

# 规范促销行为暂行规定

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## 规范促销行为暂行规定

(2020 年 10 月 29 日国家市场监督管理总局令第 32 号公布)

## Interim Provisions for Regulating Promotional Activities

(Promulgated under Decree No.32 of the State Administration for Market Regulation on October 29, 2020)

### 第一章 总 则

### Chapter I General Provisions

**第一条** 为了规范经营者的促销行为，维护公平竞争的市场秩序，保护消费者、经营者合法权益，根据《中华人民共和国反不正当竞争法》（以下简称反不正当竞争法）、《中华人民共和国价格法》（以下简称价格法）、《中华人民共和国消费者权益保护法》（以下简称消费者权益保护法）等法律和行政法规，制定本规定。

**Article 1** In order to regulate the promotional activities of business operators, maintain the market order of fair competition and protect the legitimate rights and interests of consumers and business operators, these Provisions are enacted in accordance with the Anti-Unfair Competition Law of the People's Republic of China (hereinafter referred to as the Anti-Unfair Competition Law), the Pricing Law of the People's Republic of China (hereinafter referred to as the Pricing Law), the Law of the People's Republic of China on the Protection of Rights and Interests of Consumers (hereinafter referred to as the Law on the Protection of Rights and Interests of Consumers) and other relevant laws and administrative regulations.

**第二条** 经营者在中华人民共和国境内以销售商品、提供服务

**Article 2** Business operators that carry out promotional activities within the territory of the People's Republic of China in the form of prize-giving sale, price, free trial, etc. for the

（以下所称商品包括提供服务）或者获取竞争优势为目的，通过有奖销售、价格、免费试用等方式开展促销，应当遵守本规定。

**purpose of selling commodities, providing services (the commodities referred to hereinafter include providing services) or gaining competitive advantages shall abide by these Provisions.**

**第三条** 县级以上市场监督管理部门依法对经营者的促销行为进行监督检查，对违反本规定的行为实施行政处罚。

**Article 3** The administrations for market regulation at or above the county level shall supervise and inspect the promotional activities of business operators in accordance with the law and impose administrative penalties on any act in violation hereof.

**第四条** 鼓励、支持和保护一切组织和个人对促销活动中的违法行为进行社会监督。

**Article 4** All organizations and individuals are encouraged, supported and protected to conduct social supervision over any illegal act in promotional activities.

## **第二章 促销行为一般规范**

## **Chapter II General Standards for Promotional Activities**

**第五条** 经营者开展促销活动，应当真实准确，清晰醒目标示活动信息，不得利用虚假商业信息、虚构交易或者评价等方式作虚假或者引人误解的商业宣传，欺骗、误导消费者或者相关公众（以下简称消费者）。

**Article 5** Business operators shall, when carrying out promotional activities, mark the information of the activities in an authentic, accurate, clear and eye-catching manner, and shall not conduct false or misleading business publicity by means of false commercial information, fabricated transactions or evaluations, etc. to cheat or mislead consumers or the relevant public (hereinafter referred to as the "consumers").

**第六条** 经营者通过商业广告、产品说明、销售推介、实物样品或者通知、声明、店堂告示等方

**Article 6** Where business operators make preferential promises through commercial advertisements, product descriptions, promotional activities, physical samples, or notice, statement, shop bulletin, etc., they shall fulfill their promises.

式作出优惠承诺的，应当履行承诺。

**第七条** 卖场、商场、市场、电子商务平台经营者等交易场所提供者（以下简称交易场所提供者）统一组织场所内（平台内）经营者开展促销的，应当制定相应方案，公示促销规则、促销期限以及对消费者不利的限制性条件，向场所内（平台内）经营者提示促销行为注意事项。

**Article 7** Where the providers of trading places such as the business operators of stores, shopping malls, markets and e-commerce platforms (hereinafter referred to as the "trading place providers") uniformly organize the business operators in the places (platforms) to conduct promotional activities, they shall formulate corresponding plans, publicize the promotion rules, promotion period and restrictive conditions unfavorable to consumers, and remind the business operators in the places (platforms) of matters needing attention in their promotional activities.

**第八条** 交易场所提供者发现场所内（平台内）经营者在统一组织的促销中出现违法行为的，应当依法采取必要处置措施，保存有关信息记录，依法承担相应义务和责任，并协助市场监督管理部门查处违法行为。

**Article 8** Where a trading place provider finds any illegal act committed by a business operator in the promotional activities organized in a unified manner at the trading place (platform), it shall take necessary measures to deal with the case in accordance with the law, keep the relevant information records, bear corresponding obligations and responsibilities in accordance with the law, and assist the administration for market regulation in investigating and punishing the illegal act.

**第九条** 经营者不得假借促销等名义，通过财物或者其他手段贿赂他人，以谋取交易机会或者竞争优势。

**Article 9** Business operators shall not bribe others by offering money or goods or by any other means in the name of promotional activities, in order to seek transaction opportunities or competitive advantages.

**第十条** 经营者在促销活动中

**Article 10** The awards or gifts provided by business operators

提供的奖品或者赠品必须符合国家有关规定，不得以侵权或者不合格产品、国家明令淘汰并停止销售的商品等作为奖品或者赠品。

国家对禁止用于促销活动的商品有规定的，依照其规定。

**in promotional activities shall comply with the relevant provisions of the State, and shall not be infringing or unqualified products or commodities that have been explicitly ordered by the State to be eliminated and ceased to be sold.** Where there are provisions of the State on commodities that are prohibited from being used in promotional activities, such provisions shall prevail.

### 第三章 有奖销售行为规范

### Chapter III Rules for Prize-attached Sales

**第十一条** 本规定所称有奖销售，是指经营者以销售商品或者获取竞争优势为目的，向消费者提供奖金、物品或者其他利益的行为，包括抽奖式和附赠式等有奖销售。

抽奖式有奖销售是指经营者以抽签、摇号、游戏等带有偶然性或者不确定性的方法，决定消费者是否中奖的有奖销售行为。

附赠式有奖销售是指经营者向满足一定条件的消费者提供奖金、物品或者其他利益的有奖销售行为。

经政府或者政府有关部门依法批准的有奖募捐及其他彩票发售活

**Article 11** The prize-attached sales mentioned herein refer to the activities of business operators to provide consumers with prizes, articles or other benefits for the purpose of selling commodities or obtaining competitive advantages, including prize-attached sales in form of lucky draws, gift giving and the like. Prize-attached sales in form of lucky draws refer to the prize-attached sales in which business operators determine whether consumers will win the prizes by means of contingency or uncertainty such as drawing lots, lottery numbers and games.

Prize-attached sales in form of gift giving refer to the prize-attached sales in which business operators provide prizes, articles or other benefits to consumers who meet certain requirements.

These Provisions do not apply to prize-attached solicitation of donation and other activities of selling lottery tickets approved by the government or the relevant department of the government in accordance with the law.

动，不适用本规定。

**第十二条** 经营者为了推广移动客户端、招揽客户、提高知名度、获取流量、提高点击率等，附带性地提供物品、奖金或者其他利益的行为，属于本规定所称的有奖销售。

**Article 12** The activities of business operators to incidentally provide articles, prizes or other benefits for the purpose of promoting mobile terminals, soliciting customers, increasing popularity, gaining traffic or improving click-through rate, etc. shall be deemed as prize-attached sales mentioned in these Provisions.

**第十三条** 经营者在有奖销售前，应当明确公布奖项种类、参与条件、参与方式、开奖时间、开奖方式、奖金金额或者奖品价格、奖品品名、奖品种类、奖品数量或者中奖概率、兑奖时间、兑奖条件、兑奖方式、奖品交付方式、弃奖条件、主办方及其联系方式等信息，不得变更，不得附加条件，不得影响兑奖，但有利于消费者的除外。

**Article 13** Business operators shall, prior to the prize-attached sales, clearly announce the types of prizes, conditions and methods of participation, time and methods of disclosure of prizes, amounts of prizes or prices of prizes, names and types of prizes, quantity of prizes or probability of winning, time and conditions for claiming prizes, methods of claiming prizes, delivery methods of prizes, conditions for waiving prizes, sponsors and their contact details, and other information, and shall not change the aforesaid information, attach conditions or affect the claiming of prizes, unless such act is beneficial to consumers. In the on-site prize-attached sales with immediate disclosure of prizes, the information about the claiming of prizes which exceed 500 yuan shall be announced at any time.

在现场即时开奖的有奖销售活动中，对超过五百元奖项的兑奖情况，应当随时公示。

**第十四条** 奖品为积分、礼券、兑换券、代金券等形式的，应当公布兑换规则、使用范围、有效

**Article 14** Where the prizes take the form of credits, gift coupons, exchange coupons or cash coupons, the detailed contents such as the exchange rules, scope of use, term of validity and other restrictive conditions shall be announced;

期限以及其他限制性条件等详细内容；需要向其他经营者兑换的，应当公布其他经营者的名称、兑换地点或者兑换途径。

**where it is necessary to exchange the prizes with other business operators, the names of the said business operators as well as the exchange places or channels shall be announced.**

**第十五条** 经营者进行有奖销售，不得采用以下谎称有奖的方式：

（一）虚构奖项、奖品、奖金金额等；

（二）仅在活动范围中的特定区域投放奖品；

（三）在活动期间将带有中奖标志的商品、奖券不投放、未全部投放市场；

（四）将带有不同奖金金额或者奖品标志的商品、奖券按不同时间投放市场；

（五）未按照向消费者明示的信息兑奖；

（六）其他谎称有奖的方式。

**Article 15** When carrying out prize-attached sales, business operators shall not use any of the following methods falsely claiming the prizes: (1) making up awards, prizes, amounts of prizes, etc.;

(II) prizes are available only in a specific area within the activity scope;

(III) not putting all the commodities and lottery tickets with prize-winning tokens into the market during the activity period;

(IV) putting the commodities and lottery tickets with tokens containing different amounts of prizes or different prizes into the market at different time;

(V) failing to claim prizes according to the information expressly expressed to consumers; and

(VI) other methods falsely claiming the existence of prizes.

**第十六条** 经营者进行有奖销

**Article 16** When carrying out prize-attached sales, a business

售，不得采用让内部员工、指定单位或者个人中奖等故意让内定人员中奖的欺骗方式。

**operator shall not make its internal employees, designated entities or individuals win the prizes or adopt any other deceptive means to intentionally make internal persons win the prizes.**

**第十七条** 抽奖式有奖销售最高奖的金额不得超过五万元。有下列情形之一的，认定为最高奖的金额超过五万元：

（一）最高奖设置多个中奖者的，其中任意一个中奖者的最高奖金额超过五万元；

（二）同一奖券或者购买一次商品具有两次或者两次以上获奖机会的，累计金额超过五万元；

（三）以物品使用权、服务等形式作为奖品的，该物品使用权、服务等的市场价格超过五万元；

（四）以游戏装备、账户等网络虚拟物品作为奖品的，该物品市场价格超过五万元；

（五）以降价、优惠、打折等方式作为奖品的，降价、优惠、打

**Article 17 For prize-attached sales in form of lucky draws, the amount of the highest prize shall not exceed 50, 000 yuan.**

**Under any of the following circumstances, the amount of the highest prize is deemed to exceed 50, 000 yuan:** (1) where the highest prize is set to have more than one winner, and the amount of the highest prize for any winner exceeds 50, 000 yuan;

(II) where there are two or more opportunities for winning the prize by using the same lottery ticket or buying commodities once, and the accumulative amount of the prizes exceeds 50, 000 yuan;

(III) where the prizes are awarded in the forms of use right of goods or services, etc., and the market price of the use right of such goods or services exceeds 50, 000 yuan;

(IV) where the prizes are awarded with online virtual articles such as game equipment or accounts, etc., and the market price of the articles exceeds 50, 000 yuan;

(V) where the prizes are awarded by way of price cut, concessions or discount, and the price converted from such benefits as price cut, concessions or discount exceeds 50, 000 yuan;

(VI) where the prizes are awarded by way of lottery tickets, lucky draws, etc., the highest prize possible by such way exceeds 50, 000 yuan;

(VII) where the prizes are set in the name of providing job opportunities or engagement as consultants and by way of paying salaries, and the amount of the highest prize exceeds 50, 000 yuan; or

(VIII) where the lucky-draw sales are carried out in any other form,



折等利益折算价格超过五万元；

（六）以彩票、抽奖券等作为奖品的，该彩票、抽奖券可能的最高奖金额超过五万元；

（七）以提供就业机会、聘为顾问等名义，并以给付薪金等方式设置奖励，最高奖的金额超过五万元；

（八）以其他形式进行抽奖式有奖销售，最高奖金额超过五万元。

the amount of the highest prize exceeds 50, 000 yuan.

**第十八条** 经营者以非现金形式的物品或者其他利益作为奖品的，按照同期市场同类商品的价格计算其金额。

**Article 18** Where business operators set prizes with articles or other benefits in non-cash form, the value of such articles or benefits shall be calculated according to the price of the same type of commodity on the market in the same period of time.

**第十九条** 经营者应当建立档案，如实、准确、完整地记录设奖规则、公示信息、兑奖结果、获奖人员等内容，妥善保存两年并依法接受监督检查。

**Article 19** Business operators shall establish archives recording, in a truthful, accurate and complete manner, the rules for setting prizes, information publicized, results of claiming prizes, prize winners and other contents, which shall be properly kept for two years and be subject to supervision and inspection in accordance with the law.

#### 第四章 价格促销行为规范

#### Chapter IV Rules for Price-involved Promotional Activities



**第二十条** 经营者开展价格促

销活动有附加条件的，应当显著标明条件。经营者开展限时减价、折价等价格促销活动的，应当显著标明期限。

**Article 20** Where business operators attach conditions to price-involved promotional activities, they shall indicate such conditions prominently. Where business operators conduct price-involved promotional activities such as price reduction or discount within a time limit, they shall indicate the period of such promotions prominently.

**第二十一条** 经营者折价、减

价，应当标明或者通过其他方便消费者认知的方式表明折价、减价的基准。

**Article 21** When conducting a discount or price cut, a business operator shall indicate the benchmark for the discount or price cut by other means convenient for the consumers to understand. Where no benchmark is marked or indicated, the discount or price cut shall be based on the lowest transaction price for the same business operator in the same business premise within seven days prior to the current promotional activities. Where no transaction is made within the first seven days, the discount or price cut shall be based on the last transaction price before the current promotional activities.

未标明或者表明基准的，其折价、减价应当以同一经营者在同一经营场所内，在本次促销活动前七日内最低成交价格为基准。如果前七日内没有交易的，折价、减价应当以本次促销活动前最后一次交易价格为基准。

**第二十二条** 经营者通过积

分、礼券、兑换券、代金券等折抵价款的，应当以显著方式标明或者通过店堂告示等方式公开折价计算的具体办法。

**Article 22** Where a business operator gives a discount in the form of credits, gift coupons, exchange coupons, or cash coupons, etc., it shall indicate the specific methods for discount calculation in a conspicuous manner or announce such methods in the shops. Where the specific methods for discount calculation are not indicated or announced, the price quoted by the business operator at the time when the business operator accepts the exchange shall be used as the benchmark for discount calculation.

未标明或者公开折价计算具体办法的，应当以经营者接受兑换时

的标价作为折价计算基准。

## 第五章 法律责任

## Chapter V Legal Liability

**第二十三条** 违反本规定第五条，构成虚假宣传的，由市场监督管理部门依据反不正当竞争法第二十条的规定进行处罚。

**Article 23** Whoever, in violation of Article 5 hereof, constitutes false publicity, will be penalized by the market regulatory authority in accordance with Article 20 of the Anti-unfair Competition Law.

**第二十四条** 违反本规定第六条、第八条、第十条，法律法规有规定的，从其规定；法律法规没有规定的，由县级以上市场监督管理部门责令改正；可处违法所得三倍以下罚款，但最高不超过三万元；没有违法所得的，可处一万元以下罚款。

**Article 24** In the case of violation of Article 6, Article 8 or Article 10 hereof, if there are provisions in laws and regulations, such provisions shall prevail; in the absence of such provisions in laws and regulations, the local market regulatory authority at county level or above shall order the business operator in question to make corrections and may impose a fine of less than three times the illegal gains but not more than 30,000 yuan on it ; if there are no illegal gains, a fine of less than 10,000 yuan may be imposed on it.

**第二十五条** 违反本规定第七条，未公示促销规则、促销期限以及对消费者不利的限制性条件，法律法规有规定的，从其规定；法律法规没有规定的，由县级以上市场监督管理部门责令改正，可以处一万元以下罚款。

**Article 25** In the event that a business operator violates Article 7 hereof by failing to publicize its promotional activities rules, promotion period and restrictive conditions unfavorable to consumers, if there are provisions in laws and regulations, such provisions shall prevail; in the absence of such provisions in laws and regulations, the local market regulatory authority at county level or above shall order the business operator to make corrections and may impose a fine of less than 10,000 yuan on it.

**第二十六条** 违反本规定第九

**Article 26** Whoever, in violation of Article 9 hereof, constitutes commercial bribery, will be penalized by the market regulatory

条，构成商业贿赂的，由市场监督管理部门依据反不正当竞争法第十九条的规定进行处罚。

**authority in accordance with Article 19 of the Anti-unfair Competition Law.**

**第二十七条** 违反本规定第十三条第一款、第十四条、第十五条、第十六条、第十七条，由市场监督管理部门依据反不正当竞争法第二十二条的规定进行处罚。

**Article 27** Whoever violates the first paragraph of Article 13, Article 14, Article 15, Article 16 or Article 17 hereof will be penalized by the market regulatory authority in accordance with Article 22 of the Anti-unfair Competition Law.

**第二十八条** 违反本规定第十三条第二款、第十九条，由县级以上市场监督管理部门责令改正，可以处一万元以下罚款。

**Article 28** Whoever violates the second paragraph of Article 13 or Article 19 hereof will be ordered by the market regulatory authority at county level or above to make corrections and may be imposed a fine of less than 10,000 yuan on it.

**第二十九条** 违反本规定第二十条、第二十一条、第二十二条，构成价格违法行为的，由市场监督管理部门依据价格监管法律法规进行处罚。

**Article 29** Whoever, in violation of Article 20, Article 21 or Article 22 hereof, constitutes a price-related violation, will be penalized by the market regulatory authority in accordance with laws and regulations on price regulation.

**第三十条** 市场监督管理部门作出行政处罚决定后，应当依法通过国家企业信用信息公示系统向社会公示。

**Article 30** Once a decision of administrative penalty is made, the market regulatory authority shall make public such decision through the National Enterprise Credit Information Publicity System in accordance with the law.

## 第六章 附 则

## Chapter VI Supplementary Provisions

**第三十一条** 本规定自 2020 年 12 月 1 日起施行。1993 年 12 月 24 日原国家工商行政管理局令第 19 号发布的《关于禁止有奖销售活动中不正当竞争行为的若干规定》同时废止。

**Article 31** These Provisions shall come into force as of 1 December 2020, repealing simultaneously the Several Provisions on Prohibiting Unfair Competition in Prize-attached Sales promulgated under Decree No. 19 by the former State Administration for Industry and Commerce on 24 December 1993.



扫一扫，手机阅读更方便