

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

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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 an informant files a complaint, the following information shall be provided to the Commission:
 - (1) A written or electronic document specifying the details of the alleged violation, including the complainant's real name and address, and the name (or full name) and address of the reported enterprise. If the informant is made verbally or by phone, the Commission shall make a record and handle the case accordingly.
 - (2) Relevant evidences of the alleged illegal conducts.
 - (3) If the complaint is filed by a third party on behalf, a power of attorney shall be provided.
12. Upon receiving a complaint, the Commission shall first review the following matters:
 - (1) Whether the complaint meets the requirements set forth in the preceding point. If not, the Commission may decline to process with the case and request the complainant to file a new complaint.
 - (2) If the reported matter is a civil or criminal case, or falls under the jurisdiction of another competent authority, the Commission may respond in writing that the matter is not within its jurisdiction, or directly forward the case to the competent authority.
 - (3) Whether the period for administrative penalty has lapsed. If it is apparent from an examination of the materials submitted by the complainant that the statute of limitations for administrative penalty has expired, the Commission may decline to process the case.

Decisions regarding the handling and reply of the cases referred to in the preceding paragraph are authorized to be made by the supervisor of the

handling unit. However, cases that involve public concern or group complaints may be submitted to the commissioner on duty for review and be approved by the chairperson or vice chairperson.

Even if a complaint does not meet the requirements in the preceding point, the Commission may still initiate 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 fine imposed on the offender is less than NT\$200,000, or 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 where sanctions are imposed, and warnings are issued without any imposed fines, the handling unit shall draft a summary disposition and a reply letter 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 on a monthly basis. However, in cases where a warning is issued without a fine, a summary disposition is not required. 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. The format and content of a summary disposition shall include the following:
 - (1) The heading "Fair Trade Commission Disposition" and the official document number.
 - (2) The names and domiciles or places of residence of the offender, its representative (responsible person), and agents.
 - (3) The holding (main text of the disposition).
 - (4) The facts: A concise and itemized statement of the nature of the violation, as determined by the Commission.
 - (5) The reasons: A brief explanation of the reasoning behind the findings of fact. If the offender has requested an investigation or submitted facts or evidences that the Commission has chosen not to investigate or adopt, the reasons for such decisions shall be stated in separate paragraphs.
 - (6) The evidences: A description of the relevant facts and materials obtained during the investigation, such as the complaint letter, multi-level marketing structure documents, the statements made by the offender, materials submitted by the offender, and other materials collected by the Commission.

- (7) The applicable laws and regulations: A list of the provisions that are violated and the legal consequences thereof.
 - (8) Notes: Including guidance on administrative appeal procedures and other required information.
19. 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 instructed content.

Chapter VI Other Matters

20. 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.

21. 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.

22. 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.

23. 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.

24. 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