

Fair Trade Commission Disposal Directions (Guidelines) on Trade Practices between Department Stores and Counters

Passes by the 675th Commissioners' Meeting on October 14, 2004
Promulgated by Order Kung Yi Tzu No.0930007932 on October 21, 2004
Amended by the 688th Commissioners' Meeting on January 13, 2005
Promulgated by Order Kung Fa Tzu No.0940001314 on February 24, 2005
Amended by the 1057th Commissioners' Meeting on February 08, 2012
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Amended by the 1220th Commissioners' Meeting on March 25, 2015
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Amended by the 1311st Commissioners' Meeting on December 21, 2016
Promulgated by Order Kung Fu Tzu No.10512612911 on December 29, 2016

1. Purpose

These Guidelines are adopted to promote full and accurate disclosure of important dealing information related to department stores and counters as well as to promote fair and reasonable business activities, with the purposes of maintaining trading order and ensuring free and fair competition.

2. Definitions

- (1) The term "department store" refers to a business whose selling area is more than 3000 square meters (3000 m²), selling a variety of products, composed of many counters and independent retail stores, selling products in different departments, providing a single packaging format and a unified cash register system, and with one organization responsible for its whole operational management. A shopping mall whose operational model conforms to the foregoing definition is regarded as a department store.
- (2) The term "counter" refers to a business, under the management and supervision of a department store, who assigns sales personnel and pays for their wages and salaries, sells its products within the department store and pays it based on a certain percentage of their turnover.

3. Restriction of Competition

The department stores shall not abuse their market dominant positions by conducting any of the following behaviors:

- (1) Causing counters to discontinue supply, purchase or other business transactions with a particular enterprise, with an eye to injuring such particular enterprise. For instance, threatening counters that they will be removed as a punishment if they chose to set up counters in their competitors and thus counters would choose to discontinue dealing with other enterprises in an attempt to exclude its competition.
- (2) Improperly restrict counters' activities. For example, restricting the business area of counters as a condition to enter into transactions.

4. Obviously Unfair Conduct

When the department stores behave any of the following ways without negotiating with their counters in advance with full and accurate disclosure of important dealing information in writing, it is considered as obviously unfair conduct:

- (1) Relevant standards and rules for location adjustments or changes when there is a need of shifting or changing the selling location or the size of selling place.
- (2) The standards regarding the collection of sponsorship fees and corresponding ratios when holding various promotional activities with the sponsorship from the counters.
- (3) The standards for the commissions agreed and paid by the counters.
- (4) The sharing of handling fees with respect to consumer credit card charges if the counters are responsible for certain part of the fees.
- (5) The identity of subcontractor and the standards for the collection of interior decorating charges in the event that stall setup and decoration are outsourced by the department stores.

5. Legal Effect

Any department store in violation of Paragraph 1 of Point 3 and which behavior is likely to restrain competition constitutes a violation of paragraph 1, Article 20 of the Fair Trade Law.

Any department store in violation of Paragraph 2 of Point 3 and which behavior is likely to restrain competition constitutes a violation of paragraph 5, Article 20 of the Fair Trade Law.

Any department store in violation of Point 4 and which behavior is sufficient to affect the trading order of the market constitutes a violation of Article 25 of the Fair Trade Law.