), he/she shall notify the Fair Trade Commission of his/her intention. The Fair Trade Commission may request that the Mayor/Governor or mayor/county governor/ward chief discontinue such an investigation when it is likely to duplicate an investigation by the Commission. Upon such a request from the Commission, the Mayor/Governor or mayor/county governor/ward chief shall halt the investigation unless he/she has sufficiently justifiable grounds for rejecting it. <Amended 3-31-2005>
  - (3) If a Mayor/Governor or mayor/county governor/ward chief has undertaken an investigation pursuant to paragraph (1) or (2), he/she shall give the investigated party a written notification of the results of the investigation (including any corrective actions he/she intends to order). <Amended 3-31-2005>
  - (4) In case anyone suspects a violation of this Act, he/she may report it to the Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief; provided that such a report shall be made only to the Fair Trade Commission or Mayor/Governor when the violation involves Multilevel Marketing. <Amended 3-31-2005>
  - (5) When five years have passed from the date on which a violation of this Act has ended, the Fair Trade Commission shall not order corrective action against the violation pursuant to Article 42 or impose a monetary penalty on the offender pursuant to Article 44.

## **Article 38 (Disclosure of Information about**

為了建立公平交易市場，與避免消費者於特種買賣中受到損害，公平交易委員會得依據總統令之規定，於適當時揭露特種買賣企業經營者違反本法規定，或其他不當之行為。

### 第39條 公正評價與認證事業

- (1)為確保交易之公平，與保障消費者於特種買賣中之權利，從事評價與認證之事業（以下稱之為評價與認證服務提供者），不論其事業名稱為何，皆應公開其評價與認證之標準與方法，且公平地依據該標準進行評價與認證。
- (2)依第(1)條所建立之評價與認證之標準與方法，應將其為了交易之公平與保障消費者之權利所為之努力成果，予以適當地傳達。
- (3)公平交易委員會得指揮監督評價與認證服務提供者，交付其目前事業營運情況之資料。

### 第40條 通報與監督

- (1)當市長／首長、或市長／郡長／首領分別依第41及42條之規

### **Illegitimate Acts, etc.)**

The Fair Trade Commission may disclose information about violations of this Act or other wrongful acts committed by a Special Sales Business Operator in a manner specified by a presidential decree, when such disclosure is considered necessary for establishing the fairness of trade and preventing consumer injury in Special Sales.

### **Article 39 (Fairness in Assessment and Certification Business)**

- (1) A person who is in the business of assessing and certifying relevant business operators for the purpose of securing the fairness of trade and protecting consumer rights in Special Sales (hereinafter referred to as “Assessment and Certification Service Provider”), irrespective of what his/her business is called, shall give public notice of his/her criteria and methods of assessment and certification and carry out assessments and certifications in a fair manner compliant with such criteria.
- (2) The criteria and methods of assessment and certification established pursuant to paragraph (1) shall be appropriate for delivering information about the efforts made by business operators to establish the fairness of trade and protect consumer rights and the achievements attained as a result of such efforts.
- (3) The Fair Trade Commission may direct an Assessment and Certification Service Provider to submit data showing the current status of operation of his/her business.

### **Article 40 (Reporting & Supervision)**

- (1) When a Mayor/Governor or mayor/county governor/ward chief has recommended or ordered corrective action pursuant to Article

定，為勸喻或糾正命令時，應依據總統令之規定將此事實通報公平交易委員會。〈2005年3月31日修正〉

- (2)公平交易委員會為確保本法有效實行，得要求有權之市長／首長、或市長／郡長／首領進行調查、確認事實、交付資料或對企業經營者為必要之糾正命令。除有特別之理由外，市長／首長、或市長／郡長／首領應遵守公平交易委員會之要求。〈2005年3月31日修正〉

## 第七章 糾正措施及罰款

### 第41條 糾正措施的勸喻

- (1)若公平交易委員會、市長／首長、或市長／郡長／首領發現企業經營者違反本法或未履行其於本法下之義務時，得於依第42條核發糾正措施前，對該等企業經營者進行糾正措施的勸喻，強烈建議其停止違反行為或完成其於本法下之義務。於此情形中，該勸喻應附隨一通知，告知企業經營者若接受糾正措施的勸喻，第(3)條規定之糾正措施命令之核發視為已完成。
- (2)收受第(2)糾正措施勸喻之企業經營者，應於10日內回覆相關

41 and 42 respectively, he/she shall report the fact to the Fair Trade Commission in a manner specified by a presidential decree. <Amended 3-31-2005>

- (2) The Fair Trade Commission may, if deemed necessary for effective enforcement of this Act, require the competent Mayor/Governor or mayor/county governor/ward chief to undertake an investigation, verify facts or submit data or to take necessary corrective action against a business operator. In such case, the Mayor/Governor or mayor/county governor/ward chief shall comply with the demand unless he/she has special reasons for not doing so. <Amended 3-31-2005>

## **Chapter 7 Corrective Actions and Monetary Penalties**

### **Article 41 (Recommendation of Corrective Actions)**

- (1) If the Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief finds a business operator in violation of this Act or negligent in carrying out his/her obligations under this Act, he/she may recommend corrective actions to the business operator, prior to issuing an order of corrective actions pursuant to Article 42, strongly encouraging him/her to halt the violation act or fulfill his/her obligations under this Act. In such case, the recommendation shall be accompanied by a notification that if the business operator accepts the recommended actions, it will be construed as having fulfilled an order of corrective actions issued pursuant to paragraph (3). <Amended 3-31-2005>
- (2) A business operator who has received a recommendation of

主管機關，明示其是否接受該勸喻。

- (3) 企業經營者接受第(1)條糾正措施勸喻時，第42條規定之糾正措施命令視為已核發完成。

### 第42條 糾正措施

- (1) 公平交易委員會於企業經營者為下列行為，或未履行其於本法下之義務時，得核發糾正措施命令。〈2007年1月19日修正〉

1. 違反第5-(1)或-(3)條、第6條、第7-(1)、-(3)、-(5)條、第8-(6)條、第9條、第10-(1)條、第12-(1)條、第13-(1)、-(3)及-(5)條、第14條、第23條、第25-(1)、-(2)條、第27-(1)、-(2)、第28條、第30-(1)或-(3)條、第31條、第33-(2)條、第34-(1)、-(4)、-(5)、-(7)條、第39-(1)及-(2)條，或第48條規定。
2. 為第11-(1)條、第23-(1)條，及第32-(1)條規定所禁止之行為。

- (2) 第(1)條規定所為之糾正措施應包含下列各款內容：

1. 停止系爭違反行為。
2. 履行其於本法下之義務。
3. 公告糾正措施命令中的違法事實。

4. 其他糾正該違法行為之必要措施。

- (3) 第(2)-3條應公告之糾正措施命令中的違法事實由總統令訂

corrective actions pursuant to paragraph (1) shall have 10 days to reply to the relevant authority, indicating whether or not he/she accepts the recommendation.

- (3) In a case in which a business operator who has received a recommendation of corrective actions pursuant to paragraph (1) accepts the recommendation, it shall be construed as having fulfilled an order of corrective actions issued pursuant to Article 42.

## **Article 42 (Corrective Actions)**

- (1) The Fair Trade Commission may order corrective actions be made by a business operator who has engaged in any of the following acts or neglected fulfilling his/her obligations under this Act. <Amended 1-19-2007>
1. an act in violation of Article 5-(1) or -(3), Article 6, Article 7-(1) or -(3) and -(5), Article 8-(6), Article 9, Article 10-(1), Article 12-(1), Article 13-(1) or -(3) and -(5), Article 14 or 23, Article 25-(1) and -(2), Article 27-(1) and -(2), Article 28, Article 30-(1) or -(3), Article 31, Article 33-(2), Article 34-(1), -(4), -(5) and -(7), Article 39-(1) and -(2), or Article 48.
  2. an act prohibited by Article 11-(1), Article 23-(1) and Article 32-(1)
- (2) Corrective actions that can be ordered pursuant to paragraph (1) shall include the following.
1. cessation of the violation in question
  2. fulfillment of obligations under this Act
  3. issuing public notice of the fact that corrective actions have been ordered
  4. other measures necessary to correct the violation
- (3) Matters relating to the process of giving public notice of facts

之。

(4)若企業經營者於第(1)條糾正措施命令後仍再度為違反行為或不執行該糾正措施，公平交易委員會得命該企業經營者於一年以下期間內停止其部分或全部事業。公平交易委員會於下列情形下得撤銷該企業經營者之登記：

1. 企業經營者以詐欺或其他不法行為取得第13-(1)條之登記。
2. 企業經營者有第14條規定不符資格情事者。
3. 企業經營者喪失第34-(1)條規定之消費者補償保險契約等。

### 第43條 消費者爭議調解之要求

(1)消費者請求因違反本法之特殊銷售損害賠償救濟時，公平交易委員會、市長／首長、或市長／郡長／首領得於第41及42條糾正措施勸喻或糾正措施命令核發予企業經營者前，移轉案件至致力於特殊販賣之消費者保護機構、組織或其他由總統令指定解決之消費者爭端和解組織。〈2005年3月31日修正〉

(2)公平交易委員會、市長／首長、或市長／郡長／首領，應通知依第(1)條之項規定案件移轉至消費者組織之企業經營者，若其接受和解建議或前述組織之調解，則其免得依第42條核

about corrective actions ordered pursuant to paragraph (2)-3 shall be specified by a presidential decree.

- (4) If a business operator repeats a violation after corrective actions have been ordered pursuant to paragraph (1) or fails to carry out such ordered corrective actions, the Fair Trade Commission may order his/her business suspended partially or fully for a period of less than a year; provided that the Fair Trade Commission may revoke the registration of a business operator in any of the following circumstances.
1. when the business operator obtained registration under Article 13-(1) by deception or other illegitimate methods
  2. when the business operator falls under any of the disqualifying conditions provided in Article 14
  3. when the business operator has lost any of the Consumer Indemnity Insurance Contract, etc. provided in Article 34-(1)

### **Article 43 (Request for Consumer Dispute Mediation)**

- (1) When a Consumer has requested remedies for injury in Special Sales suffered from a violation of this Act, the Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief may, prior to recommending or ordering corrective actions to the business operator concerned pursuant to Article 41 and 42 respectively, refer the case to an agency or organization dedicated to consumer protection in Special Sales or other consumer dispute settlement organizations specified by a presidential decree for resolution. <Amended 3-31-2005>
- (2) The Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief shall notify the business operator involved in a case referred to a consumer organization pursuant to paragraph

發之糾正措施命令。

- (3) 若案件依第一項規定移轉至消費者組織且企業經營者接受和解建議或前述組織之調解，公平交易委員會、市長／首長、或市長／郡長／首領不得依第四十二條之規定核發糾正措施命令。於本情形下，第三十七條第五項之規定不適用之。
- (4) 移轉消費者爭議案件至第(1)條消費者組織調解時，公平交易委員會得於該目的之預算範圍內提供該等組織進行該等案件之財務協助。

#### 第44條 罰款

- (1) 若特殊銷售企業經營者於第42條之糾正措施命令核發後再度為違反行為，或僅糾正措施不足以避免消費者免於該行為造成之損害，公平交易委員會得命該企業經營者於一年以下期間內停止部分或全部事業，或對該企業經營者課徵不超過總統令明定違法行為相關銷售額之罰款。於此情形下，若無與違法行為相關之銷售致無法計算罰款時，公平交易委員會得課徵不超過五千萬韓元之罰款。
- (2) 公平交易委員會於課徵第(1)條罰款時，應考量下列各款情事：
  - 1. 消費者因該違法行為所受之損害。

- (1) that if he/she accepts the settlement recommended or mediated by the aforementioned organization, he/she shall be exempt from corrective actions that can be ordered under Article 42. <Amended 3-31-2005>
- (3) In a case referred to a consumer organization pursuant to paragraph (1), the Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief shall not order corrective actions be made by the business operator involved under Article 42, if he/she accepts a resolution recommended or mediated by the aforementioned organization. In this case, Article 37-(5) shall not apply.
- (4) When referring a consumer dispute to a consumer organization for mediation under paragraph (1), the Fair Trade Commission may provide the organization with financial assistance needed to discharge the case, within a budget set for such purpose.

#### **Article 44 (Monetary Penalties)**

- (1) If a Special Sales Business Operator repeats a violation of this Act after corrective actions have been ordered pursuant to Article 42 or if corrective actions alone are not considered sufficient to prevent consumer injury caused by such an act, the Fair Trade Commission may order his/her business suspended partially or fully for a period less than a year or impose on the business operator a monetary penalty not exceeding the value of sales associated with the violation as specified by a presidential decree. In such case, when no sales are associated with such a violation or such sales are impossible to assess, the Fair Trade Commission may set the monetary penalty at an amount not exceeding 50 million won.
- (2) The Fair Trade Commission shall consider the following in assessing a monetary penalty pursuant to paragraph (1).
1. the amount of consumer injury caused by the violation

2. 企業經營者補償消費者所受損害之努力程度。
  3. 因該違法行為所獲之利益。
  4. 違法行為之本質，包含違法行為持續的期間及頻率。
- (3) 若因違反本法而應負責之特殊銷售企業經營者與他公司合併，合併後之存續或新設公司仍負擔違法行為之責任，公平交易委員會仍得對其課徵罰款。
- (4) 第(1)條之罰款付款到期日、罰款分期付款、罰款收取與返還，及不支付罰款之決定準用壟斷及公平交易法第55.4條及第55.6條之規定。〈2004年12月31日修正〉

## 第八章 附則

### 第45條 消費者不利益銷售契約禁止

違反第7條、第10條、第16條、第19條、第28條或第30條之規定，且對消費者不利之契約條款無效。

### 第46條 法院管轄權

任何依據本法對特殊銷售企業經營者提起之訴訟，原告消費者住

2. the extent of efforts made by the business operator to compensate Consumers for the injury they suffered
  3. the amount of profits gained from the violation
  4. the nature of the violation, the duration which it has persisted, and its frequency
- (3) If the company of a Special Sales Business Operator responsible for a violation of this Act is merged with another company, the Fair Trade Commission may hold the surviving or newly created company from the merger liable for the violation and thereby impose a monetary penalty on it.
- (4) Article 55.4 and Article 55.6 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the extension of the payment due date for a monetary penalty, the payment of a monetary penalty in installments, the collection and refunding of monetary penalties and the determination of actions on nonpayment of monetary penalties under paragraph (1). <Amended 12- 31- 2004>

## **Chapter 8 Supplementary Provisions**

### **Article 45 (Prohibition of Sales Contracts Disadvantageous to Consumers)**

Any provision in a contract which violates Article 7 or 10, Article 16 or 19, or Article 28 or 30 and is disadvantageous to a Consumer shall be invalid.

### **Article 46 (Jurisdiction of Trial Court)**

Any lawsuit brought against a Special Sales Business Operator under

所地或原告消費者無住所地時之住所地地方法院有管轄權，但原告住所地或居所地不明時本條款不適用。

### 第47條 同業公會等登記

(1)為協助特殊銷售健全發展、改善消費者對特殊銷售之信心、促進其成員共同利益所設立之同業公會，得依總統令所公布之方法向公平交易委員會登記。

(2)第(1)條登記相關之要件、方法及程序應由總統令定之。

### 第48條 消費者資訊之誤用、濫用及竊取禁止

特殊銷售企業經營者之消費者資訊蒐集與使用，準用本法第11條電子商務之消費者保護等規定。於此種情況下，「電子商務或郵購買賣」視為特殊販賣。

### 第49條 權限之委任及委託

(1)公平交易委員會得將本法授予之部分權限，委任主管政府機關之首長或市政府／縣政府，或依總統令頒佈之方式委託其

this Act shall fall under the jurisdiction of the regional court of the district in which the plaintiff Consumer has his/her address or his/her domicile in the absence of such address; provided that this provision shall not apply when it is difficult to establish the plaintiff's address or domicile.

### **Article 47 (Registration of Trade association, etc.)**

- (1) A trade association established for the purposes of assisting the sound development of Special Sales, improving consumer confidence in Special Sales and advancing other common interests of its members may register with the Fair Trade Commission in a manner specified by a presidential decree.
- (2) Matters relating to requirements for, methods and procedures of, and registration pursuant to paragraph (1) shall be specified by a presidential decree.

### **Article 48 (Prevention of Misuse, Abuse & Theft of Information about Consumers)**

Article 11 of the Act for Consumer Protection in Electronic Commerce, etc. shall apply mutatis mutandis to Special Sales Business Operators regarding their collection and use of information about Consumers. In such case, "Electronic Commerce or Mail-order Sales" shall be construed as meaning "Special Sales".

### **Article 49 (Delegation & Entrusting of Powers )**

- (1) The Fair Trade Commission may delegate part of its powers established under this Act to the head of the competent government

他相關行政機關之首長。

- (2)市長／首長得將本法授予之部分權限，依總統令頒佈之方法委任主管市長、郡長或首領。〈2005年3月31日修正〉
- (3)公平交易委員會為確保本法有效實行，得將其部分業務委託依第47條規定登記之同業公會。
- (4)公平交易委員會依第(3)條規定委託業務之同業公會職員，應於其適用之罰則第129或132條範圍內視為公務員。

## 第50條 壟斷及公平交易法之適用

- (1)公平交易委員會依本法所為之審議或決定應準用壟斷及公平交易法第42條、第45條及第52條規定。
- (2)公平交易委員會、市長／首長、或市長／郡長／首領調查違反本法之行為時，應準用壟斷及公平交易法第50-(1)至-(4)條規定。
- (3)區域法院就由提起保護訴訟之決定，應準用壟斷及公平交易法第53條、第53.2條、第54條、第55條，及第55.2之規定。

agency or Mayor/Governor or entrust it to the head of other relevant administrative agencies in a manner specified by a presidential decree.

- (2) A Mayor/Governor may delegate part of his/her powers established under this Act to the competent mayor/county governor/ward chief in a manner specified by a presidential decree. <Amended 3-31-2005>
- (3) The Fair Trade Commission may, if deemed necessary for ensuring the effective enforcement of this Act, entrust part of its activities to a trade association registered pursuant to Article 47.
- (4) The officers and staff of a trade association to which the Fair Trade Commission has entrusted its activities under paragraph (3) shall be deemed public officials to the extent that the Penal Provisions of Article 129 or 132 apply to them.

## **Article 50 (Application of Monopoly Regulation and Fair Trade Act)**

- (1) Article 42 or 45 and Article 52 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the deliberation on, and resolution of, matters by the Fair Trade Commission under this Act.
- (2) Article 50-(1) or -(4) of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to an investigation undertaken by the Fair Trade Commission, Mayor/Governor, or mayor/county governor/ward chief into an act in violation of this Act. <Amended 3-31-2005>
- (3) Article 53, Article 53.2, Article 54, Article 55 and Article 55.2 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the determination of the regional court with jurisdiction over a lawsuit brought to protest corrective actions ordered by

- (4)公平交易委員會委員、處理或曾處理壟斷及公平交易法中所規定活動之公務員應準用壟斷及公平交易法第62條之規定。

## 第九章 罰則

### 第51條 罰則

- (1)有下列各款情事者，應處七年以下有期徒刑或併科兩億韓元以下之罰金。於上述情形中，若與違反情事相關之販賣或交易總金額的3倍超過兩億韓元，則行為人應處以七年以下有期徒刑，或併科相當於該販賣或交易總金額3倍以下之罰金。

1. 違反第13-(1)條之規定，未經登記設立、管理或營運多層次傳銷事業，包含該登記已依第42-(4)條經撤銷之情形。
2. 設立、管理或營運多層次傳銷事業者係以詐欺或其他不法方式取得登記，包含行為人為第23-(1)-12條所規定規定所禁止之行為。

- (2)得併科第一項規定之有期徒刑及罰金。

the Fair Trade Commission or by the Mayor/Governor under the powers delegated to by the Fair Trade Commission pursuant to Article 49 or to have the execution of such actions suspended by the court.

- (4) Article 62 of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis to the Commissioners of the Fair Trade Commission or public officials who are engaged or used to be engaged in the activities prescribed by this Act.

## **Chapter 9 Penal Provisions**

### **Article 51 (Penal Provisions)**

- (1) A person falling under any of the following categories shall be punishable by imprisonment for not more than 7 years and/or a fine not more than 200 million won. In such case, when the sum of total sales or transacted money associated with the violation multiplied by 3 exceeds 200 million won, the perpetrator shall be punishable by imprisonment for not more than 7 years and/or a fine not more than an amount equal to three times the value of total sales or transacted money.
1. a person who, in violation of Article 13-(1), establishes, manages or operates a Multilevel Marketing organization without obtaining registration (including cases in which the registration has been canceled pursuant to Article 42-(4))
  2. a person who establishes, manages or operates a Multilevel Marketing organization with registration obtained by deception or other illegitimate methods (as well as a person who has committed the prohibited act prescribed in Article 23-(1)-12)
- (2) The imprisonment and fine penalties prescribed in paragraph (1)

### 第52條 罰則

(1) 有下列各款情事者，應處五年以下有期徒刑或併科一億五千萬韓元以下之罰金。

1. 違反第22-(2)條之規定者。
2. 為第23(1)-1至-(4)條規定所禁止之行為者。
3. 違反第23-(2)條之規定，進行財產之分配而未為商品之交易，或實際上為財產分配而掩飾為商品交易者。

(2) 得併科第(1)條規定之有期徒刑及罰金。

### 第53條 罰則

(1) 有下列各款情事者，應處三年以下有期徒刑或併科一億韓元以下之罰金。〈2007年1月19日修正〉

1. 違反第13-(2)或-(3)規定，以詐欺方式獲取登記者。
2. 違反第15-(5)條規定，於多層次傳銷業務員手冊中含括不實資訊者。
3. 違反第18-(2)條規定，未退還販售商品價金等。
4. 違反第20-(3)或-(5)條者。
5. 違反第21-(1)或-(3)者。
6. 違反第22-(1)或-(4)條者。

may both be applied together..

### **Article 52 (Penal Provisions)**

- (1) A person falling under any of the following categories shall be punishable by imprisonment for not more than 5 years and/or a fine not more than 150 million won.
  1. a person who has violated Article 22-(2)
  2. a person who has committed any of the acts prohibited by Article 23-(1)-1, -2, -3 and -4
  3. a person who, in violation of Article 23-(2), has engaged in financial transactions without trade of Goods or who has practically engaged in financial transactions by disguising them as trade of Goods
- (2) The imprisonment and fine penalties prescribed in paragraph (1) may both be applied together.

### **Article 53 (Penal Provisions)**

- (1) A person falling under any of the following categories shall be punishable by imprisonment for not more than 3 years and/or a fine not more than 100 million won. <Amended 1-19-2007>
  1. a person who, in violation of Article 13-(2) or -(3), has obtained registration by deceptive practices
  2. a person who, in violation of Article 15-(5), has included false information in a Multilevel Marketing Agent's manual
  3. a person who, in violation of Article 18-(2), has failed to refund the payment of Goods, etc
  4. a person who has violated Article 20-(3) or -(5)
  5. a person who has violated Article 21-(1) or -(3)
  6. a person who has violated Article 22-(1) or -(4)

7. 第23-(1)-5、-7、-9、-10、-11、-15條所禁止之行為者。
8. 多層次企業經營者違反第34-(5)條規定，利用不實資訊及資料締結並維持消費者賠償保險契約等。
9. 違反第34-(7)條規定，使用第43-(6)條所規定之標示或製造、使用偽造之標示。
10. 未遵循第42-(1)條之糾正措施命令。
11. 未遵循第42-(4)條之停業指示，而繼續進行其事業者。

(2)得併科第(1)條規定之有期徒刑及罰金。

### 第54條 罰則

(1)有下列各款情事者，應處兩年以下有期徒刑或併科五千萬韓元以下之罰金。

1. 為第11-(1)、-(2)或-(5)條規定所禁止之行為者。
2. 違反第13-(2)或-(3)條之規定，未進行相關通報者。
3. 為第32-(1)、-(2)或-(5)條規定所禁止行為者。

(2)得併科第(1)規定之有期徒刑及罰金。

### 第55條 罰則

7. a person who has committed any of the acts prohibited by Article 23-(1)-5, -7, -9, 10, -11 or -15
  8. a Multilevel Marketing Business Operator who, in violation of Article 34-(5), has used false information and data for entering into and maintaining a Consumer Indemnity Insurance Contract, etc., etc
  9. a person who, in violation of Article 34-(7), has used the mark provided in Article 43-(6) or made or used a counterfeit mark.
  10. a person who, in violation of Article 42-(1), has failed to comply with an order of corrective actions
  11. a person who has continued to do business in violation of an order of suspended business issued under Article 42-(4)
- (2) The imprisonment and fine penalties prescribed in paragraph (1) may both be applied together.

### **Article 54 (Penal Provisions)**

- (1) A person falling under any of the following categories shall be punishable by imprisonment for not more than 2 years and/or a fine not more than 50 million won.
1. a person who has committed any of the acts prohibited by Article 11-(1), -(2) or -(5)
  2. a person who, in violation of Article 13-(2) or -(3), has failed to do the required reporting
  3. a person who has committed any of the acts prohibited by Article 32-(1)-1, -2, or -5
- (2) The imprisonment and fine penalties prescribed in paragraph (1) may both be applied together..

### **Article 55 (Penal Provisions)**

(1) 有下列各款情事者，應處一年以下有期徒刑或併科三千萬韓元以下之罰金。〈2007年1月19日修正〉

1. 違反第5-(1)條之規定，未進行要求之申報或進行不實申報。
2. 為第11-(1)-3條規定所禁止之行為者。
3. 違反第12-(1)條或第25-(1)條之規定，未於自願或因司法所造成之停業期間內行使其應繼續執行之業務。
- 3.2 違反第13-(5)條之規定，未遵循提供資料之要求或提交不實之資料。
4. 違反第15-(2)-1、-2或-4條之規定，僱用不得登記為多層次傳銷業務員之人。
5. 於第15-(3)條規定之多層次傳銷業務員登錄證中登載不實資訊者。
6. 違反第15-(4)條之規定，為多層次傳銷業務員不實登記紀錄者。
7. 為第23-(1)-13條規定所禁止之行為者。
8. 違反第31條之規定為販售商品交易不實記錄等者。

## 第56條 罰則

(1) 有下列各款情事者，應處一千萬韓元以下之罰金。

1. 違反第6-(3)條之規定，告知姓名等不實資訊。

- (1) A person falling under any of the following categories shall be punishable by imprisonment for not more than 1 year or a fine not more than 30 million won. <Amended 1-19-2007>
1. a person who, in violation of Article 5-(1), has failed to file the require report or filed a false report
  2. a person who has committed the act prohibited by Article 11-(1)-3
  3. a person who, in violation of Article 12-(1) or 25-(1), has failed to carry on business activities that must be continued during a voluntary or judicially imposed suspension of business
  - 3.2. a person who, in violation of Article 13-(5), has failed to comply with a request for provision of data or submitted false data
  4. a person who, in violation of Article 15-(2)-1, 2 or 4, has recruited as a Multilevel Marketing Agent a person unqualified to register as such
  5. a person who has recorded false information on a Multilevel Marketing Agent's registration card provided in Article 15-(3)
  6. a person who, in violation of Article 15-(4), has made a false registration record of Multilevel Marketing Agents
  7. a person who has committed the act prohibited by Article 23-(1)-13
  8. a person who, in violation of Article 31, has made a false record of transactions of Goods, etc

## **Article 56 (Penal Provisions)**

- (1) A person falling under any of the following categories shall be punishable by a fine not more than 10 million won.
1. a person who, in violation of Article 6-(3), has given false information about his/her name, etc

2. 交付第7-(1)條、第16條或第28-(1)條之規定之契約影本包含不實資訊。
3. 為第11-(1)-4或-7條規定所禁止之行為者。
4. 為第32-(1)-3、-4或-7條規定所禁止之行為者。

### 第57條 兩罰

- (1) 公司代表人、公司或個人之代理人、員工或使用人違反第51條或第56條之規定時，各條之罰金應同時課予實際行為人及該公司或該個人。
- (2) 違反第51條或第56條之人，或因第(1)條受有罰金之公司或個人，若已先被公平交易委員會或市政府／縣政府依糾正措施處罰，或已補償消費者損害時，得酌減或免除第51條或第56條之處罰。

### 第58條 行政罰鍰

- (1) 有下列各款情事者，應處一千萬韓元以下之行政罰鍰。
  1. 違反第9條規定，未進行所要求之返還或採取必要措施者。
  2. 為第11-(1)-6條或第23-(1)-6條、第32-(1)-6條規定所禁止之行為者。
  3. 為第11-(1)-8條或第23-(1)-8條、第32-(1)-8條規定所禁止之行為者。

2. a person who has issued a copy of a contract containing false information under the requirements of Article 7-(1), Article 16 or Article 28-(1)
3. a person who has committed any of the acts prohibited by Article 11-(1)-4 or -7
4. a person who has committed any of the acts prohibited by Article 32-(1)-3, -4 or -7

### **Article 57 (Punishment of Both Parties)**

- (1) If a representative of a corporation, or an agent, employee or any worker of a corporation or a person violates Article 51 or 56, the fine under each Article shall be imposed on such corporation or a person in addition to the punishment of the offender.
- (2) A person who has violated Article 51 or 56 or a corporation or a person fined under paragraph (1) may have their penalties under Article 51 or 56 reduced or exempted, if they have already been punished by the Fair Trade Commission or Mayor/Governor with corrective actions or if they have compensated the Consumers for their injuries.

### **Article 58 (Administrative Fines)**

- (1) A person falling under any of the following categories shall be punishable by an administrative fine not more than 10 million won.
  1. a person who, in violation of Article 9, has failed to make the required refund or take necessary measures to do so
  2. a person who has committed any of the acts prohibited by Article 11-(1)-6 or Article 23-(1)-6, Article 32-(1)-6
  3. a person who has committed any of the acts prohibited by Article 11-(1)-8 or Article 23-(1)-8, Article 32-(1)-8

4. 未依第15-(3)條及第15-(5)條之規定交付登錄證或手冊予多層次傳銷業務員者。
  5. 未依第15-(4)條之規定登記多層次傳銷業務員資料者。
  6. 違反第30條之規定，對於契約之解除課予過高之罰金，或拒絕為所要求之返還者。
  7. 違反第50-(2)條適用之壟斷及公平交易法第50-(1)-1條之規定，無正當理由超過兩次未遵循出席公平交易委員會之命令。
  8. 未依第50-(2)條適用之壟斷及公平交易法第50-(1)-3條或-(3)條之規定，拒絕提交要求之報告、資料或物品或提交不實之報告、資料或物品。
  9. 拒絕、妨礙或迴避依第50-(2)條第二項適用壟斷及公平交易法第50-(2)條之規定所提起之調查。
- (2)有下列各款情事者，應處一千萬韓元以下之行政罰鍰：
1. 未依第5-(2)、-(3)條之規定提交所要求之報告或提交不實報告者。
  2. 未依第6-(1)與-(3)條之規定保存多層次傳銷業務員紀錄者。
  3. 未依第7-(1)條、第16條或第28-(1)條之規定交付所要求之契約影本者。
  4. 修正佣金之計算及支付標準致與第20-(2)條之規定不符者。
  5. 違反第20-(4)條之規定，拒絕多層次傳銷業務員查閱佣金支

4. a person who has failed to issue a registration card or a manual to a Multilevel Marketing Agent pursuant to Article 15-(3) and Article 15-(5) respectively
  5. a person who has failed to make a registration record of Multilevel Marketing Agents pursuant to Article 15-(4)
  6. a person who, in violation of Article 30, has levied an excessive penalty for termination or Cancellation of a contract or refused to make the required fund
  7. a person who has violated Article 50-(1)-1 of the Monopoly Regulation and Fair Trade Act, which applies to Article 50-(2), by not complying with an order to appear before the Fair Trade Commission more than twice without just cause
  8. a person who has refused to submit the required report, data or materials or by submitting a false report, data or materials under Article 50-(1)-3 or -(3) of the Monopoly Regulation and Fair Trade Act as it applies to Article 50-(2)
  9. a person who has rejected, impeded or evaded an investigation initiated under Article 50-(2) of the Monopoly Regulation and Fair Trade Act as it applies mutatis mutandis to Article 50-(2)
- (2) A person falling under any of the following categories shall be punishable by an administrative fine not more than 10 million won.
1. a person who has failed to file the required report or filed a false report under Article 5-(2) and (3)
  2. a person who, in violation of Article 6-(1) or (3), has failed to keep a record of Multilevel Marketing Agents on file
  3. a person who has failed to issue a copy of a contract as required by Article 7-(1), Article 16, or Article 28-(1)
  4. a person who has modified the criteria for calculation and payment of Commissions in a manner inconsistent with Article 20-(2)
  5. a person who, in violation of Article 20-(4), has refused to allow

付記錄或支付標準之要求。

6. 違反31條之規定，拒絕消費者要求查閱其販售商品等交易之要求。

(3)第(1)項及第(2)之行政罰款應由公平交易委員會、市長／首長、或市長／郡長／首領（下稱「課徵者」）課徵及收取，但只有公平交易委員會或市政府／縣政府對多層次傳銷相關之行政罰鍰有徵收及收取權限。〈2005年3月31日修正〉

(4)第(2)條行政罰鍰之徵收標準應由總統令訂之。

(5)被課徵者對第(1)或(2)條所為之行政罰鍰有所異議時，應於行政法通知30日內向課徵者為之。〈2005年3月31日修正〉

(6)若依第(1)或(2)條被處以行政罰鍰者依第五項規定提出異議，課徵者應立即向本案管轄法院送達相關事實通知。法院本於該通知應依非訟案件程序法審理。〈2005年3月31日修正〉

(7)行政罰鍰於第(5)條所定期限內未經異議亦未經給付時，由公平交易委員會課徵之數額應依逾期國稅之標準程序收取，由市長／首長、或市長／郡長／首領課徵之數額應依逾期地方稅之標準程序收取。〈2005年3月31日修正〉

- his/her Commission payment records or criteria to be viewed by Multilevel Marketing Agents on the latter's request
6. a person who, in violation of Article 31, has refused to allow his/her records of Goods, etc. transactions to be viewed by Consumers on the latter's request
- (3) Administrative fines under paragraph (1) or (2) shall be levied and collected by the Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief (hereinafter referred to as "Levier"); provided that the authority to levy and collect administrative fines relating to Multilevel Marketing shall rest only with the Fair Trade Commission or Mayor/Governor. <Amended 3-31-2005>
- (4) Criteria for the assessment of administrative fines under paragraph (2) and (2) shall be specified by a presidential decree.
- (5) A person who wants to protest an administrative fine imposed on him/her under paragraph (1) or (2) shall do so to the Levier within 30 days of notification of the administrative act. <Amended 3-31-2005>
- (6) If a person who has been ordered to pay an administrative fine under paragraphs (1) and (2) protests the action pursuant to paragraph (5), the Levier shall without delay serve notice of the fact to the court of law with jurisdiction over the case. The court, upon such notification, shall try the case under the Non-Contentious Case Litigation Procedure Act. <Amended 3-31-2005>
- (7) When a levied administrative fine is not paid without being protested within the period specified in paragraph (5), the amount shall be collected in accordance with the standard procedures for collecting delinquent national taxes, if the fine was levied by the Fair Trade Commission, or in accordance with the standard procedures for collecting delinquent provincial taxes, if the fine was levied by a Mayor/Governor or mayor/county governor/ward

## 附錄 <8537號，2007年7月19日>

### (1) 施行日

本法應於公布三個月後施行。

### (2) 適用

任何第2-(11)條、第14-(1)-2、-3條款修正應自本法公布後，第一個多層次企業經營者申請登記開始適用。

chief. <Amended 3-31.2005>

### **Addenda <No. 8537, 7-19-2007>**

(1) (Date of Enforcement)

This Act shall come into force three months after its promulgation:

(2) (Application)

Any amendment to the provisions of Article 2-(11), Article 14-(1)-2 and -3 shall apply beginning the moment the first Multilevel Marketing Business Operator files registration after the promulgation of this Act.

## 訪問買賣施行細則

(2008年12月31日執行)  
(總統令21214號，2008年12月31日修訂)

### 第1條 目的

本法的目的係規定執行訪問買賣法之相關事宜。〈修正2006年7月27日版本〉

### 第2條 多層次傳銷組織之範圍

(1) 訪問買賣法 (以下簡稱本法) 第2-(5)條所指的多層次傳銷組織之定義為：

1. 具有相同或者等同於三層以上之銷售代理，以佣金支付銷售代理之組織。
2. 有3層次以上的各級銷售代理或銷售組織管理和經營等組織。於其中一個人，委託他人之情況下，銷售代理之組織招聘銷售管理銷售或銷售組織，事實上，這兩個組織實際上是一個單一的銷售組織。

(2) 第(1)-1條所規定之支付佣金代理銷售方法、3層次以上的銷售代理，或依第(1)-2定義組織的管理和經營，應依總統令特

## Enforcement Decree of the Door-to-door Sales, etc. Act

[Enforced 12-31-2008]

[Presidential Decree No.21214, Amended by another Law 12-31-2008]

### **Article 1 (Purpose)**

The purpose of this Decree is to prescribe matters delegated by the Door-to-door Sales, etc. Act and other necessary matters for the enforcement of the Act. <Amended 7-27-2006>

### **Article 2 (Scope of Multi-level Marketing Organizations)**

- (1) “Organizations specified by a presidential decree” in Article 2-(5) of the Door-to-door Sales, etc. Act (hereinafter referred to as “Act”) shall mean any of the following. <Amended 7-27-2006>
  1. a sales organization which is identical or tantamount to an organization with 3 or more levels of sales agents in the way commissions are paid to sales agents
  2. a sales organization which is identical to an organization with 3 or more levels of sales agents or is managed and operated as such, in a situation in which a person, commissioned by another person to manage sales or a sales organization, operates his/her own sales organization by recruiting sales agents under his/her management in such a way that two organizations are virtually a single sales organization
- (2) Criteria for defining the method of paying commissions to sales agent under paragraph (1)-1 and for defining an organization with

定之。

### 第3條 持續性服務要約期間

本法第2-(8)條所指持續性服務要約期間為一年。

### 第4條 消費者的範圍

本法第2-(10)條所指的消費者，係指一個人使用或利用，由企業經營者所提供的商品或服務。〈2006年7月27日、2007年10月31日、2008年1月31日、2008年12月31日修正〉

1. 包含最終使用或利用商品之人，但不包含利用商品作為原料（包含半成品）或者資本財。
2. 經營符合本法第3條之例外條款（本慣例僅適合用於企業經營者與銷售貨品給他者之關係）
3. 為了成為一個多層次傳銷業務員，從多層次傳銷營運者購買商品。
4. 訪問買賣經理人或者電話銷售經理人（以下稱訪問買賣）與訪問買賣企業經營者或者電話行銷運作者進行交易之情事。

3 or more levels of sales agents or one managed and operated as such under paragraph (1)-2 shall be specified by a Prime Minister's decree.

### **Article 3 (Period of Continuous Service Offer)**

The “period of time specified by a presidential decree” in Article 2-(8) of the Act shall be one month.

### **Article 4 (Scope of Consumers)**

“Person specified as such by a presidential decree” in Article 2-(10) of the Act shall mean a person falling under any of the following categories, who uses or utilizes goods or services supplied by a business operator (hereinafter referred to as “Goods, etc.”) for purposes other than consumption. <Amended 7-27-2006, 10-31-2007, 1-31-2008, 12-31-2008>

1. a person who is the end user or utilizer of Goods, etc., excluding a person who uses Goods, etc. as raw material (including intermediary goods) or capital goods
2. a business operator who qualifies for the exceptional clause of Article 3-(1) of the Act (this prescription applicable only to the extent of a business operator's relationship with a person who sells Goods, etc. to him/her)
3. a person who is the primary purchaser of Goods, etc. from a multi-level marketing business operator in order to become a multi-level marketing agent
4. a door-to-door sales agent or a telemarketing agent (hereinafter referred to as “Door-to-door Sales Agent, etc.”) in a transaction with a door-to-door sales business operator or a telemarketing business operator respectively (hereinafter referred to as “Door-

5. 農畜漁產品之購買者，但不包括所購畜產品超過食品農林漁部依據畜產法第21條之(1)的標準，或是經食品農林漁部依據深海魚業發展法第6條之(1)規定核發之深海漁業者。

#### 第4.2條 特殊關係之範圍

(1)本法第2-11-a條所指之特殊關係人為以下類別之人

1. 若控股公司股東為自然人時

- a. 股東之配偶。
- b. 與控制股東具有血親八親等以內，以及姻親四親等以內之關係者。
- c. 股東獨資或與人合夥之實收資本公司，因前兩者握有超過30%的股份，或者具有實際執行能力之情形，也符合本定義之範圍。

2. 若控股公司股東為公司時

- a. 公司之執行者。
- b. 如同公平交易法第2-(3)條關於壟斷之定義，子公司以及子公司之執行者亦屬之。

(2)本法第2-11-b針對「實際掌握公司運作者」之定義為以下類

- to-door Sales Business Operator, etc.)
5. a person who purchases Goods, etc. for agricultural (including livestock breeding business) or fishery business, except when his/her livestock business exceeds a scale specified by an ordinance of the Ministry for Food, Agriculture, Forestry and Fisheries under Article 21-(1) of the Livestock Industry Act or when he/she is a deep-sea fishing business owner licensed by the Minister of Food, Agriculture, Forestry and Fisheries under the Article 6-(1) of the Development of Deep-sea Fisheries Act.

#### **Article 4.2 (Scope of Special Relationships, etc.)**

- (1) “Persons in special relationships specified by a presidential decree” in Article 2-11-a of the Act shall mean a person falling under any of the following categories.
  1. a person in any of the following categories, in case the controlling shareholder is an individual
    - a. the shareholder’s spouse
    - b. a blood relative 8 or less times removed or a marriage relative 4 or less times removed from the controlling shareholder
    - c. a corporation the paid-in capital of which the shareholder alone or together with persons fitting the definitions in item (a), (b) and (c) holds a share of 30 percent or more of, or an executive officer of such a corporation
  2. a person in any of the following categories, in case the controlling shareholder is a corporation
    - a. an executive officer of the corporation
    - b. a subsidiary (as defined by Article 2-(3) of the Monopoly Regulation and Fair Trade Act) of the corporation and an executive officer of such a subsidiary
- (2) The “person who exercises practical control over the management

別之人

1. 單獨或者經由其他股東或投資人，依契約或者協議，賦予執行長之職務者，或者掌管超過50%之員工公司主管者屬之。
2. 具有做出重大企業營運政策決定者、公司主要控制者，或者具有決定公司投資政策以改變公司營運結構者。

<本條於2007年10月23日新增>

### 第5條 排除適用本法之交易

本法第3-(3)-2條所指的交易，係指由獨立個人而非推銷員，銷售以下類別之商品

1. 未經處理之農漁產品以及家禽、林業產品。
2. 訪問買賣者本身所製造之產品。

### 第6條 訪問買賣企業經營者應報告之項目

本法第5-(1)所指的其他項目為訪問買賣企業經營者之資產、應負帳款、實收資本額等，如同商業法對於企業之定義。

of a corporation” in Article 2-11-b of the Act shall mean a person falling under either of the following categories.

1. a person who, alone or through contract or agreement with other shareholders or investors, appoints or has the power to appoint the CEO or 50 percent or more of the executive officers of a corporation
2. a person who exercises dominant control over the process of making major corporate decisions or managing major corporate activities such as a decision to alter organizational structure or invest in a new business project

[This Article Newly Added 10-23-2007]

### **Article 5 (Transactions Excluded from Scope of Act)**

“Transactions prescribed by a presidential decree” in Article 3-(3)-2 of the Act shall mean a transaction by a door-to-door sales business operator who employs no other door-to-door sales agent, in which he/she sells Goods, etc. in either of the following categories.

1. unprocessed agricultural, fishery, livestock and forestry goods
2. Goods, etc. produced by the door-to-door seller himself/herself

### **Article 6 (Items to be Reported by Door-to-door Sales Business Operators, etc.)**

“Other items specified by a presidential decree” in Article 5-(1) of the Act shall mean the assets, debts and paid-in capital of a Door-to-door Sales Business Operator, etc. as an enterprise defined by the Commercial Act. <Amended 7-27-2006>

## 第7條 訪問買賣提交程序

- (1) 訪問買賣營運者依本法第5-1條之規定提交企業報告時，應完成本法所規定之報告表格，並向市長/郡長/首領繳交資產、負債以及實收資本之相關文件。收受相關文件之官方必須將相關治理報告內容依促進政務電子化法第21-(1)條分享資料。若報告不願意公開文件內容，收受之官方應要求報告者繳交相關文件以供核查。〈2004年3月17日、2006年6月12日、2006年7月27日修正〉

1. 公司登記之副本或者是公司註冊登記前所繳交之報告、公司成立時之完整文件副本
2. 若經營者於登記許可前獲得相關文件，應立即通知相關政府單位，並可提交副本。

## **Article 7 (Procedures for Filing a Report by a Door-to-door Sales Business Operator, etc.)**

- (1) A Door-to-door Sales Business Operator, etc., who wants to report his/her business pursuant to Article 5-(1) of the Act, shall complete a report form specified by a Prime Minister's decree and submit it to the mayor, county governor or ward chief (the chief executive of an autonomous ward; the same shall apply hereinafter) of the administrative district in which his/her main office is located, together with documentation (including documents in electronic form) verifying the assets, debts and paid-in capital recorded on the report (this requirement is applicable only to enterprises prescribed by the Commercial Act). The public official in charge of receiving such a report shall verify the following items on the report by using the database of shared administrative information provided for by the Article 21-(1) of the Act on the Promotion of the Electronization of Administrative Affairs, etc. for the Realization of an Electronic Government or, in case verification by using the database is not applicable or the reporting party does not agree to such a verification process, the public official shall require the reporting party to submit relevant documentation for verification of the aforementioned items. <Amended 3-17-2004, 6-12-2006, 7-27-2006>
1. a copy of the registration of the corporation (only applicable to corporations) or, in case the report is filed before the corporation is registered, a copy of the complete resident registration of the chief promoter of the establishment of the corporation
  2. a copy of the reporting party's registration as a business operator; provided that if the report is filed before such a registration is obtained, the reporting party shall notify the public official in

3. 刪除 <2006年6月12日刪除>
- (2) 刪除 <2006年6月12日刪除>
- (3) 針對(1)所接收之報告，公平交易委員會或者主管機關，應依法出具相關業務證明報告。<2006年7月27日修正>
- (4) 依本法第5-(2)條之規定，若訪問買賣企業經營者想要報告其企業經營之改變情形時，應於15日內依法完成報告以敘述變更內容，並且繳交報告給公平交易委員會、主管機關或者地區、特區政府(包含相關財務狀況之改變，例如資產、應付帳款等)。接到報告並了解變更情形後，公平交易委員會以及相關主管機關，應出具訪問買賣企業經營者之修正後營運證明報告。<2006年7月27日修正>
- (5) 依據本法第5-(3)條之規定，當訪問買賣企業經營者想要停止或者暫停營運，或者於停止後重新開始營運時，應向公平交易委員會、主管機關首長、地區或者區長報告並將報告遞交給相關主管機關。當報告與終止營運有關時，必須附上營運證明報告。<2006年7月27日修正>

charge immediately after a registration is obtained so that it can be verified or submit a copy thereof.

3. Deleted <6-12-2006>

(2) Deleted <6-12-2006>

(3) Upon receiving a report under paragraph (1), the Fair Trade Commission or the competent mayor, county governor or ward chief shall issue a business reporting certificate prescribed by a Prime Minister's decree. <Amended 7-27-2006>

(4) If a Door-to-door sales Business Operator, etc. wants to report a change to his/her business pursuant to Article 5-(2) of the Act, he/she shall complete a report form specified by a Prime Minister's decree and submit it to the Fair Trade Commission or the competent mayor, county governor or ward chief within 15 days from the day on which the change occurred (or, in the case of a change to the assets, debts or paid-in capital of the Door-to-door Sales Business Operator, etc., from the day on which the change was settled in the fiscal accounts), including documentation verifying the change. Upon receiving such a report, the Fair Trade Commission or the competent mayor, county governor or ward chief shall issue the Door-to-door Sales Business Operator, etc. a revised business reporting certificate after verifying the change. <Amended 7-27-2006>

(5) Pursuant to Article 5-(3) of the Act, when a Door-to-door Sales Business Operator, etc. suspends or terminates business or resumes business after a suspension, he/she shall report the facts to the Fair Trade Commission or the competent mayor, county governor or ward chief by completing a report form specified by a Prime Minister's decree and submitting it to the relevant authority. When the report concerns a termination of business, it shall be attached with the business reporting certificate already issued. <Amended 7-27-2006>

- (6)如訪問買賣企業經營者依(1)、(3)、(4)條之規定，而繳交應使用第2-(1)條所許可之電子文件時，應使用公平交易委員會所指定之資訊處理系統。〈2006年7月27日修正〉
- (7)依第(6)條繳交電子形式之報告時，若相關報告無法以電子形式傳送時，訪問買賣企業經營者可於從繳交電子報告時起一個月內，以電子郵件方式寄給有關單位。若相關文件於限制時間內收到，則報告正式完成日為遞交電子報告時起起算。
- (8)其他有關於電子報告之注意事項應依循細則之規定。

## 第8條 訪問買賣企業經營者免除報告義務之情形

- (1)本法第5條-(1)所訂之訪問買賣企業經營者係指以下幾種類型：
1. 未聘雇銷售業務員之獨立經營訪問買賣企業經營者
  2. 未聘雇銷售業務員之電話行銷經營者

## 第9條 訪問買賣企業經營者之資訊揭露

- (6) If a Door-to-door Sales Business Operator, etc. wants to complete the reporting prescribed in paragraph (1), (3) and (4) by using electronic documents prescribed in Article 2-(1) (hereinafter referred to as “Electronic Documents”), he/she may do so by using an information processing system specified by the Fair Trade Commission. <Amended 7-27-2006>
- (7) In filing a report electronically under paragraph (6), if there are documents that cannot be submitted in Electronic Document form, a Door-to-door Sales Business Operator, etc. may mail the documents to the relevant authority within one month from the day the electronic report was filed. If such documents are received within the time limit, the official date on which the reporting was completed shall be the day the electronic report was filed. <Amended 7-27-2006>
- (8) Other matters concerning electronic reporting shall be specified by a Prime Minister’s decree.

## **Article 8 (Door-to-door Sales Business Operators, etc. Exempted from Obligation of Reporting)**

- (1) “Door-to-door Sales Business Operators, etc. specified by a presidential decree” in the conditional clause of Article 5-(1) of the Act shall mean either of the following.
  1. a door-to-door sales business operator who does not employ door-to-door sales agents
  2. a telemarketing business operator who does not employ telemarketing agents

## **Article 9 (Disclosing of Information about Door-**

依本法第5-(4)條之規定，公平交易委員會通知訪問買賣企業經營者相關資訊揭露事項內容以及方式，另外，若揭露之資訊需要更正，應給予訪問買賣企業經營者機會更正內容。

### 第10條 應被包含在契約內之項目

本法第7-(1)-11條所指的事項為以下內容：

1. 除了貨品之價格外，消費者需負擔之額外費用
2. 銷售日期、地點以及品質、運送地點之限制條件

### 第11條 退貨或取消限制

本法第8-(2)-5條所指之情形為，若訪問買賣企業經營者已經通知當事人撤銷與取消買賣契約，將造成訪問買賣企業經營者巨大損失（例如依消費者之訂單客製化之產品）之情形下，消費者同意以書面形式(包括電子形式)，不撤銷其對於銷售契約或者取消買賣契約之申請。

### **to-door Sales Business Operators, etc.)**

Prior to disclosing information about a Door-to-door Sales Business Operator, etc. pursuant to Article 5-(4) of the Act, the Fair Trade Commission shall notify the Door-to-door Sales Business Operator, etc. of the information that will be disclosed as well as how it will be disclosed and give the Door-to-door Sales Business Operator, etc. a chance to correct any errors in the information to be disclosed.

### **Article 10 (Items to be Included in Contract)**

“Other terms ... or matters ... specified by a presidential decree” in Article 7-(1)-11 of the Act shall mean either of the following.

1. any additional charges besides the price of the Goods, etc. that the Consumer will be required to burden
2. any restrictions on the conditions of the transaction such as the date, place and quantity of sale or the place of delivery

### **Article 11 (Restrictions on Withdrawal/Cancellation)**

“Other cases specified by a presidential decree” in Article 8-(2)-5 of the Act shall mean cases in which the Consumer agrees in writing (including in electronic form) not to withdraw his/her application for a sales contract or cancel the sale contract (hereinafter referred to as “Withdrawal/Cancellation”) after being notified in advance by the Door-to-door Seller as defined by Article 2-2 of the Act or the Telemarketer as defined by Article 2-4 of the Act (hereinafter referred to as “Door-to-door Seller, etc.”) that Withdrawal/Cancellation will not be allowed because it can cause irreparably serious damage to the Door-to-door Seller, etc. in light of the fact that the Goods, etc. transacted under the sales contract is custom-made to the Consumer’s

## 第11.2條 遲延給付損害賠償之計算利率

本法第9-(2)條所指之年利率為24%。〈2007年10月23日新增〉

## 第12條 停止付款或者停止收費之機制

依本法第9-(3)條所指，除了直接付現外，訪問買賣賣家應依消費者取消付款之要求，要求支付服務提供商停止從購買商品之消費者（包含以轉帳方式付款者）端扣款，並應取消已向服務提供者收取之相關費用，或者提供退款方式給予服務提供者。

## 第13條 債務抵銷

(1)若消費者採取以下措施，付款服務提供者應依本法第9-(6)條執行債務抵銷：

1. 以書面提出退費之申請。
2. 若消費者已依本法第8-(1)或(3)條之規定時間內解除契約，

order.<Amended 7-27-2006>

### **Article 11.2 (Interest Rate for Calculating Compensation for Delayed Payment)**

The “annual interest rate ...specified by a presidential decree” in Article 9-(2) of the Act shall be 24 percent.

[This Article Newly Added 10-23-2007]

### **Article 12 (Instruments of Payment Permitting Stopping of Billing or Canceling of Charge)**

“Instruments of payment specified by a presidential decree” in Article 9-(3) of the Act shall mean instruments other than cash paid directly by the Consumer who purchases Goods, etc. (including account-to-account money transfer), in which a Door-to-door Seller, etc. can provide a refund of a payment to a Consumer by stopping the process of billing the provider of such an instrument (hereinafter referred to as “Payment Service Provider”), canceling the charge already billed to the provider or providing a refund of the payment to the provider.

### **Article 13 (Debt Offsets)**

(1) A Payment Service Provider may execute a debt offset provided for in Article 9-(6) of the Act immediately if a Consumer requests such a debt offset by taking the following steps.

1. make the request in writing (including in electronic form), specifying the amount to be refunded
2. attach documentation verifying that the Consumer has withdrawn

並已依本法第9-(1)條退還商品者，附上相關文件證明前述情形屬實之情形。

- (2)當一個付款服務提供者依照前項執行債務抵銷時，應該寄發通知予訪問買賣企業經營者以及消費者債務抵銷事實以及抵銷金額。
- (3)相關抵銷事項應依行政首長所公告之法律為之。

## 第14條 部份使用商品之收費範圍

- (1)第9-(8)條所指之限制為以下標準。
  1. 商品屬於消耗品，經部分使用後而有難以轉賣，或轉售價值大量降低之情形。
  2. 商品屬於可分開之類型。
- (2)公平交易委員會依據交易習慣考量到(1)商品之特性與交易價格而指定詳細計算之標準。

## 第15條 訪問買賣企業經營者應盡義務之限制

or canceled the contract within the time limit set forth in the Article 8-(1) or -(3) of the Act and that the Consumer has returned the Goods, etc. pursuant to Article 9-(1) of the Act (or documentation showing that the Goods, etc. sent back to the address of the Door-to-door Seller, etc. on the contract has been rejected, if that is the case)

- (2) When a Payment Service Provider executes a debt offset under paragraph (1), he/she shall send the Door-to-door Seller, etc. and the Consumer a written notification (including in electronic form) of the fact and the amount offset.
- (3) Matters concerning debt offsets by Payment Service Providers other than those prescribed in paragraph (1) and (2) shall be specified by a Prime Minister's decree.

## **Article 14 (Scope of Charging for Partial Consumption of Goods, etc.)**

- (1) "Limits specified by a presidential decree" in Article 9-(8) of the Act shall mean either of the following.
  1. the amount of money required to supply the Goods, etc. in case the Goods, etc. is a consumable item the use of which makes it difficult to be resold or decreases its resale value considerably
  2. the amount of money required to supply the part of the Goods, etc. consumed in case the Goods, etc. is a dividable item
- (2) The Fair Trade Commission may, if deemed necessary, specify detailed criteria for computing the amount of money described in the subparagraphs of paragraph (1) by considering the types and transaction prices of Goods, etc. and general transaction practices.

## **Article 15 (Limits for Imposing Obligations on**

本法第11-(1)-3條所指的為每年20000元，每一位想要從事銷售經紀以及訪問買賣銷售經紀人皆受此限制。

## 第16條 利用當事人之個人資料運送貨品

下列為本法第11-(1)-9-a條所指之情形：

1. 運輸業提供消費者之個人資料予他人以運送貨品給消費者。
  
2. 安裝產品或者提供契約服務者，例如允諾提供給消費者售後服務等情形而提供消費者資料。

## 第17條 防止消費者之身分被盜用

本法第11-(1)-9-c條所指之情形為

1. 為了身分驗證而提供消費者資料予下者
  - a. 電子通訊法第4-(3)-1條所定義之電子通訊營運商。
  - b. 信用資訊使用以及保護法第2條之4所定義的信用資訊服務提供者。

### **Door-to-door Sellers, etc.)**

“Limit specified by a presidential decree” in Article 11-(1)-3 of the Act shall mean 20,000 won per annum, per person wanting to become a Door-to-door sales agent or per Door-to-door sales agent.

### **Article 16 (Use of Consumer Information for Shipping Goods, etc.)**

“Cases specified by a presidential decree” in Article 11-(1)-9-a of the Act shall mean either of the following.

1. when a person in the business of transporting or transmitting Goods, etc. provides information about a Consumer to another person commissioned to transport or transmit Goods, etc. to that Consumer
2. when a person in the business of installing Goods, etc. or offering contracted services for Goods, etc. such as after-sale service provides information about a Consumer to another person commissioned to deliver such services to that Consumer

### **Article 17 (Use of Consumer Information for Prevention of Identity Theft)**

“Cases specified by a presidential decree” in Article 11-(1)-9-c of the Act shall mean any of the following. <Amended 7-27-2006>

1. when providing consumer information to any of the following persons for identity verification
  - a. a key telecommunications business operator as defined by Article 4-(3)-1 of the Telecommunications Business Act
  - b. a credit information service provider as defined by Article 2-4 of the Use and Protection of Credit Information Act

- c. 與付款服務有直接相關之付款服務提供者。
  - d. 依法定之許可，且為了業務上防止身分竊盜，而核實消費者的真實姓名。
2. 與未成年人進行交易時，利用消費者資訊驗證交易的法定監護人之同意。

### 第18條 多層次傳銷企業經營者之登記手續

- (1) 多層次傳銷企業經營者依照本法第13-(1)條規定登記其營業時，應該向特別大都會或省之首長所在之辦公室提出申請。若經營者之辦公室位於國外，該申請文件應該寄給公平交易委員會。〈2006年7月27日修改〉
- (2) 首長依前項收到申請文件時，如果申請人符合並滿足登記要件，應出具證書。
- (3) 依照本法第13-(2)條規定，如果一個多層次的市場經營者要報告其業務異動，應完成相關文件，並於提交之日起15日內向公平交易委員會或主管市長/首長/首領說明異動情形（或者，在訪問買賣企業經營者之資產、實收資本及債務更動之情況下，起算日從經營者之財務專戶變化時起起算），包括文件核實的變化。收到報告後，公平交易委員會或主管市長/

- c. a Payment Service Provider directly connected to the payment for the transaction in question
  - d. a person who is in the business of verifying the real names of Consumers for the purpose of preventing identity thefts, under a statutory license or permit
2. when using consumer information to verify the consent of a legal guardian for a transaction with a minor

## **Article 18 (Procedures for Registration of Multilevel Marketing Business Operators, etc.)**

- (1) A Multilevel Marketing Business Operator who wants to register his/her business pursuant to Article 13-(1) of the Act shall submit an application to the mayor of a Special Metropolitan City, the mayor of a Metropolitan City or the governor of a Province (hereinafter referred to as “Mayor/Governor”) in which his/her main office is located; provided that an application shall be submitted to the Fair Trade Commission in case the applicant’s main office is in a foreign country. <Amended 7-27-2006>
- (2) Upon receiving an application under paragraph (1), a Mayor/Governor shall issue a certificate of registration prescribed by a Prime Minister’s decree to the applicant if the applicant satisfies all requirements.
- (3) If a Multilevel Marketing Business Operator wants to report a change to his/her business pursuant to Article 13-(2) of the Act, he/she shall complete a report form specified by a Prime Minister’s decree and submit it to the Fair Trade Commission or the competent Mayor/Governor within 15 days from the day on which the change occurred (or, in the case of a change to the assets, debts or paid-in capital of the Door-to-door Sales Business

首長/首領出具傳銷業務運營商核實更改後的修訂註冊證書。另外，依據第13-(1)-3條規定之規定，涉及為賠償消費者之保險合同終止或到期之變化情形下，應向交易委員會以及主管區域首長說明前三個月之相關變化情形。

- (4) 多層次傳銷之經營者依第13-(3)條之規定，暫停、終止業務或暫停後恢復業務時，應以公平交易委員會或由指定的主管市長/首長/首領報告。若註冊證書發出後，報告涉及之業務終止時也應該說明。
- (5) 如果多層次傳銷企業經營者想要完成第(3)及(4)條規定之電子文件，多層次傳銷企業經營者需利用公平交易委員會所指定之系統去處理資訊。
- (6) 第7 -(7)及-(8) 條應適用在多層次傳銷登記之情形。〈2004年3月17日〉

### 第19條 實收資本額

依據第13-(1)與-(2)條之規定，係以500,000,000韓元為計算標準。(提供該報告之實收資本額不得有任何減損，透過減去初始實收資本及法定儲備基金計算之，如果有的話，應添加到總量。)

Operator, etc., from the day on which the change was settled in the fiscal accounts), including documentation verifying the change. Upon receiving such a report, the Fair Trade Commission or the competent Mayor/Governor shall issue the Multilevel Marketing Business Operator a revised certificate of registration after verifying the change. In the case of a change involving a termination or expiration of an insurance policy contract for compensation for consumer injury prescribed in Article 13-(1)-3 of the Act, a Multilevel Marketing Business Operator shall submit documentation verifying the change 3 months before the termination or expiration of the contract.

- (4) Pursuant to Article 13-(3) of the Act, when a Multilevel Marketing Business Operator suspends or terminates business or resumes business after a suspension, he/she shall report the facts to the Fair Trade Commission or the competent Mayor/Governor by completing a report form specified by a Prime Minister's decree. When the report concerns a termination of business, it shall be include with it the certificate of registration already issued.
- (5) If a Multilevel Marketing Business Operator wants to complete the reporting prescribed in paragraph (3) and (4) in Electronic Document form, he/she may do so by using an information processing system specified by the Fair Trade Commission.
- (6) Article 7-(7) and (8) shall apply mutatis mutandis to the registration of Multilevel Marketing Business Operators under paragraph (3) or (5). <Amended 3-17-2004>

## **Article 19 (Size of Paid-in Capital)**

“Level specified by a presidential decree” in Article 13-(1)-2 of the Act shall be 500 million (500,000,000) won (provided that the reported paid-in capital shall have any losses that have occurred subtracted fro

## 第20條 關於傳銷經營者的資訊披露

依照第13-(4)條之規定，多層次傳銷企業經營者揭露相關訊息。  
<2007年7月18日>。

1. 多層次傳銷號碼以及註冊日期。
  2. 多層次傳銷企業經營者（或代表之名稱，公司之名稱）以及其企業名稱、地址以及電話號碼。
  3. 多層次傳銷企業經營者之貨物清單以及銷售數字
  4. 佣金之評估以及支付之標準
  5. 公平交易委員會為了保護消費者，以及維持良好交易秩序所要求揭露之事項。
- (2) 公平交易委員會必須通知多層次傳銷企業經營者與本法第13條-(4)有關之揭露事項，使其有機會更正揭露事項內之錯誤。

## 第21條 多層次傳銷業務員之消極要件

the the initial paid-in capital and statutory reserve funds, if any, shall be added to the total).

## **Article 20 (Disclosure of Information about Multilevel Marketing Business Operators)**

Information about a Multilevel Marketing Business Operator that can be disclosed under Article 13-(4) of the Act shall be the following.  
<Amended 7-18-2007>

1. the Multilevel Marketing Business Operator's registration number and date of registration
  2. the name of the Multilevel Marketing Business Operator (or the name of the representative, in the case of an corporation) and his/her business title, address and telephone number
  3. a list of Goods, etc. sold by the Multilevel Marketing Business Operator, and his/her sales figures
  4. criteria for assessment and payment of Commission
  5. other matters specified by the Fair Trade Commission, the disclosure of which is considered necessary for protecting Consumers and keeping trade in good order
- (2) Prior to disclosing information about a Multilevel Marketing Business Operator pursuant to Article 13-(4) of the Act, the Fair Trade Commission shall notify the Multilevel Marketing Business Operator of the information that will be disclosed as well as how it will be disclosed and give the Multilevel Marketing Business Operator a chance to correct any errors in the information to be disclosed.

## **Article 21 (Disqualifications for Multilevel**

依本法第15-(2)與-(4)條，應符合以下類別：

1. 依第42條規定，已經收到兩次或以上之糾正。除非最後一次責令改正行動已經過了三年。
2. 因違反本法而被監禁五年，並已執行完畢，或者暫緩執行之情形。（包含相關刑罰已被認為執行完畢等情形）。
3. 於試用期時違反本法，而被處以緩刑之情形。

## 第22條 申請多層次傳銷企業經營者退出或者取消契約之原因

本法第17-(1)條所指的主要為以下情形：

1. 因為多層次傳銷企業經營者改變電話、電子郵件地址或其他連絡因素不確定之情形時，不可以取消或者退出多層次傳銷之代理契約。
2. 如果多層次傳銷之業務員撤銷或者取消契約時，消費者無法獲得退款之情形。

## 第23條 (多層次傳銷業務員不允許退出或者取消之情形)

## **Marketing Agents)**

“Person specified by a presidential decree” in Article 15-(2)-4 of the Act shall mean a person falling under any of the following categories.

1. a person who has received an order of corrective actions twice or more times under Article 42 of the Act, except when 3 years have passed from the day on which the implementation of the last ordered corrective action was completed.
2. a person who is within a 5 year period following the end of the execution of an imprisonment sentence for violation of this Act or a final decision to suspend the execution of such a sentence (including cases in which the execution of such a sentence is considered to have ended)
3. a person who is in a probation period following a suspended sentence for violation of this Act

## **Article 22 (Reasons for Applying to Multilevel Marketing Business Operator for Withdrawal/Cancellation of Contract)**

The “reasons specified by a presidential decree” in the conditional clause of Article 17-(1) of the Act shall be either of the following.

1. when it is impossible to withdraw/cancel a contract with the Multilevel Marketing Agent because his/her address, telephone number or email address have changed or are uncertain
2. when the Consumer cannot expect to get a refund if he/she withdraws/cancels a contract with the Multilevel Marketing Agent

## **Article 23 (Disallowance of Withdrawal/**

本法第17條-(2)所指的主要為以下情形：〈2006年7月27日修正〉

1. 除非多層次傳銷業務員為了檢查貨物而破壞包裝之情形外，貨物已經被其丟失或者損壞。
2. 除了因多層次傳銷業務員已經提供相當之維護措施確認其權利外、通過包裝或者其他已提醒消費者之說明或者提供樣品之情形外，貨物因為被使用或者被部份使用而造成價值下降情形。
3. 當複製之商品之包裝被損壞之情形。
4. 當多層次傳銷業務員或者消費者同意以書面形式（包含電子文件形式）不提前撤回或不取消銷售契約時。因為基於貨品之狀態而將會對於多層次傳銷企業經營者產生不可挽回之損害情形，特別是相關契約係屬於客製化之形態。

第24條(從退貨以及退款中所扣除之開支)

## **Cancellation by Multilevel Marketing Agents)**

“Cases specified by a presidential decree” in Article 17-(2) of the Act shall mean any of the following. <Amended 7-27-2006>

1. when the Goods, etc. have been lost or damaged by the Multilevel Marketing Agent, except when the Multilevel Marketing Agent has damaged the packaging to check the contents of the Goods, etc.
2. when the value of the Goods, etc. has declined significantly through use or partial consumption, provided that proper measures have been taken to ensure that the Multilevel Marketing Agent’s right to withdraw/terminate a contract is not restricted, by indicating on the packaging or in other places easily noticeable the fact that Withdrawal/Cancellation is disallowed or by providing the Multilevel Marketing Agent with samples
3. when the packaging of duplicable Goods, etc. has been damaged
4. when the Multilevel Marketing Agent or Consumer agrees in writing (including in Electronic Document form) not to withdraw/cancel the sale contract after being notified in advance by the Multilevel Marketing Business Operator that Withdrawal/Cancellation will not be allowed because it can cause irreparably serious damage to the Multilevel Marketing Business Operator in light of the fact that the Goods, etc. transacted under the sales contract is custom-made on the Multilevel Market Agent’s or the Consumer’s order.

## **Article 24 (Deduction of Expenses from Refund for Returned Goods, etc.)**

A Multilevel Marketing Business Operator shall be able to deduct

多層次傳銷企業經營者應該能夠從退貨之退款中扣除費用。依據第18條-(2)所從事之退款情形，只有於貨物提供後一個月後使得為之。多層次傳銷企業經營者應予以註冊始得依以下條件至少一半之範圍內取得費用。

1. 雙方同意後，以不超過貨品價值之5%為限，退換商品必須於提供商品後之一至二個月內為之。
2. 雙方同意以不超過貨品價值之7%之為限，退換商品必須於提供商品之二至三個月內為之。

## 第25條 債務抵銷

(1) 支付服務供應商依第18-(4)條之規定履行債務抵銷。銷售契約之相對人需履行以下步驟以主張之：

1. 以書面形式（或者電子形式）寫明金額退還之請求。
2. 依據第17-(1)或-(2)之規定，於附加文件驗證的時間內，退出/取消商品契約等。根據第18-(1)條[或文檔顯示，商品等送回的地址，傳銷經營或傳銷代理（以下簡稱「賣方」契約）已被拒絕]

expenses from a refund of payment for the Goods, etc. returned by a Multilevel Marketing Agent under the conditional clause of Article 18-(2) of the Act, only when the return is made one month after the supply of the Goods, etc., and the limits on the amount of expenses deductible shall be as in the following paragraphs; provided that the limits shall be half of what is prescribed in the paragraphs below in case the return is made due to cancellation of the Multilevel Marketing Business Operator's registration.

1. an amount agreed upon by both parties to the contract, not exceeding 5 percent of the price of the Goods, etc., in case the return is made between 1 and 2 months after the supply of the Goods, etc
2. an amount agreed upon by both parties to the contract, not exceeding 7 percent of the price of the Goods, etc., in case the return is made between 2 and 3 months after the supply of the Goods, etc

## **Article 25 (Debt Offsets)**

(1) A Payment Service Provider may execute a debt offset provided for in Article 18-(4) of the Act immediately if the counterparty of a sales contract in Multilevel Marketing requests such a debt offset by taking the following steps.

1. make the request in writing (including in electronic form), specifying the amount to be refunded
2. attach documentation verifying that the Withdrawal/Cancellation was made within the time limit set forth in Article 17-(1) or -(2) of the Act and that the Goods, etc. has been returned pursuant to Article 18-(1) of the Act[or documentation showing that the Goods, etc. sent back to the address of the Multilevel Marketing Business Operator or Multilevel Marketing Agent (hereinafter

- (2) 當支付服務提供商履行下述債務抵銷之規定時，將發送傳銷賣方以及契約他方書面通知（包括電子文件的形式）說明事實和抵銷之數額。
- (3) 由支付服務提供者所為之其他抵銷事宜應依循總理所頒布之法令特定之。

### 第26條(評估以及支付佣金之修改)

- (1) 依據第20-(2)條之規定，當多層次傳銷企業經營者修改其計算，以及支付佣金之標準時，應於三個月前通知其業務員相關事宜，特別是修改時間以及理由。若業務員已同意該標準，相關修正可以立即生效。
- (2) 若因為地址改變等因素，無法依據前項通知業務員相關修改事宜，多層次傳銷企業經營者應該將前項通知以報紙公告或者網站之方式公告一個月以上。

- referred to as “Multilevel Marketing Seller”) on the contract has been rejected, if that is the case]
- (2) When a Payment Service Provider executes a debt offset under paragraph (1), he/she shall send the Multilevel Marketing Seller and his/her counterparty written notification (including in Electronic Document form) of the fact and the amount offset.
  - (3) Matters concerning debt offsets by Payment Service Providers other than those prescribed in paragraph (1) and (2) shall be specified by a Prime Minister’s decree.

## **Article 26 (Modification of Criteria for Assessment and Payment of Commission )**

- (1) Pursuant to Article 20-(2) of the Act, when a Multilevel Marketing Business Operator modifies his/her criteria for calculation and payment of Commission, he/she shall notify the Multilevel Marketing Agents under his/her management of the modifications, specifying reasons for the changes and the date on which the modified criteria will go into effect, at least 3 months prior to that date; provided that change to the current criteria may become effective immediately, if the Multilevel Marketing Agents have consented to it or if the modified criteria is in the interests of the Multilevel Marketing Agents.
- (2) If there are Multilevel Marketing Agents who cannot be notified pursuant to paragraph (1) due to a change of address or other valid reasons, the Multilevel Marketing Business Operator may fulfill his/her obligation of notification to such Multilevel Marketing Agents under paragraph (1) by publishing a notification as prescribed in paragraph (1) in a newsletter or keeping it posted at his/her website for 1 month or longer.

## 第27條 於2007年7月18日刪除

## 第28條(多層次傳銷業務員之義務範圍)

本法第22-(1)條所指之數額為50,000韓元。於根據銷售以及購買而計算佣金之情形下，該區分標準多層次營銷代理，或在其較低級別之傳銷經銷，不應被視為迫使他們購買商品之行為。〈2007年10月23日修正〉

## 第29條 徵收的義務

本法第23-(1)-3條所指的限制為，依照下列情形所計算之總額，該總額每年不得超過50,000韓元

1. 加入業務員行列需繳交10,000韓元作為會費，該會費之計算不得超過經營者處理會籍申請之實際成本。
2. 於經營者要求業務員每人需購買30,000韓元之情形，該金額不得超過經營者實際提供項目之成本（或者供應價格超過經營者所訂之市場價格）

## **Article 27 Deleted <7-18-2007>**

## **Article 28 (Scope of Obligations for Multilevel Marketing Agents)**

The “level specified by a presidential decree” in Article 22-(1) of the Act shall be 50,000 won. In such a case, differentiating the criteria for assessment of Commission depending on the sales and purchases of Multilevel Marketing Agents or the lower-level Multilevel Marketing Agents under their management shall not be considered an act of compelling them to purchase Goods, etc. <Amended 10-23-2007>

## **Article 29 (Imposition of Obligations)**

“A limit ... specified by a presidential decree” in Article 23-(1)-3 of the Act shall be the sum of what is given in the following subparagraphs, which shall not exceed 50,000 won annually.

1. 10,000 won as a new or renewed membership fee for registering as a Multilevel Marketing Agent, provided that the new or renewed membership fee shall not exceed what it actually costs the Multilevel Marketing Business Operator to process membership applications
2. 30,000 won per person for the purchase of sales support items in case the Multilevel Marketing Business Operator imposes such purchase as an obligation on the Multilevel Marketing Agent, provided that the amount charged for the sales support items shall not exceed what it actually costs the Multilevel Marketing Business Operator to supply the items to the Multilevel Marketing Agent (or the market value of the sales supporting items, if the Multilevel Marketing Business Operator’s supply cost exceeds the market value).

3. 於訓練業務員之要求而對於業務員進行培訓，培訓之價格以每個人30,000韓元為限。若相關項目以規範在公平交易委員會對於消費者保護等相關法律時，訓練費用不得超過多層次傳銷企業經營者實際支出之成本。

### 第30條 經由多層次傳銷所販賣之物品價格

本法第23-(1)-13條所規範之限制以1,300,000韓元為限。

### 第31條 為了運送貨品而使用消費者之資料

本法第23-(1)-14條所指之情形為下列事項：

1. 為了運輸或者傳送貨物而提供消費者之個人資料與受委託人
2. 為了安裝貨物或者提供契約所訂之服務，例如售後服務，而將消費者之資料提供予他人

### 第32條 為了防止身分竊盜情形而使用消費者資料

3. 30,000 won per person for training in case the Multilevel Marketing Business Operator imposes such training as an obligation on the Multilevel Marketing Agent, provided that the training will be limited to subjects specified by the Fair Trade Commission such as compliance with consumer protection laws and that the fee for training shall not exceed what it actually costs the Multilevel Marketing Business Operator to provide such training.

### **Article 30 (Price Limits for Goods, etc. Sold through Multilevel Marketing)**

“Limit specified by a presidential decree” in Article 23-(1)-13 of the Act shall be 1,300,000 won (including VAT).

### **Article 31 (Use of Consumer Information for Shipping Goods, etc.)**

“Cases specified by a presidential decree” in Article 23-(1)-14-a of the Act shall mean any of the following.

1. when a person in the business of transporting or transmitting Goods, etc. provides information about a Consumer to another person commissioned to transport or transmit Goods, etc. to that Consumer
2. when a person in the business of installing Goods, etc. or providing contracted services for Goods, etc. such as after-sale service provides information about a Consumer to another person commissioned to deliver such services to that Consumer

### **Article 32 (Use of Consumer Information for**

本法第23-(1)-14-c條之情形係指第17條所指之相關事項

## 第32.2 事實上從事金融交易法

本法第23-(2)條所指的為財產分配而未為商品之交易係指下列情形之一，該行為包含產品銷售之賣方（該法以下簡稱為賣方）以及多層次傳銷業務員、會員或消費者所屬之傳銷組織或類似多層次傳銷之銷售代理組織。

1. 當賣方銷售貨物給多層次傳銷之業務員時，價格高於賣方進貨價10倍或者與類似貨品之價格相近時，必須支付多層次傳銷業務員佣金或其他經濟利益。
2. 當賣方與多層次傳銷業務員結束貨物買賣契約時，業務員不提供商品而支付佣金等情形。
3. 當賣方銷售禮卷給多層次傳銷業務員之行為（名詞，禮卷係指憑證或者相關名義或者形式，發出之一方可以透過收受者所提出之價值證明而給付之。）

## **Prevention of Identity Theft)**

“Cases specified by a presidential decree” in Article 23-(1)-14-c of the Act shall mean those prescribed in the subparagraphs of Article 17.

## **Article 32.2 (Acts of Practically Engaging in Financial Transactions)**

The act of disguising what is actually a financial transaction as a transaction in Goods, etc., prescribed in Article 23-(2) of the Act, shall mean any of the following situations, when the act is performed by a person in the business of selling Goods, etc. (hereinafter in this Act referred to as “Seller”) and directed at a Multilevel Marketing Agent, member or Consumer (hereinafter in this Act referred to as “Multilevel Marketing Agent, etc.”) of a Multilevel Marketing Organization or a similar organization made up of multiple levels of sales agents.

1. when a Seller sells Goods, etc. to his/her Multilevel Marketing Agents, etc. at prices far higher than the ordinary market prices of identical or similar Goods, etc., as when selling Goods, etc. at a price over 10 times what it cost the Seller to acquire the Goods, etc., and pays Commission or other comparable economic benefits (hereinafter in this Article referred to as “Commissions, etc.”) to the Multilevel Marketing Agents, etc.
2. when a Seller, after concluding a contract for a sale of Goods, etc. with the Multilevel Marketing Agents, etc. does not supply the Goods, etc. while paying Commissions, etc. to the Multilevel Marketing Agents, etc.
3. when a Seller sells gift certificates to Multilevel Marketing Agents, etc. in either of the following manners (The term, gift certificate, here shall mean a certificate, whatever name or form it takes, issued by one party which can be redeemed by its recipient by presenting it to the issuer or a third party designated by the

- a. 賣方購買或者徵收第三方回購，從多層次傳銷業務員取得禮物憑證
  - b. 佣金，因為銷售禮卷而得到者，可以不被視為係銷售商品、發行人之能力、提供商品之能力，以及多層次傳銷業務員等的記錄與數量來頒發證書。
4. 一個賣家因根據其提供商品的能力被判斷為從事金融交易。多層次的業務員間之供應與銷售契約以及支付佣金狀況等之其他情況。

<2007年7月18日新增>

### 第33條(有權對侵權行為採取行動之組織)

本法第24條所指的消費者團體為以下幾種 <2006年7月27日修正>

1. 依照消費者法綱領第33條所成立之消費者多層次傳銷業務員。
2. 依照消費者法綱領第29條所註冊之消費者組織。
3. 為了保護多層次傳銷行為之消費者，依民法第32條所成立之組織。

issuer (hereinafter referred to as “Issuer, etc.”) for the Goods, etc. of the value or quantity indicated on the certificate.)

- a. the Seller repurchases, or enlists a thirty party to repurchase, the gift certificates from the Multilevel Marketing Agents, etc.
  - b. Commission, etc. is paid for the sales of gift certificates, which cannot be viewed as intended for a transaction of Goods, etc. judging from the Issuer, etc.’s capacity to supply the Goods, the Multilevel Marketing Agents, etc.’s records of supplying the Goods, etc. and the number of certificates issued
4. other situations in which a Seller is judged to be practically engaged in financial transactions in light of the Seller’s capacity to supply Goods, etc, the Multilevel Marketing Agents, etc.’s records of supplying the Goods, etc, the nature of supply or sales contracts between Multilevel Marketing Agents, etc.’s and the conditions for payment of Commission, etc.

[This Article Newly Added 7-18-2007]

### **Article 33 (Organizations Authorized to Request Action against Acts of Infringement)**

“Consumer organization specified by a presidential decree” in Article 24 of the Act shall mean the following organizations. <Amended 7-27-2006>

1. the Korea Consumer Agency established under Article 33 of the Framework Act on Consumers
2. consumer organizations registered under Article 29 of the Framework Act on Consumers
3. organizations established under Article 32 of the Civil Act for the purpose of protecting consumers in Multilevel Marketing sales

### 第34條 依侵權行為法請求之程序

依本法第24條向公平交易委員會申請要求業者請求停止相關損害之請求者，應以書面提出以下之說明

1. 應負責之多層次傳銷銷售者以及相關侵害事實
2. 被侵害所損失之利益或者可能造成損害之結果
3. 為停止侵權行為所應採取之措施

### 第35條 多層次傳銷企業經營者因為通知之過失所應付賠償之計算標準

本法第27條-(3)條所評估之損害賠償標準應依多層次傳銷企業經營者所侵害之性質以及嚴重程度為之。應賠償金額不得超過銷售收入之總額。

### 第36條 持續性服務要約契約之期間，與價值之計算標準

本法第28-(1)條所指的賠償金額應為10萬韓元，3個月；無時間長短約定之契約者，提供的貨幣限300,000韓元。

### **Article 34 (Procedures for Requesting Action against Acts of Infringement)**

A person who wants to request that the Fair Trade Commission stop an act of infringement under Article 24 of the Act shall submit a request in writing, specifying the following items.

1. the Multilevel Marketing Seller responsible for the offense and facts about the offense
2. interests already infringed upon or likely to be infringed upon by the offense and damage caused by the offense
3. measures sought to stop the act of infringement

### **Article 35 (Criteria for Assessing Compensation for Multilevel Market Business Operator's Negligence in Notification)**

The criteria for assessing compensation payable by a Multilevel Marketing Business Operator under Article 27-(3) of the Act shall be the nature and gravity of the offense involved and the damages associated with the offense, provided that the amount of compensation shall not exceed the amount of sales revenues associated with the offense.

### **Article 36 (Criteria of Value and Duration of Contract for Continuous Service Offer, etc.)**

“Limits specified by a presidential decree” in Article 28-(1) of the Act shall be 100,000 won and 3 months respectively, provided that the monetary limit shall be 300,000 won in the case of Business Offer

### 第37條 徵求交易契約特定之項目

本法第28-(1)-5條所指的契約，為那些預計將因購買貨物或者相關利益之擔保等作為回報，而獲得由企業經營者提供的商機。

### 第38條 契約應被特定之項目

本法第28-(1)-9條所指的施加其他交易情形或事物限制係指，日期，地點銷售數量和交貨地點。

### 第39條 撤回或者取消之限制

本法第29條所指的相關條件，依據客製化銷售契約之訂單而提供持續性服務要約之情形，消費者（業務負責人徵求交易之契約他方）同意以書面形式（包括電子形式）提前通知的持續性服務要約提供企業經營者或商家報價徵集經營者（以下簡稱“提供持續服務之企業經營者，等”）之退出／取消將不會被允許的，因為它可能會導致企業經營者不可彌補的嚴重損害。

Soliciting Transactions irrespective of the duration of a contract.

### **Article 37 (Items to be Specified on Contract for Business Offer Soliciting Transaction)**

“Terms of transaction ... specified by a presidential decree” in Article 28-(1)-5 of the Act shall be those concerning benefits expected to be gained from the business opportunities provided by the business operator in return for a purchase of Goods, etc. and any guarantees given of such benefits.

### **Article 38 (Items to be Specified on Contract)**

“Other conditions of transactions ... or matters ... as specified by a presidential decree” in Article 28-(1)-9 of the Act shall mean any limits imposed on conditions of transactions such as the date, place and quantity of sale and the place of delivery.

### **Article 39 (Restrictions on Withdrawal/Cancellation)**

“Cases ... specified by a presidential decree” in the conditional clause of Article 29 of the Act shall mean cases in which the Consumer (or the counterparty of a Business Offer Soliciting Transaction) agrees in writing (including in electronic form) not to withdraw/cancel the sale contract after being notified in advance by the Continuous service Offers Business Operator or Business Offer Soliciting Business Operator (hereafter referred to as “Continuous Service Offers Business Operator, etc.”) that Withdrawal/Cancellation will not be allowed because it can cause irreparably serious damage to the Continuous Service Offers Business Operator, etc. in light of the fact that the

## 第40條 退貨時之退費或罰款之減輕

- (1) 本法第30-(2)條退貨時，持續性服務要約提供者應於加上可退還金額或者扣除退貨之罰款後，退還相等於退貨商品之金額給消費者。
- (2) 依前項於加總退貨後之金額之增加部份或者罰款部分，無論是否可能的情況，持續性服務要約提供者應本於平衡，給消費者自收到貨品後3個工作日之期限內接受退貨。如果持續性服務要約提供者，延遲此行為，應當承擔支付消費者延遲之補償費用。
- (3) 依第(1)條計算返還物的價值時，持續性服務要約提供者應考量市場價值以及折舊之價值。

## 第41條 查看持續性服務要約提供者交易記錄

Goods, etc. transacted under the sales contract is custom-made on the Consumer's order.

### **Article 40 (Refund or Reduction of Penalty for Return of Goods, etc.)**

- (1) In case a Consumer returns Goods, etc. pursuant to Article 30-(2) of the Act, the Continuous Service Offers Business Operator, etc. shall refund an amount equal to the value of the returned Goods, etc. by adding the amount to the total amount of payment refundable to the Consumer or deducting the amount from the penalty chargeable to the Consumer.
- (2) After adding the value of returned Goods, etc. to the total amount refundable or deducting it from the penalty chargeable to a Consumer under paragraph (1), a Continuous Service Offers Business Operator, etc. shall refund or charge the balance, whichever it may be the case, to the Consumer within 3 business days from the day of receiving the returned Goods, etc. If a Continuous Service Offers Business Operator, etc. delays such action, he/she shall be liable to pay the Consumer compensation for the delay.
- (3) In calculating an amount equal to the value of the returned Goods, etc. under paragraph (1), a Continuous Service Offers Business Operator, etc. shall consider the market price as well as the price depreciation of the Goods, etc.

### **Article 41 (Viewing of Transaction Records of Continuous Service Offers Business Operators, etc.)**

根據本法第31條，持續性服務要約提供企業經營者，應將其交易之商品作成記錄，消費者可透過詢問、電話或者上網之方式立即檢閱相關記錄。此外，持續性服務要約提供者，應將相關記錄於3個工作天後以郵件之方式向消費者發送。

## 第42條 消費者責任保險契約

(1)多層次傳銷企業經營者依據本法第34-(1)條所簽訂之消費者責任保險契約應滿足以下要件<2007年7月27日修訂>

1. 該契約的目的應是如果多層次傳銷企業經營者於消費者撤銷或者取銷契約時，不支付退款，補償遭遇傷害之消費者。
2. 多層次傳銷企業經營者所銷售之購買商品者應為該契約之被保險人或者受益人。
3. 保險金額應高於公平交易委員會對於商品交易價格所訂之標準。
4. 契約應確保及時支付賠償金消費（涵蓋多層次傳銷業務員，同樣適用本條），並針對延遲付款提供額外的補償。
5. 本契約不可限制消費者表達其意見，並且不得無故課與消費者過多證明上之負擔。

Pursuant to Article 31 of the Act, a Continuous Service Offers Business Operator, etc. shall make his/her records of transactions of Goods, etc. available for immediate inspection by a Consumer via personal visit, telephone or the Internet. Additionally, a Continuous Service Offers Business Operator, etc. shall send a copy of the records to a Consumer by mail at the latter's request within 3 business days.

## **Article 42 (Consumer Indemnity Insurance Contracts, etc.)**

- (1) The Consumer Indemnity Insurance Contract, etc. that a Multilevel Marketing Business Operator concludes under Article 34-(1) of the Act shall satisfy the following requirements. <Amended 7-27-2006>
1. The contracts shall be aimed at providing compensation to the Consumer for injury suffered in case the Multilevel Marketing Business Operator's failure to fulfill his/her obligation of refunding payment for a withdrawn/canceled contract or of supplying Goods, etc. under a sales contract.
  2. The insurant or beneficiary of the contracts shall be the purchaser of the Goods, etc. sold by the Multilevel Marketing Business Operator covered by the contracts.
  3. The insured amounts of the contracts shall be more than a level specified by the Fair Trade Commission up to the transaction price of the Goods, etc.
  4. The contracts shall ensure prompt payment of compensation to the Consumer (encompassing Multilevel Marketing Agents; the same shall apply hereinafter in this Article) and provide additional compensation for delayed payment.
  5. The contracts shall not restrict the way the Consumer expresses his/her opinion or impose an excessively onerous burden of proof

6. 沒有正當理由不可以限制傷害賠償之範圍或者限制保險公司、貨物銷售者之責任。
  7. 契約中不可包含對於消費者不可預測或者傷害之條款，或者是對於消費者而言不公平之條款。
  8. 保險契約與保證付款契約應該依照保險營業法第2-(1)條，或者銀行法第2-(2)條之規定
  9. 消費者責任賠償契約之存續期間為一年以上，沒有正當理由，不可以輕易中止消費者之劣勢。
- (2) 消費者賠償責任保險契約之內容應該包含公平交易委員會要求企業經營者依本法第34-(2)條之內容。
- (3) 消費者賠償責任保險契約之細節應該依據商品之性質、交易細節以及補償程序等依法以及前兩項之規定訂之。

### 第43條 互助合作社批准

- (1) 本法第35-1條所規定之的互助合作事宜，應由10個或更多的支持者發起。將相關條文於會員大會成員的簡單多數同意後，訂於公司章程，然後向公平交易委員會提交申請並批准。

- on the Consumer without valid reason.
6. The contracts shall not restrict the scope of compensation for injury or limit the liability of the insurer or seller of the Goods, etc. without valid reason.
  7. The contracts shall not contain terms likely to cause unpredictable risk or injury to the Consumer or unfairly disadvantageous to the Consumer.
  8. The insurance contract and debt payment guarantee contract shall be concluded with an insurance company defined in Article 2-(1) of the Insurance Business Act or a financial institution defined in Article 2-(2) of the Banking Act.
  9. The duration of the Consumer Indemnity Insurance Contract, etc. shall be more than one year, and the contracts shall not be made easy to terminate to the disadvantage of the Consumer without valid reason.
- (2) The Consumer Indemnity Insurance Contract, etc. that the Fair Trade Commission recommends business operators to conclude under Article 34-(2) of the Act shall satisfy paragraph (1)-1 or -8.
  - (3) Detailed requirements for Consumer Indemnity Insurance Contracts, etc. depending on the nature of Goods, etc. and transaction and the details and procedures of compensation other than those prescribed in paragraph (1) and (2) shall be specified by a Prime Minister's decree.

### **Article 43 (Approval of Mutual Aid Cooperatives)**

- (1) The incorporation of a Mutual Aid Cooperative under Article 35-(1) of the Act shall be initiated by a group of 10 or more supporters. The supporters shall have their articles of incorporation adopted at a General Meeting by consent of a simple majority of the members and then file an application with the Fair Trade Commission for

- (2)公平交易委員會依前項之申請批准後，應通知公眾相關事實。

## 第44條 應被寫於合作條文之項目

依本法第35-(6)條規定應寫明之互助合作社條文應包含以下內容

1. 建立之目的。
2. 合作名稱。
3. 主營業所之地址。
4. 每個出資帳戶之價值、支付資本方法以及計算資本股份。
5. 組織成員之要求以及加入、退出之程序。
6. 資產與帳戶。
7. 一般會議。
8. 董事會的成員。
9. 經營團隊的首長以及成員。
10. 貸款。
11. 合作活動以及相關計畫。
12. 組成公司之相關條文修改。
13. 資產之解消與讓與。
14. 通知公眾之方法。

## 第45條 互助合作社之經營與監督

- (1)互助合作社應於每個會計年度本於其預期收入與支出制訂預

approval.

- (2) Upon approving a Mutual Aid Cooperative under paragraph (1), the Fair Trade Commission shall give public notice of the fact.

## **Article 44 (Items to be Included in Articles of Incorporation)**

The articles of incorporation of a Mutual Aid Cooperative shall contain the following items pursuant to Article 35-(6) of the Act.

1. purpose of establishment
2. name of the Cooperative
3. location of the main office
4. per-account value of capital contribution, methods of capital payments, and calculation of shares of capital
5. requirements for membership, as well as procedures for joining and resigning
6. assets and accounts
7. general meeting
8. board of directors
9. executive officers and staff
10. loans
11. Cooperative activities and their management
12. amendment of Articles of Incorporation
13. dissolution and disposition of assets
14. methods of giving public notice

## **Article 45 (Operation and Supervision of Mutual Aid Cooperatives)**

- (1) A Mutual Aid Cooperative shall formulate a budget for each new fiscal year on the basis of total anticipated income and expenditures

算，並於每個會計年度前一個月提交該預算給公平交易委員會批准。

- (2)互助合作社應於會計年度結束前2個月內連同資產負債表和損益報告向公平交易委員提交財務報告。
- (3)互助合作社依據前項之要求，應當保存的資產負債表和損益報告文件，提交公平交易委員會，其主要辦事處和地區分支機構，並應公告其資產負債表的數字。
- (4)刪除<2006年7月27日>
- (5)刪除<2006年7月27日>

#### 第46條(違反行為之訊息批露)

依第38之規定揭露訊息前，公平交易委員會應通知企業經營者其決定以及賦予企業經營者機會去澄清揭露訊息之錯誤。

#### 第47條(公平性的評估與認證服務)

- (1)依據第39-(1)條之規定之公平性評估與認證服務，應依照公平交易委員會之要求公告以下事項
  - 1. 服務提供者的名字。
  - 2. 營業所的地址或者地點。
  - 3. 評估以及認證之範圍。
  - 4. 服務提供者開始提供服務日。

- and submit the budget to the Fair Trade Commission for approval at least one month prior to the beginning of the new fiscal year.
- (2) A Mutual Aid Cooperative shall settle its accounts for a fiscal year within 2 months from the end of the fiscal year and submit a financial report, together with a balance sheet and a profit and loss report, to the Fair Trade Commission.
  - (3) A Mutual Aid Cooperative shall keep copies of the balance sheet and profit and loss report submitted to the Fair Trade Commission under paragraph (2) on file at its main office and regional branch offices and give public notice of its balance sheet figures.
  - (4) Deleted <7-27-2006>
  - (5) Deleted <7-27-2006>

## **Article 46 (Disclosure of Information about Offenses, etc.)**

Prior to disclosing information under Article 38 of the Act, the Fair Trade Commission shall notify the business operator of its decision and give the business operator a chance to clarify any errors in the information to be disclosed.

## **Article 47 (Fairness in Assessment and Certification Services)**

An Assessment and Certification Service Provider prescribed in Article 39-(1) of the Act shall give public notice of the following information in a manner specified by the Fair Trade Commission.

1. name of the service provider
2. address or location of the place of business
3. scope of assessment and certification
4. the date on which the service provider started services

5. 評估與認證之標準、程序以及方法。
- (2) 依照前項之內容公告時，須確保容易被看到及查明。

### 第48條(報告的義務)

當市長/首長/首領根據第40條-(1)建議或命令糾正措施，他/她應於沒有延遲地向公平交易委員會報告的事實。報告可以透過電子方式完成。〈2006年7月27日修正〉

### 第49條(採取糾正措施之公告)

根據第42-(3)條的規定，責令經營者發出公告他/她已被下令採取糾正措施的事實，公平交易委員會應考慮以下事實指定通知內容的次數。

1. 違反的性質以及嚴重的程度。
2. 違反行為的持續期間以及頻率。
3. 違反行為造成消費者損害之範圍以及嚴重程度。

### 第50條(暫停與取消商業登記的標準)

第42-(4)條業務暫停或撤銷商業登記的標準規定在附表1。

5. criteria, procedures and methods of assessment and certification
- (2) Public notice of the information listed in paragraph (1) shall be made in such a way that it can be easily viewed and ascertained.

### **Article 48 (Obligation of Reporting)**

When a Mayor/Governor or mayor/county governor/ward chief has recommended or ordered corrective action pursuant to Article 40-(1) of the Act, he/she shall report the fact to the Fair Trade Commission without delay. The reporting may be done electronically. <Amended 7-27-2006>

### **Article 49 (Giving Public Notice of Corrective Action Ordered to be Taken)**

In ordering a business operator to give public notice of the fact that he/she has been ordered to take corrective action pursuant to Article 42-(3) of the Act, the Fair Trade Commission shall specify the content of the notice and the number of times it is to be given by considering the following facts.

1. the nature and gravity of the violation
2. the duration and frequency of the violation
3. the scope and seriousness of consumer injury caused by the violation

### **Article 50 (Criteria for Suspending and Revoking Business Registration)**

The criteria for suspending an offender's business or revoking an offender's business registration under Article 42-(4) of the Act shall be as given in the Attached Table 1.

## 第51條 消費者糾紛和解組織

第43-1條所述的消費者和解組織係指以下組織之類型<2006年7月27日及2007年3月27日修正>

1. 根據消費者法框架第33條所建立之韓國消費者代理機構
2. 根據消費者法框架第16條，以及該法施行細則第7條被市長／首長／首領所建立的消費者爭端調解組織。
  
3. 其他消費者保護相關法律所設立的爭端調解組織。

## 第52條 因糾正措施的調解協議與豁免的接受

- (1) 根據該法第43條之規定，已接受的和解建議或調解爭端解決的組織，他/她可以向公平交易委員會提出證明文件，說明其已於和解之日起10天之內完成和解協議，並要求公平交易委員會確認沒有第42條規定之相關要求事項。
  
- (2) 公平交易委員會接受前項之說明後，關於是否接受該項糾正措施，應該將其確認結果通知該組織。

## **Article 51 (Consumer Dispute Settlement Organizations)**

“Consumer dispute settlement organizations specified by a presidential decree” in Article 43-(1) of the Act shall be the following organizations. <Amended 7-27-2006, 3-27-2007>

1. the Korea Consumer Agency established under Article 33 of the Framework Act on Consumers
2. a consumer dispute settlement organization established by a Mayor/Governor under Article 16 of the Framework Act on Consumers and Article 7 of the Enforcement Decree thereof
3. other dispute settlement organizations set up by other consumer protection-related laws

## **Article 52 (Acceptance of Mediated Settlement and Exemption from Corrective Action)**

- (1) If a party to a dispute accepts a settlement recommended or mediated by a dispute settlement organization under Article 43 of the Act, he/she may submit to the Fair Trade Commission documentation verifying that he/she has implemented the settlement within 10 days from the day on which the execution of the settlement is completed and request that the Fair Trade Commission confirm that no corrective action prescribed in Article 42 of the Act will be required of him/her.
- (2) Upon receiving a request under paragraph (1), the Fair Trade Commission shall notify the requesting party of its confirmation of whether he/she is subject to corrective action or not.

### 第53條 開徵以及徵收罰款

- (1) 公平交易委員會，徵收罰款應書面通知並說明侵犯行為的類別以及支付罰款之數額。
- (2) 依據前項，任何人接收通知後，在60天內應繳交公平交易委員會開徵之罰款。若有其他不得已或者無法避免之情形而無法於60天內繳交罰款時，若延遲的原因不復存在後，應於30天內支付罰款金。

### 第54條 因銷售金額衡量罰款的標準

本法第44-(1)條所規定之衡量標準係指任何數量之金額；若違反該條第-1及-3條，或者大於這兩款之情形時，應與違反之狀況一併考量之。

1. 違反行為開始至違反行為結束之期間之銷售的10%。若違反行為與銷售或消費者的傷害並沒有直接關係時，（如果違反行為於被公平交易委員會徵收罰款時還沒有結束，應被視為違反的日子已經結束）；如果相關違反規定，被限制在特定的業務領域，那麼應根據在該領域的銷售的10%計算之。

### **Article 53 (Levying and Collection of Monetary Penalties)**

- (1) The Fair Trade Commission, in imposing a monetary penalty on a person, shall provide him/her with a written notification of the category of the violation committed and the subsequent amount of monetary penalty to be paid.
- (2) A person shall pay the amount of a monetary penalty imposed on him/her under paragraph (1) to a collecting agency designated by the Fair Trade Commission within 60 days from receiving the notification; provided that if an act of God or other unavoidable circumstances have prevented a person from paying a monetary penalty within the prescribed time limit, he/she shall pay the amount within 30 days after the cause of delay ceased to exist.

### **Article 54 (Criteria for Determining Sales Figures for Assessing Monetary Penalties)**

“The value of sales associated with the violation as specified by a presidential decree” in Article 44-(1) of the Act shall mean any of the amounts; provided that if a violation falls under both subparagraph 1 and 3, the greater of the two shall be the value of sales associated with the violation.

1. 10 percent of the sales between the day the violation started and the day it ended, in case the violation has no direct bearing on sales or consumer injury (If the violation has not ended at the time the monetary penalty was imposed, then, the violation shall be considered to have ended on the day the Fair Trade Commission imposed the penalty); provided that if the violation is confined to a particular field of business, then, the 10 percent

2. 違反行為與銷售行為直接相關之銷售總和。
3. 相關違反行為與消費者所受之損害有直接相關之銷售總和。

### 第55條 同業公會的登記

(1) 根據第47-(1)條，向公平交易委員會註冊的一個同業公會，依法應檢具申請書，並載明下列事項

1. 成立宗旨。
2. 公會名稱。
3. 主要辦公室以及已登記分支機構之實體地址以及網址。
4. 姓名，居民身分證號碼，電話號碼以及代表人之電子郵件信箱。
5. 組織之成立日期。
6. 成員數量（包含分支機構之會員）。
7. 公會主要舉辦之活動內容。

(2) 前項之申請書應該包含以下文件

1. 公會之資產，經濟狀況以及蒐集資金的計畫。
  2. 主要設施之列表以及其表現。
- (3) 根據第47-(1)條的規定，列在第(1)-1、-4、-6、-7條規定之資訊異時，註冊的同業公會，依第(2)條，應當於異動生效20天之日起，向公平交易委員會報告。

- shall be based on the sales in that field.
- 2. the sum of all sales associated with the violation, in case the violation has direct bearing on sales
- 3. the sum of all sales associated with a consumer injury if the violation is a direct cause of such injury

### **Article 55 (Registration of Trade Associations)**

- (1) A trade association that wants to register with the Fair Trade Commission under Article 47-(1) of the Act shall submit an application, specifying the following information.
  - 1. purpose of establishment
  - 2. name of the association
  - 3. physical addresses and Website addresses of the main office and regional branch offices
  - 4. name, resident registration number, telephone number and email address of the representative
  - 5. the date on which it was founded
  - 6. number of members (including the memberships of branch offices)
  - 7. the association's main activities
- (2) The application submitted under paragraph (1) shall include documentation showing the following.
  - 1. the association's assets, financial status and plans for raising funds
  - 2. a list of major facilities and their performance
- (3) A trade association registered pursuant to Article 47-(1) of the Act shall report to the Fair Trade Commission any change to the information listed in paragraph (1)-1, -4, -6 or -7 and all the subparagraphs of paragraph (2) within 20 days from the day the change was effected.

## 第56條 2006年7月27日刪除

## 第57條 開徵以及徵收行政罰鍰

- (1) 公平交易委員會或市長/首長/首領，根據第58-(1)及-(2)條的規定徵收的行政罰款時，應先進行必要的調查，以確認違規行為的事實，並以書面形式通知的當事人罰鍰數額，違反的事實和抗議課予罰鍰之程序期限。〈2006年7月27日修正〉
  
- (2) 公平交易委員會，市長/首長/首領於根據第(1)條徵收的行政罰款之前，應給予當事人，為期10天或以上，以書面形式（包括電子格式）說明當事人之意見。若當事人未於時間內回覆其意見，視為當事人無意見。〈 2004年3月17日，2006年7月27日修訂〉
  
- (3) 公平交易委員會，市長/首長/首領衡量行政罰款時，應考慮違反行為之情節及其後果。〈 2006年7月27日修正〉

## 第58條 衡量行政罰鍰之標準

依第58-(4)條 用於評估行政罰款之標準，應見附表2。

## **Article 56 Deleted <7-27-2006>**

### **Article 57 (Levying and Collection of Administrative Fines)**

- (1) The Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief, in imposing an administrative fine on a person under Article 58-(1) or -(2) of the Act, shall first carry out necessary investigations to confirm the facts of the violation and notify the person in writing of the administrative fine imposed, specifying the amount, the facts of the violation and the procedures and time limit for protesting the fine. <Amended 7-27-2006>
- (2) The Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief, prior to imposing an administrative fine on a person under paragraph (1), shall give that person a period of 10 or more days to state his/her opinion on the planned administrative fine in writing (including electronic form). In such case, if the person fails to give his/her opinion within the time limit, it shall be construed as meaning that the person has no opinion on the matter.<Amended 3-17-2004, 7-27-2006>
- (3) The Fair Trade Commission, Mayor/Governor or mayor/county governor/ward chief, in assessing an administrative fine, shall consider the circumstances and consequences of the violation involved.<Amended 7-27-2006>

### **Article 58 (Criteria for Assessing Administrative Fines)**

The criteria for assessing administrative fines pursuant to Article 58-(4) of the Act shall be as given in the Attached Table 2.

## 附錄

(公共安全管理、安全性及其聯屬部分之法規)

### 第1條 施行日期

本施行細則自其公佈之日起施行之。(省略但書)

### 第2條至第4條 省略

### 第5條 其它法律之修正

(1) 至<168>省略

<169>訪問買賣之部份依序修正法律

第4-(5)條所指的農林部會法令以及海洋漁業部門應修正並讀為「糧食、農業、林業及漁業部法令」與「糧食、農業、林業及漁業部」。

<170>至<175>省略

## **Addendum**

(Regulation of Ministry of Public Administration and Security and its Affiliates)

<No. 21214, 12-31-2008>

### **Article 1 (Date of Enforcement)**

This Decree shall come into force on the day of its promulgation.

<conditional clause omitted>

### **Article 2 through 4 Omitted**

### **Article 5 (Amendment of other Acts)**

(1) through <168> Omitted

<169> Part of the Door-to-door Sales, etc. Act shall be amended as follows.

The wording “decree of the Ministry of Agriculture and Forestry” and “Minister of Maritime and Fishery Affairs” in Article 4-(5) shall be amended to read “decree of the Ministry of Food, Agriculture, Forestry and Fisheries” and “Minister of Food, Agriculture, Forestry and Fisheries” respectively.

<170> through <175> Omitted

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壹、亞太地區

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日本	製造物責任法	第3輯	2-9
日本	東京都消費生活條例	第2輯	44-95
日本	關於訪問販賣等之法律 訪問販賣に関する法律	第2輯	96-131
日本	日本關於訪問販賣之法律 訪問販賣に関する法律	第8輯	250-331
日本	日本有關高爾夫球場等會員契約適正化之法律 ゴルフ場等に係る會員契約の適正化に関する法律	第8輯	332-359
日本	關於訪問販賣等之法律 (昭和51年6月4日法律第57號、平成11年12月22日號 外法律第160號)	第10輯	223-332
日本	消費者契約法	第10輯	333-354
日本	洗濯業標準營業約款暨施行細則 クリーニング業に関する標準營業約款、クリーニング業に関する標準營業約款施行細則	第13輯	146-169
日本	美容業標準營業約款暨施行細則 美容業に関する標準營業約款、美容業に関する標準營業約款施行細則	第13輯	170-189
日本	理容業標準營業約款暨施行細則 理容業に関する標準營業約款、理容業に関する標準營業約款施行細則	第13輯	190-211
日本	消費者契約法施行細則	第15輯	2-61
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韓國	韓國2008年電子商務消費者保護法施行細則 (Enforcement Decree of the Act on Consumer Protection in Electronic Commerce, etc. December 31, 2008)	第20輯	213-268
韓國	韓國2007年訪問買賣等法 (Door-to-Door Sales, etc. Act July 19, 2007)	第20輯	269-382
韓國	韓國2008年訪問買賣等法施行細則 (Enforcement Decree of the Door-to-door Sales, etc. Act December 31, 2008)	第20輯	383-452
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澳洲	1997年9月消費者保護法第2次檢討報告 Audit of Consumer Protection Law-Second Report 1997	第8輯	360-541
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紐西蘭	1993年消費者擔保法 Consumer Guarantees Act 1993	第7輯	7-113
紐西蘭	1988年爭議法庭法(合併並修正1976年小額請求法庭之法) Disputes Tribunals Act 1988 (An Act to consolidate and amend the Small Claims Tribunals Act)	第7輯	114-295

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紐西蘭	1967年訪問買賣法 Door to Door Sales Act 1967	第7輯	296-363
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貳、歐洲地區

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德國	商品安全要求基準及保護CE標識法律 (商品安全法) Entwurf Gesetz zer Regelung der Sicherheitsanforderungen an Produkte-und zum Schutz der CE – Kennzeichnung (Produktsicherheitsgeseta ProdSG)	第9輯	247-326
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比利時	1992年誤導性職業廣告法 Misleading Professional Advertising Act 1992	第7輯	608-631
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OECD	企業對消費者之替代性爭端解決機制在隱私及消費者 保護部分之法律規定 Working Party on Information Security and Privacy Legal Provisions Related to Iness-To-Consumer Alternative Dispute Resolution In Relation To Privacy And Consumer Protection DSTI/ICCP/RF/CP (2002) 1/FINAL 17-Jul-2002	第11輯	1- 68
OECD	經濟合作暨發展組織－亞太經濟合作會議全球論壇： 數位化經濟政策立法架構 OECD Global Forum on Knowledge Economy - The Digital Economy OECD-APEC GLOBAL FORUM: POLICY FRAMEWORKS FOR THE DIGITAL ECONOMY The Sheraton Waikiki, Honolulu, HI, United States, 14-17 January 2003 CCNM/GF/KE/DE (2002) 3 16-Sep-2002	第11輯	69-100
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