

Fair Trade Commission Disposal Directions (Guidelines) on Cases Relating to Multi-level Marketing

Stipulated by the 278th Commissioners' Meeting on February 26, 1997
Promulgated by Letter (86) Kung San Tzu No. 00861 on March 11, 1997
Amended by the 354th Commissioners' Meeting on August 19, 1998
Promulgated by Letter (87) Kung Fa Tzu No. 03242 on August 26, 1998
Amended by the 389th Commissioners' Meeting on April 21, 1999
Promulgated by Letter (88) Kung San Tzu No. 01134 on April 26, 1999
Amended by the 417th Commissioners' Meeting on November 3, 1999
Promulgated by Letter (88) Kung Fa Tzu No. 03182 on November 9, 1999
Amended by the 493rd Commissioners' Meeting on April 20, 2001
Promulgated by Order (90) Kung San Tzu No. 01650 on June 1, 2001
Amended the title by the 688th Commissioners' Meeting on January 13, 2005
Promulgated by Order Kung Fa Tzu No. 0940001278 February 24, 2005
Amended by the 729th Commissioners' Meeting of October 27, 2005
Promulgated by Order Kung San Tzu No. 0940009652 on November 15, 2005
Amended by the 914th Commissioners' Meeting on May 13, 2009
Promulgated by Order Kung San Tzu No. 0980004924 on May 25, 2009
Revised by the 954th Commissioners' Meeting on February 10, 2010
Promulgated by Order Kung San Tzu No. 0990001300 on February 25, 2010
Amended by the 1057th Commissioners' Meeting on February 8, 2012
Promulgated by Order Kung Jing Tzu No. 1011460139 on March 3, 2012
Amended by the 1135th Commissioners' Meeting on August 7, 2013
Promulgated by Order Kung Jing Tzu No. 10214611381 on August 16, 2013
Amended by the 1161st Commissioners' Meeting on February 12, 2014
Promulgated by Order Kung Jing Tzu No. 10314601801 on February 21, 2014
Amended by the 1261st Commissioners' Meeting on January 6, 2016
Promulgated by Order Kung Jing Tzu No. 10514600241 on January 15, 2016
Promulgated by Order Kung Jing Tzu No. 11014603971 on May 5, 2021
Promulgated by Order Kung Jing Tzu No. 1121460488 on January 4, 2024

Chapter I General Principles

1. In order to enforce the Multi-Level Marketing Supervision Act (hereinafter referred to as “the Act”), the Fair Trade Commission (the "Commission") adopts these Guidelines for investigations in multi-level marketing (“MLM”) cases.
2. A violation of Article 18 of the Act shall be found where the senior member participants of a MLM organization generate income primarily through their introduction of new participants and receive commissions from the latter's

membership fees, rather than generate income from the marketing or sale of the goods or services at reasonable market prices.

Chapter II Report Filing Process

3. When MLM businesses filing report to the Commission for record, the Commission shall review them item by item in accordance with Article 6 of the Act. If the information submitted is not in compliance with the regulations, the applicant will have 30 days from the date of report filing to comply. If the compliance is not met when the term expires, the Commission shall reject the submitted document, and a re-filing procedure may begin when all information is ready.
4. When MLM businesses report for any change in filed content, the Commission shall review them item by item in accordance with the Article 7 of the Act. If the information submitted is not in compliance with the regulations, the applicant will have 20 days from the date of report filing to comply. If the compliance is not met when the term expires, the Commission shall reject the submitted document, and a re-filing procedure may begin when all information is ready.
5. If the goods, services or business conducted in a case where a MLM business filing report for record involve the regulatory capacity of another competent authority in charge of a different industry, the Commission may attach all the relevant information of the filing and transfer the case to that competent authority for their discretionary review.

Chapter III Business Inspection

6. When the Commission conducts a business inspection at the primary business establishment of the MLM business, the following items will be checked and recorded, one by one, into the list of inspection record:
 - (1) the organizational system of the overall business and its individual levels;
 - (2) the total number of the MLM agents, and the number of agents joining and leaving each month;
 - (3) the name or trade name, national ID number or Business Uniform ID Number, address, contact phone number, and main business region of each MLM agent;
 - (4) written participation agreement for MLM agent;
 - (5) the categories, quantities, dollar amounts and other related information of the goods or services for sale;
 - (6) the payment terms of commissions, bonuses or other financial benefits;
 - (7) the handling process of the return goods from the MLM agents and the total dollar amounts of payments;

- (8) the Balance Sheet and Income Statement of the previous year of the MLM operation. The financial statements mentioned above shall also be examined by a certified accountant if Paragraph 2, Article 17 of the Act applies to the case;
- (9) any other situations that may be related to the MLM business operation.
- The inspection record referred to in the preceding paragraph shall contain a confirmation signature of the on-site representative of the business being inspected.
7. If any one of the following conditions applies to a MLM business, the business will be deemed as the priority target for a business inspection:
- (1) there are more reports or complaint cases against the business;
 - (2) there are abnormalities shown in the financial or tax data of the business;
 - (3) the bonus system of the business is peculiar;
 - (4) the goods of the business for sale are unusual;
 - (5) the submission was rejected because the business failed to complete a report-filing submission in accordance with the prescribed deadline;
 - (6) the business has not been inspected in the last three years;
 - (7) there are a great number of records, involving the business or its agents, that are deemed by the health regulatory authority as in violation of health regulations;
 - (8) the business fails to attend a mediation meeting organized by the Multi-level Marketing Protection Foundation without any justification, which leads to a failed mediation.
8. When the Commission's staff members visit the main office of an MLM enterprise for business inspections, in addition to the inspection conducted according to Point 6 of this Guidelines, they shall answer questions raised by the enterprise being inspected and patiently explain related regulations and administrative policies.
- If necessary, the competent authority of such enterprises may be invited to conduct the business inspections together.
9. The inspection record and its relevant documents, after being reviewed, shall be converted into digital files and uploaded to the MLM management system.

Chapter IV Case Handling

10. For cases that are submitted for interpretation, the supervisor of the department undertaking the case is authorized to process and respond in accordance with existing interpretations made by the Commission in archived examples, or find answers in clearly defined legal provisions if they pose no controversy and require no further interpretation. These cases will be submitted to the Commissioners' Meeting on a monthly basis for ratification.
11. When receiving complaints about MLM enterprises or their participants violating MLM regulations, the Commission shall request the informants to present the complaints in writing or electronically. If the complaints are given verbally or over the phone, the Commission shall record them and handle the matter accordingly.
- If, after accepting such complaints and study the cases, the Commission is incapable of finding the evidences of violations or pinpoint the action complained about, the informants may be requested to present supplementary information or file new

complaints. If an informant is delegated without a letter of authorization, the Commission may notify the informant to make corrections.

12. When receiving a complaint, the Commission shall conduct the following tasks in terms of the complaint acceptance procedure:

- (1) Whether the complaint is filed in compliance with the regulation set forth in the preceding point. If not, the Commission may notify the informant to make corrections.
- (2) If the action complained about is a civil or criminal case or falls under the jurisdiction of another agency, the handling unit may reply in writing that the case is not within the jurisdiction of the Commission or transfer the case directly to the actual competent authority.
- (3) Whether the time to impose administrative penalty has expired. The case shall be rejected if it can be assured according to the information from the informant that the time to impose administrative penalty has expired.

The handling unit has the authority to make decisions regarding how to handle the cases described in the subparagraphs of the preceding paragraph and how to reply in writing. However, cases that draw public attentions or come from a number of informants may be presented to the commissioner on duty for the approval of the chairperson or the vice chairperson.

If a complaint case fails to meet the threshold prescribed in the preceding point, the Commission may still launch an ex officio investigation.

13. If a complaint case involves one of the following situations, the handling unit may draw up handling suggestions, without investigation, and present it to the commissioner on duty for the approval of the chairperson or vice chairperson:

- (1) The facts and reasons stated in the complaint are clearly inconsistent with the criteria of the Act.
- (2) The action complained about has already been sanctioned by the Commission.
- (3) The party being complained about has suspended its operation, dissolved (deceased) or relocated to an unknown location and it is impossible to investigate.

14. If a case under investigation involves one of the following situations, the investigation may be suspended and the handling unit may draw up handling suggestions and present them to the commissioner on duty for the approval of the chairperson or vice chairperson:

- (1) The informant has been requested to present supplementary information within a given period but has failed to comply.
- (2) The action complained about has already been sanctioned by the Commission.
- (3) The party being complained about has suspended operation, dissolved (deceased) or relocated to an unknown location and it is impossible to investigate.

15. When the circumstances of a case make it necessary for the Commission to dispatch its personnel to conduct investigations a MLM organization's place of business, at least two personnel shall be dispatched at the same time. If necessary, local law enforcement agencies and other governmental agencies with relevant jurisdictions may be asked to offer their help and cooperation in the investigation.

Chapter V Simplified Procedures

16. The simplified procedure may apply in cases involving violations of Paragraph 1 of Article 6, Paragraph 1 of Article 7, Article 9, Paragraph 1 of Article 13, Article 14, Article 16, Article 17, Paragraph 1 of Article 25, and Article 26 of the Act provided that the violations only have a slight effect on public interest and warnings are to be issued without fine imposition. However, cases to which the second half of Paragraph 1 of Article 32, the second half of Article 33 and the second half of Article 34 of the Act apply are excluded.

The simplified procedure may apply to cases that, according to the results of investigations, are confirmed involving no violations and no sanctions shall be imposed.

17. With cases processed through the simplified procedure and warnings are issued without any imposed fines, the handling unit shall draw up handling suggestions and written replies and presents them to the commissioner on duty.

After the chairperson or vice chairperson gives the approval, the official replies shall be finalized and sent out. Such cases are then presented in the Commissioners' Meetings for ratification each month.

With cases processed through the simplified procedure without any imposed sanctions, the handling unit shall draw up handling suggestions and written replies and present them to the commissioner on duty. After the chairperson or vice chairperson gives the approval, the official replies shall be finalized and sent out. On a case-by-case basis, such cases may be presented in the Commissioners' Meetings for ratification.

18. If there are other opinions during the review process of cases as mentioned in Point 17, and it is instructed to submit the cases to the Commissioners' Meeting for review, they should be submitted to the Commissioners' Meeting for review in accordance with the contents of the instructions.

Chapter VI Other Matters

19. If any one of the following conditions applies to a MLM business, the Commission may implement supervisory control after a Commissioners' Meeting:

- (1) the goods of the MLM business may be at the risk of disappearing;
- (2) the circumstances of violations of Paragraph 2 of Article 20, Paragraph 2 of Article 21, and Article 22 through Article 24 of the Act are significant in their nature;
- (3) the circumstances of violations of Article 15 and Article 19 of the Act are significant in their nature;
- (4) the level of damage done to MLM agents' rights and interest is significant in its

nature.

For a business under supervisory control, as referred to in the preceding paragraph, the Commission shall, in accordance with Article 26 of the Act, order the business to do regular reporting of required information, or dispatch personnel to inspect for, at the business premises, the required business operation information.

20. If the need for the supervisory control of the MLM business no longer exists, and the conditions as described in Paragraph 1 of the preceding Point are not present during the period of supervisory control, the Commission may remove the supervisory control after the Commissioners' Meeting has reached such a decision.

The MLM businesses that have been under the Commission's supervisory control for more than two years may apply for the removal of the supervisory controls.

However, if such an application is rejected by the Commission, the business shall not be permitted to re-apply for the removal of the supervisory control within a year from the date of rejection.

21. If during the process of report filing, business inspections or case investigations, the Commission finds that a MLM business or its agents have violated the Act or any other regulations, the handling process shall be conducted in the following way:

(1) cases that involve the violation of Article 18 of the Act, or that pose criminal responsibility in other regulations, shall be transferred to the prosecuting and/or investigating authorities;

(2) cases that involve the violation of the administrative responsibilities of the Act shall be put under the Commission's initiated investigation;

(3) cases that involve the violation of the administrative responsibilities of other laws shall be transferred to the competent authorities.

For the transferred cases, as referred to in the subparagraphs (1) and (3) of the preceding paragraph, if relevant information is subsequently obtained, such information should voluntarily be supplied to the competent authorities receiving the cases for their reference.

22. Cases that involve MLM businesses that are found to have no sales data or signs of business operations should be transferred to the Ministry of Economic Affairs to be processed in accordance with the Company Act or the Business Registration Act.

23. In cases involving violation of Articles 6 or 18 of the Act, if the informant does not provide its name or contact information, the Commission shall notify the informant to make corrections and explain that when the true personal information is not provided, the Commission can not apply to the Multi-level Marketing Protection Foundation for the informant reward according to the Multi-level Marketing Protection Foundation Regulations Governing Issuance of Rewards for Informants Reporting Violations of Articles 6 and 18 of the Multi-level Marketing Supervision Act (hereinafter referred to as the Rewards Regulations).

The Commission shall keep the identity of each informant confidential unless it is otherwise specified in related regulations or the informant agrees to have his (her) identity revealed.

When deciding on the sanction in an informed case involving violation of Article 6 of the Act, the Commission shall notify the informant to apply to the Multi-level Marketing Protection Foundation for the reward according to the Rewards Regulations.

After the prosecutor confirms the offense in an informed case involving violation of Article 18 of the Act based on the evidence provided by the informant and decides on deferred prosecution or prosecution, or when the court makes the conviction after the offender is prosecuted, the Commission may apply to the Multi-level Marketing Protection Foundation for the reward for the informant.