



直销管理条例

Regulations on Administration of Direct Sales

禁止传销条例

Regulations on Prohibition of *Chuanxiao*

中国法制出版社

China Legal Publishing House

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目 录

CONTENTS

中华人民共和国国务院令 第 443 号	2
Decree No. 443 of the State Council of the People's Republic of China	3
直销管理条例	4
Regulations on Administration of Direct Sales	5
中华人民共和国国务院令 第 444 号	48
Decree No. 444 of the State Council of the People's Republic of China	49
禁止传销条例	50
Regulations on Prohibition of <i>Chuanxiao</i>	51

中华人民共和国国务院令

第 443 号

《直销管理条例》已经 2005 年 8 月 10 日国务院第 101 次常务会议通过，现予公布，自 2005 年 12 月 1 日起施行。

总 理 温家宝

2005 年 8 月 23 日

Decree of the State Council of the People's Republic of China

No. 443

Regulations on Administration of Direct Sales, adopted at the 101st Executive Meeting of the State Council on August 10, 2005, are hereby promulgated and shall be effective as of December 1, 2005.

Premier: Wen Jiabao

August 23, 2005

直销管理条例

(2005年8月10日国务院第101次常务会议
通过 2005年8月23日中华人民共和国国务院令
第443号公布 自2005年12月1日起施行)

第一章 总 则

第一条 为规范直销行为，加强对直销活动的监管，防止欺诈，保护消费者的合法权益和社会公共利益，制定本条例。

第二条 在中华人民共和国境内从事直销活动，应当遵守本条例。

直销产品的范围由国务院商务主管部门会同国务院工商行政管理部门根据直销业的发展状况和消费者的需求确定、公布。

第三条 本条例所称直销，是指直销企业招募直销员，由直销员在固定营业场所之外直接向最终消费者

Regulations on Administration of Direct Sales

(Adopted at the 101st Executive Meeting of the State Council on August 10, 2005 , promulgated by Decree No. 443 of the State Council of the People's Republic of China on August 23 , 2005 and shall be effective as of December 1 , 2005)

Chapter I General Provisions

Article 1 These Regulations are formulated for the purpose of standardizing direct sales acts, reinforcing the supervision over direct sales activities, preventing frauds, and protecting the lawful rights and interests of consumers and social and public interests.

Article 2 Whoever engages in direct sales activities within the territory of the People's Republic of China shall abide by these Regulations.

The scope of products for direct sale shall be determined and made public by the competent commerce department of the State Council in conjunction with the administrative department for industry and commerce of the State Council in light of the development of the direct sales industry and consumers' needs.

Article 3 The term "direct sale" in these Regulations means the method of distribution whereby a direct salesperson recruited by a direct sales enterprise promotes its product, outside any fixed place of

(以下简称消费者) 推销产品的经销方式。

本条例所称直销企业，是指依照本条例规定经批准采取直销方式销售产品的企业。

本条例所称直销员，是指在固定营业场所之外将产品直接推销给消费者的人员。

第四条 在中华人民共和国境内设立的企业（以下简称企业），可以依照本条例规定申请成为以直销方式销售本企业生产的产品以及其母公司、控股公司生产产品的直销企业。

直销企业可以依法取得贸易权和分销权。

第五条 直销企业及其直销员从事直销活动，不得有欺骗、误导等宣传和推销行为。

第六条 国务院商务主管部门和工商行政管理部门依照其职责分工和本条例规定，负责对直销企业和直销员及其直销活动实施监督管理。

business, directly to an ultimate consumer (hereinafter referred to as “ consumer”).

The term “ direct sales enterprise” in these Regulations means the enterprise that is approved in accordance with the provisions of these Regulations to sell its product by adopting the method of direct sale.

The term “ direct salesperson” in these Regulations means the person who promotes a product directly to a consumer outside any fixed place of business.

Article 4 An enterprise established within the territory of the People’s Republic of China (hereinafter referred to as “ enterprise”) may, in accordance with the provisions of these Regulations, apply for the status of a direct sales enterprise that adopts the method of direct sale to sell its own product or the product of its parent company or controlled company.

A direct sales enterprise may obtain trading rights and distribution rights in accordance with law.

Article 5 In direct sales activities, a direct sales enterprise and its direct salespersons shall not commit any act of fraudulent or misleading publicity and promotion.

Article 6 The competent commerce department and the administrative department for industry and commerce of the State Council shall, in accordance with the division of their functions and duties as well as the provisions of these Regulations, be responsible for exercising supervision and administration of direct sales enterprises and direct salespersons as well as their direct sales activities.

第二章 直销企业及其分支 机构的设立和变更

第七条 申请成为直销企业，应当具备下列条件：

(一) 投资者具有良好的商业信誉，在提出申请前连续5年没有重大违法经营记录；外国投资者还应当有3年以上在中国境外从事直销活动的经验；

(二) 实缴注册资本不低于人民币8000万元；

(三) 依照本条例规定在指定银行足额缴纳了保证金；

(四) 依照规定建立了信息报备和披露制度。

第八条 申请成为直销企业应当填写申请表，并提交下列申请文件、资料：

(一) 符合本条例第七条规定条件的证明材料；

(二) 企业章程，属于中外合资、合作企业的，还应当提供合资或者合作企业合同；

(三) 市场计划报告书，包括依照本条例第十条规

Chapter II Establishment and Alteration of Direct Sales Enterprises and Their Branches

Article 7 To apply for the status of a direct sales enterprise, the following conditions shall be met;

(1) The investor has a sound goodwill and no record of major illegal operations during the five consecutive years prior to the submission of the application; a foreign investor shall additionally has more than three years' experience of engaging in direct sales activities outside the territory of China;

(2) The amount of paid-in registered capital shall be no less than RMB 80 million yuan;

(3) A cash deposit has been paid in full in the designated bank in accordance with the provisions of these Regulations; and

(4) A system for reporting information for the record and for disclosing information has been established in accordance with the provisions.

Article 8 To apply for the status of a direct sales enterprise, an application form shall be filled in and the following application documents and materials shall be submitted:

(1) the materials proving the compliance with the conditions provided for in Article 7 of these Regulations;

(2) the articles of association of the enterprise in question, and, in the case of a Chinese-foreign equity joint venture or contractual joint venture, the equity joint venture or contractual joint venture contract shall also be furnished;

(3) the report on marketing plan, including the program for

定拟定的经当地县级以上人民政府认可的从事直销活动地区的服务网点方案；

(四) 符合国家标准的产品说明；

(五) 拟与直销员签订的推销合同样本；

(六) 会计师事务所出具的验资报告；

(七) 企业与指定银行达成的同意依照本条例规定使用保证金的协议。

第九条 申请人应当通过所在地省、自治区、直辖市商务主管部门向国务院商务主管部门提出申请。省、自治区、直辖市商务主管部门应当自收到申请文件、资料之日起7日内，将申请文件、资料报送国务院商务主管部门。国务院商务主管部门应当自收到全部申请文件、资料之日起90日内，经征求国务院工商行政管理部门的意见，作出批准或者不予批准的决定。予以批准的，由国务院商务主管部门颁发直销经营许可证。

establishing its service network points in the region where direct sales activities are to be conducted, which is worked out in accordance with the provisions of Article 10 of these Regulations and is approved by the local people's government at or above the county level;

(4) a user manual that conforms with the standards of the State;

(5) a sample of the promotional contract to be entered into with a direct salesperson;

(6) the capital verification report issued by an accounting firm;
and

(7) the agreement reached between the enterprise and the designated bank on the use of the cash deposit in accordance with the provisions of these Regulations.

Article 9 An applicant shall make its application to the competent commerce department of the State Council through the competent commerce department of the province, autonomous region or municipality directly under the Central Government of the place where it is located. Within seven days upon receipt of the application documents and materials, the competent commerce department of the province, autonomous region or municipality directly under the Central Government shall submit these application documents and materials to the competent commerce department of the State Council. The competent commerce department of the State Council shall, within 90 days upon receipt of all the application documents and materials, make a decision to approve or not to approve the application after soliciting the opinions of the administrative department for industry and commerce of the State Council. Where the application is approved, the competent commerce department of the State Council shall issue a direct sales operation license thereto.

申请人持国务院商务主管部门颁发的直销经营许可证，依法向工商行政管理部门申请变更登记。

国务院商务主管部门审查颁发直销经营许可证，应当考虑国家安全、社会公共利益和直销业发展状况等因素。

第十条 直销企业从事直销活动，必须在拟从事直销活动的省、自治区、直辖市设立负责该行政区域内直销业务的分支机构（以下简称分支机构）。

直销企业在其从事直销活动的地区应当建立便于并满足消费者、直销员了解产品价格、退换货及企业依法提供其他服务的服务网点。服务网点的设立应当符合当地县级以上人民政府的要求。

直销企业申请设立分支机构，应当提供符合前款规定条件的证明文件和资料，并应当依照本条例第九条第一款规定的程序提出申请。获得批准后，依法向工商行

The applicant shall apply, in accordance with law, for the registration of alteration with the administrative department for industry and commerce by presenting the direct sales operation license issued by the competent commerce department of the State Council.

In examining an application for issuing a direct sales operation license, the competent commerce department of the State Council shall take into account such factors as State security, social and public interests and the development of the direct sales industry.

Article 10 A direct sales enterprise that intends to engage in direct sales activities shall establish a branch (hereinafter referred to as “branch”) in the province, autonomous region or municipality directly under the Central Government where direct sales activities are to be conducted, which shall be in charge of the direct sales business in the said administrative area.

In the region where direct sales activities are conducted, the direct sales enterprise shall set up its service network points that facilitate consumers and direct salespersons, and satisfy their needs as well, to know its product prices, return or replace products, and whereby the enterprise provides other services in accordance with law. The establishment of such service network points shall meet the requirements of the people’s government at or above the county level of the place where they are located.

To apply for establishing a branch, the direct sales enterprise shall furnish the documents and materials proving its compliance with the conditions provided for in the preceding paragraph, and shall make an application in accordance with the procedures set forth in the first paragraph of Article 9 of these Regulations. Upon approval, the direct sales enterprise shall register with the administrative department for

政管理部门办理登记。

第十一条 直销企业有关本条例第八条所列内容发生重大变更的，应当依照本条例第九条第一款规定的程序报国务院商务主管部门批准。

第十二条 国务院商务主管部门应当将直销企业及其分支机构的名单在政府网站上公布，并及时进行更新。

第三章 直销员的招募和培训

第十三条 直销企业及其分支机构可以招募直销员。直销企业及其分支机构以外的任何单位和个人不得招募直销员。

直销员的合法推销活动不以无照经营查处。

第十四条 直销企业及其分支机构不得发布宣传直销员销售报酬的广告，不得以缴纳费用或者购买商品作为成为直销员的条件。

第十五条 直销企业及其分支机构不得招募下列人员为直销员：

- (一) 未满 18 周岁的人员；
- (二) 无民事行为能力或者限制民事行为能力的