



CHINA LEGAL BRIEFING* 156

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The Interim Measures of the Ministry of Commerce (MOFCOM) on Complaints from Foreign Invested Enterprises (FIE) (MOFCOM Order No. 2 [2006])

商务部外商投资企业投诉工作暂行办法(商务部令2006年第2号)

Issued By Ministry of Commerce (MOFCOM)
Subject Complaints Made by FIE
Promulgated on September 1st 2006
Effective from October 1st 2006
Source www.mofcom.gov.cn

The Interim Measures of the Ministry of Commerce (MOFCOM) on Complaints from Foreign Invested Enterprises (FIE) (the “Interim Measures”) have been promulgated in order to accept and hear complaints from FIE, and therefore further encourage the development of FIE and improve the investment environment.

The complaints from FIE herein refer to the complaints from FIE and its investors (jointly the “Investors”) within China where the Investors believe that their lawful benefits have been infringed by Chinese administrative authority and therefore file the complaints to the competent acceptance authorities. The Investors may also make suggestions, opinions or claims.

The State Center for Complaints from FIE and the competent departments of local governments shall be responsible for accepting and hearing the complaints from FIE. The MOFCOM Coordination Office for Complaints from FIE shall be responsible for coordinating, instructing and supervising the acceptance of such complaints, formulating policy principles for resolutions of disputes, and completing and perfecting the relevant provisions of laws and regulations.

Where a complaint is made, the written documents shall be in Chinese language only, and the particulars on basic information, relevant evidence, contacting and so on shall be included thereof.

However, the following complaints shall be rejected:

1. Where the complaint has been brought into or even finished the litigation, administrative reconsideration or arbitration procedures;
2. where the complaint has been accepted and heard by discipline-examination or supervisory authorities;
3. where the complaint is made in an anonymous manner. Other complaints that fail to meet the complaint acceptance conditions shall not be accepted either.

Administrative Measures on Establishing Service Networks of Direct-Selling Industries (MOFCOM Order No. 20 [2006])

直销行业服务网点设立管理办法(商务部令2006年第20号)

Issued by	Ministry of Commerce (MOFCOM)
Subject	Service Networks of Direct-Selling
Promulgated on	September 20th 2006
Effective from	October 20th 2006
Source	www.mofcom.gov.cn

The Administrative Measures on Establishing Service Networks of Direct-Selling Industries (the “Administrative Measures”) have been promulgated in line with the Administrative Regulation on Direct-Selling (the “Regulation”) in order to manage and standardize the direct-selling industry.

The establishment of service networks of direct-selling shall be in conformity with the following conditions:

1. It is convenient to satisfy the final consumers, and the direct distributors understand the quality of the commodities and the requests about exchange a purchase;
2. such service networks shall not be established within residence areas, schools, hospitals, army and government premises;
3. in conformity with relevant provisions of local government at and above the county level on establishing service networks.

The direct-selling enterprises which have already obtained the license for direct-selling shall finish the establishment of the proposed service networks within 6 months as of the issuance of approvals. Where the direct-selling enterprises fail to establish such proposed service networks within 6 months, they shall not be allowed to operate their business within the areas that such proposed service networks are to be established. If the enterprises still want to operate their business within these areas, they should make a new application according to the Regulation.

The direct-selling enterprises are entitled to establish more service networks in terms of their status of business. Where new service networks are established within the areas that the direct-selling enterprises have already obtained the necessary approvals, no new approval is required for such new service networks, however, the new establishment shall be filed to the MOFCOM for registration through provincial administration of commerce. Where a direct-selling enterprise modifies or cuts down their service networks, approval from the original examination and approval authority is required.

Punishment shall be imposed according to the Regulation in case of any violation of this Administrative Measures occurs.

The Measures for Administering the Release of News and Information in China by Foreign News Agencies

外国通讯社在中国境内发布新闻信息管理办法

Issued by Xinhua News Agency
Subject News Released by Foreign News Agencies in China
Promulgated September 10th 2006
Effective from September 10th 2006
Source <http://news3.xinhuanet.com>

The Measures for Administering the Release of News and Information in China by Foreign News Agencies (the “Measures”) have been promulgated by Xinhua News Agency in order to standardize the release of news and information in China by foreign news agencies and the subscriptions of such news and information by domestic consumers in China, and to promote the transmission of news and information in a sound manner.

The Measures shall apply where foreign news agencies release news and information such as characters and letters, photographs and charts and diagrams. The “foreign news agencies” mentioned herein shall also cover the foreign news release organizations. Xinhua News Agency, as China’s state news agency, is entitled to exercise unified administration on the release of news and information in China by foreign news agencies.

According to the Decision of the State Council on Establishing Administrative Licensing on the Administrative Examination and Approval Items that Really Need To Be Preserved, foreign news agencies shall obtain an approval from Xinhua News Agency in order to release news and information in China, and such release shall be undertaken by their agents that designated by Xinhua News Agency. Neither foreign news agency shall develop subscribers directly in China. Neither organization nor natural person shall act as an agent except for the aforementioned designated agents.

The news and information released by foreign news agencies in China shall not contain the following contents that:

1. Opposing the principles of Chinese Constitution;
2. Endangering the unity, sovereignty and territorial integrity of China;

3. Inciting hatred or discrimination among ethnic groups, undermining the solidarity among ethnic groups, or disrespecting ethnic customs or practices;
4. Advocating cult and superstition;
5. Disrupting social order and harming social stability;
6. Advocating obscenity, gambling or violence, or instigating crimes;
7. Insulting or defaming others, and infringing upon others' legitimate rights and interests;
8. Harming the social morality or the excellent national culture and tradition; or
9. Containing other contents in violation of the laws, administrative regulations or provisions of the state.

Xinhua News Agency is entitled to delete the aforesaid prohibited information if such prohibited information is released by foreign news agencies. Furthermore, Xinhua News Agency remains the right to impose disciplinary penalties on violations by a staff member who fails to perform his/her duties of supervision and administration or abuse his/her powers.

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