

법제교류 연구 16-18-⑥

International Legal Collaboration Research 16-18-⑥

Consumer Protection Acts in Korea

Park Kwang Dong ·
Ko Hyoung Suk · Kim Hyun Soo



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Abstract

I . Background and Purpose

Background

- Publish English-language version of “Introduction to Korea Law” speciality book in order to raise international awareness and competitiveness of Korean law as well as actively promote korea law research in foreign countries
- Introduce Korean Law in order to strengthen scholarly exchange and to fulfill the need of Korea law and enhance Korea’s international stature as a benchmark model of legislation

Purpose

- The aim is to analyze Korean contract Law and to publish in English version with ultimate aim of enhancing Korea’s international stature

II . Main Contents

Overview of Consumer Protection Law in Korea

- Definitions and Characteristics of Consumer Protection Laws
- Relationship of Consumer Protection Laws to Other Laws

- Framework Act on Consumers
 - Fundamental Rights and Duties of States, Etc.
 - Consumer Policy and Consumer Safety
- Consumer Protection Acts Concerning Overall Consumer Transactions
 - Act on the Regulations of Terms and Conditions
 - Act on Fair Labeling and Advertising
- Consumer Protection Acts Concerning Special Transactions
 - Installment Transactions Act
 - Act on Door-To-Door Sales, Etc.
 - Act on the Consumer Protection in Electronic Commerce, etc.
- Prevention and Relief of Consumer Damage
 - Consumer Class Action
 - Consumer Dispute Mediation
 - Collective Dispute Mediation

Charged parts	Researcher
Part I . Overview of Consumer Protection Law in Korea Part II . Framework Act on Consumers	Ko, Hyoung-Suk
Part III. Consumer Protection Acts Concerning Overall Consumer Transactions	Park, Kwang-Dong

Charged parts	Researcher
Part IV. Consumer Protection Acts Concerning Special Transactions Chapter I. Installment Transactions Act Chapter II. Act on Door-To-Door Sales, Etc.	Kim, Hyun-Soo
Part IV. Consumer Protection Acts Concerning Special Transactions Chapter III. Act on the Consumer Protection in Electronic Commerce, etc.	Ko, Hyoung-Suk
Part V. Prevention and Relief of Consumer Damage	Park, Kwang-Dong

III. Expected Effects

- To fulfill the need of Korea law and enhance Korea's international stature by publishing "Introduction to Korea Law" Speciality text.

▶▶Key Words : consumer law, regulation of terms and conditions, labeling and advertising, installment transaction, door-to-door sales, electronic commerce, consumer class action

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Part I . Overview of Consumer Protection Law in Korea

Chapter I . Definitions and Characteristics of Consumer Protection Laws

Section 1. Definitions and Justifications of Consumer Protection Laws

1. Definitions of Consumer Protection Laws

Consumer Protection Laws regulate consumer issues arising from the relationship between consumers and business operators. These acts shall apply to consumers and business operators.

(1) Consumers

The term “consumers” means those who use (including to utilize) for their daily lives consumers’ goods and services (including facilities) furnished by business operators, those who ultimately use such goods, etc. for their production activities, or those who use such goods for their agricultural business (including livestock business) and fisheries business (Framework Act on Consumers Article 2, 1). Except for some cases, those who use goods for their business activities shall not be deemed consumers.

(2) business operators

The term “business operators” means those who manufacture (including to process and pack), import, or sell goods, or furnish services. Therefore, those without the purpose of gaining profits shall also be deemed business operators.

(3) Goods and Services

The term “goods” means corporeal things, electricity, and other natural forces which can be managed (Korean Civil Act Article98). Digital contents fall under the category of goods. The term “services” means an intangible commodity in the form of human effort, such as labor, skill, or advice.

(4) Consumer issues

The term “consumer issues” means consumers’ complaints or damages that derive from contracts with business operators or from the use of goods. Consumer issues regarding contracts arise from their unfair terms or business operators’ breach of contract, etc. Consumer issues regarding the use of goods arise from the defects of goods.

2. Justifications of Consumer Protection Laws

(1) Characteristics of Consumers

1) Irreasonable person

The Korean Civil Act is based on the premise that humans have capacity to make a reasonable and rational decision. When rational

persons enter into legal relations based on their intent with another persons, this therefore shall be respected to the fullest, which is the principle of private autonomy that is the most fundamental principle of the Korean Civil Act. Compared to reasonable persons under the Korean Civil Act, consumers are considered unreasonable humans. As for transactions with business operators, consumers may not make a rational purchase decision but make an impulsive one. In particular, consumers make most purchase decisions relying on the information provided by business operators. To the extent that the two parties differ in their respective power, the idea that consumers make a reasonable purchase decision is a token expression.

2) Consumers with Less Economic Power

Business operators have a dominant position in a market based on huge capital and organizational abilities. By contrast, consumers are in a relatively weaker position in terms of organizational power, etc. because they act individually. Especially, if business operators are business operators, the gap is even greater. Also, business operators have expert status in terms of technology and information, but consumers depend on the technology and information provided by business operators. Consumers and business operators are not equal in their mutual relationship. Ignoring the existing gap and treating both parties equally are promoting inequality in the name of equality. Therefore, the gap shall be acknowledged, and each party shall be treated differently.

3) Passive Position in terms of the Content of a Contract

Those who buy goods, etc. assume a position of a buyer under the Korean Civil Act, etc. With regard to conclusion of a contract of

purchase of goods, freedom with which a buyer decides on the content of a contract through mutual agreement shall be respected. Business operators prepare the content of a contract in advance in order to enter into a contract with multiple consumers. The pre-made content of a contract that business operators present to consumers shall be incorporated into the contents of a contract only with Consumers' consent. The pre-made content of a contract is "terms and conditions", which requires consumers' consent. Consumers may refuse or request to revise the terms and contents presented by business operators. However, business operators do not lay down the content of a contract through consultation with consumers. Rather, they refuse to conclude a contract with consumers. Therefore, the freedom that consumers have in terms of the content of a contract is little more than a name.

(2) Characteristics of Consumer Damage

1) Multiple Consumers Suffering Damage

In a modern consumer society, goods are mass-produced for a mass market, and a large number of consumers purchase them. This provides business operators with opportunities to generate a huge profit and consumers with benefits to buy goods conveniently at a low price. However, this characteristic causes multiple consumers to suffer multiple damage.

2) Small but Huge Damage (Small damages but huge damage)

Except for harm to human life or body, in the case where an business operator's illegal act causes harm to consumers, the scale of damage of each consumer is not great. However, the total damage to consumers is off-the-scale. This causes business operators to keep doing illegal acts. As

some of the consumers suffering damage may claim compensation, even if business operators pay the damage, business operators gain enormous illegal profits by not compensating the rest.

3) Passivity of Remedy for Damage of Consumers

One of the characteristics of consumers is that they do not actively demand damage relief even when they suffer damage. It is pointed out that the causes are the difficulty in recognition of the fact of damage and the complexity, excessive cost, time delays, etc. of the remedy for damage.

4) Difficulty in Proving Damage

For consumers to claim compensation from business operators, they shall prove the requirements for a compensation claim. In other words, in order to claim compensation for illegal acts, it shall be proved that business operators committed illegal acts on purpose or by negligence. Even if the business operators assumed a strict liability or burden of proof, consumers shall still prove business operators' illegal acts and the damage caused by them. However, in today's society, it is not easy for consumers without professional knowledge to prove any defect or fault because the goods, etc. consumers use in today's society are not manufactured with simple technology.

(3) Need of Consumer Protection or Consumer Protection Acts

Modern Civil Acts respected to the fullest the agreement between persons with reason according to the principle of freedom of contract. Those who sold goods agreed to the content of a contract with those

who intended to buy goods. The agreement was binding upon the two parties unless it did not violate the principle of good faith. The basic premise of these Acts is that the two parties have equal bargaining power. However, the status of consumers who buy goods with the purpose of consumption and the status of business operators who professionally sell goods are not equal at all. Compared to business operators, consumers have a lesser bargaining power. business operators by using their status forced consumers to enter into a contract whose content was unfavorable to consumers, and consumers were bound by the contents of the contract. As business operators monopolized the basic information (the identity of business operators, goods, terms and conditions) that was material to the contract, it was impossible for consumers to exercise their right of choice unless business operators provided them with the information. Therefore, freedom of contract, the basic principle of modern Civil Acts, became reduced to a mere principle in formality; consumers did not enjoy freedom of contract. That becomes clearly apparent in the case of market-controlling business operators. Considering the inequality of both parties, it is reasonable that we shall need special protection measures in addition to the rights that are granted by contract laws, including Civil Act, Commercial Act, etc., in order for consumers not to suffer from damage when consumers, the weaker party, conclude a contract with business operators, the stronger party. Also, consumer issues are not a blip. As proper protection measures are required for the advance in technology and change in sales methods of goods, etc., this field needs continued research as well as legal and institutional improvement.

Section 2. Classification of Consumer Protection Laws

1. Laws on Comprehensive Consumer Issues

Consumer issues may be classified into two fields: issues from the use of goods and from transactions with business. Framework Act on Consumers governs both groups. Product Liability Act governs issues from the use of goods. Act on the Regulations of Terms and Conditions, etc. govern issues from transactions with business.

2. Laws on Comprehensive Consumer Transactions and Laws on Special Consumer Transactions

(1) Laws on Comprehensive Consumer Transactions

These regulate consumer issues from transactions between consumers and business operators. They shall be applied to all consumer transactions regardless of their form. The Act on Fair Labeling and Advertising and the Act on the Regulation of Terms and Conditions fall into this category.

(2) Laws on Special Consumer Transactions

These regulate consumer transactions made via special modes of transactions, including installment transactions on an advance-payment basis or an deferred-payment basis (payment by installment), door-to-door sales and door-to-door sales under sponsorship (the location of conclusion of a contract), multi-level marketing and door-to-door sale under sponsorship (multi-level sales system of sales organizations), telemarketing and electronic commerce

(non-face-to-face transactions), and recurring transactions (repeatability of benefit). The Installment Transactions Act, the Act on Door-to-door Sales, etc., and the Act on the Consumer Protection in Electronic Commerce, etc. fall into this category.

3. Laws on Prevention of Damage to Consumers and Relief Procedures

These regulate measures for prevention or relief of consumer damage from the use of goods or consumer transactions. Such measures include consumer class action and consumer dispute mediation procedure. The Framework Act on Consumers falls into this category.

Charter II. Relationship of Consumer Protection Laws to Other Laws

Section 1. Relationship to the Civil Act and the Commercial Act

The consumer protection laws are about the rights and duties of business operators and consumers in terms of transactions of goods, etc. Therefore, the Korean Civil Act or the Korean Commercial Act that regulate transactions of good, etc. are applied. The Korean Civil Act and the Korean Commercial Act are applied to transactions between parties, between merchants, and between merchants and non-merchants. However, Consumer Protection laws apply only to transactions between business operators and consumers. As a result, Consumer Protection laws have a status of special lawct vis-à-vis the Korean Civil Act and the Korean Commercial Act. In cases of conflict between Consumer Protection laws and the Korean Civil Act and the Korean Commercial Act, consumer protection laws take precedence. Contents not covered by consumer protection laws shall be governed by the Korean Civil Act and the Korean Commercial Act.

Section 2. Relationship to the Korean Economic Act

1. Relationship to Fair Trade Laws

Fair trade laws regulate economic activities of business operators in order to establish fairness in trade. Fair trade laws are divided into fair trade laws in the narrow sense and consumer protection laws. Fair trade laws in the narrow sense include Monopoly Regulation and Fair Trade

Act, Fair Transactions in Subcontracting Act, Fair Transactions in Franchise Business Act, etc. The purpose of these Acts is to promote fair and free competition, to encourage thereby creative business activities, to protect consumers, and to strive for balanced development of the national economy, by preventing any abuse of market-dominating positions by business operators and any excessive concentration of economic power, and by regulating undue collaborative acts and unfair trade practices. (Monopoly Regulation and Fair Trade Act Article1). The purpose of Consumer Protection Acts is also to protect consumers' rights and interests and to contribute to the development of national economy (Framework Act on Consumers Article1). Therefore, the purposes of fair trade laws in the narrow sense and consumer protection laws are the same: to protect consumers' rights and interests and to contribute to the development of the national economy. However, they differ in terms of methodology to achieve the goals. Consumer protection laws intend to achieve the goals by strengthen consumers' rights and business operators' duties; fair trade laws intend to achieve the goals by regulating business operators' or business operators organizations' unfair trade practices (Abuse of market-dominating positions, enterprise combination, centralization of economic power, unfair co-activities, unfair trade practices, etc.). Fair trade laws in the narrow sense regulate certain activities of business operators or business operators organizations, but consumer protection laws regulate trade practices between business operators and consumers.

2. Interrelation of Consumer Protection Laws

There are several ways for consumers to buy goods, etc.: installment transactions, door-to-door sales, telemarketing, multi-level marketing, electronic

commerce, and mail order. Consumers may buy goods, etc. via one of them, or via multiple ways. In the latter case, various consumer protection laws shall be applied to consumer transactions. In that case, the relevant law shall prevail over other laws; Provided that where the application of other laws is more favorable to consumers, the law concerned shall apply (Installment Transactions Act Article 4, Act on Door-to-Door Sales Article 4, Act on the Consumer Protection in Electronic Commerce Article 4).

Part II . Framework Act on Consumers

Charter I . Fundamental Rights and Duties of States, Etc.

Section 1. Reason for Enactment and History

1. Reason for Enactment of Framework Act on Consumers

People consume a lot of goods to live a life. However, they cannot produce all the goods they need; therefore, they need to buy goods produced and sold by others. The consumption is divided into two categories: first, consumption for an individual's personal purpose; second, consumption for selling or producing other goods. However, the law of contract does not acknowledge the difference in purposes and treat them the same way. As a result, consumers, who are not professionals, were not protected. Consumers, unlike business entities, are weaker parties, but they were treated the same way on the ground that they are persons of capacity to act. However, in this case, only formal equality was considered and the characteristics as consumers were not taken into account. The necessity of protecting consumers, who are weaker parties compared to business entities, was recognized, and the need for tangible consumer protection measures arose. As a result, Consumer Protection Act was enacted in 1980. After the enactment of the Act, it has gone through revisions several times on account of changes in the socioeconomic environment. However, the Act had limitations in terms of helping consumers act as main players of the market in that it viewed consumers as objects of protection. Therefore, there the Act was revised completely in 2006 to help consumers participate

in the market as the main players and the title of the Act was also changed to Framework Act on Consumers.

2. History of Framework Act on Consumers and Major Contents

(1) Enactment of Consumer Protection Act(1980)

- Duty of the State and Local Governments
- Duty of Business Entities to Protect Consumers
- Establishment of Standards for Prevention of Danger and Damage
- Duty of Business Entities for Labeling
- Establishment of Consumer Protection Committee as Consumer Policy Deliberative Body

(2) Revision of Consumer Protection Act(1987)

- Consumers' Seven Basic Rights
- Prescribing Duties of the State and Local Governments to Realize Consumers' Basic Rights
- Recall Order of the Head of a Central Administrative Agency in order to Prevent Danger and Damage
- Establishment of Ground to Regulate Advertisements
- Establishment of Compensation Criteria by Item for Consumers' Damages
- Registration of Consumer Organizations with the Economic Planning Board
- Change of the Title of Consumer Protection Committee to Consumer Policy Deliberative Committee
- Establishment of Korea Consumer Protection Board

(3) Revision of Consumer Protection Act(1995)

- Local Governments' consumer protection municipal ordinance-making authority
- Designation and Operation of Reporting Institution for Danger or Damage
- Consumer Organizations' Right to publicize the Results of Investigation by consumer groups.

(4) Revision of Consumer Protection Act(2001)

- Environmental Right Newly Added as One of Consumers' Basic Rights
- Duty of Business Entities to Report Major Faults of Products and Voluntary Product Recalls
- Introduction of Emergency Recall Order
- Increase in Number of Members of Consumers Dispute Settlement Commission(9 People ⇒ 30 People)

(5) Revision of Framework Act on Consumers(2006)

- Revision of Name of the Act (Consumer Protection Act ⇒ Framework Act on Consumers) and Change in Names of Institutions related to Consumers (Korea Consumer Protection Board ⇒ Korea Consumer Agency)
- Prescribing Consumers' Basic Duties and Matters Necessary for Consumers' Personal Information
- Strengthening Consumers' Safety

- Recommendation to Business Entities for Establishing Consumer Consulting Office
- Introduction of Collective Dispute Mediation
- Introduction of Consumer Class Action

(6) Revision of Framework Act on Consumers(2011)

- Establishment of Standards for Labeling For Persons with visual disability
- Introduction of Mediation Team to the Consumer Dispute Mediation Commission
- Extension of Period of Collective Dispute Mediation (30 Days ⇒ Maximum 90 Days)
- Setting up New Regulations on Appointment Procedures and Authority of Representative Party

(7) Revision of Framework Act on Consumers(2016)

- Strengthening Authority of Consumer Policy Committee
- Adding Marriage Immigrants to Safety-vulnerable Population
- Adding Mayor/Do governor to the list of Persons who have the Authority to Request Correction about Safety
- Adding Consumers to the list of Persons who have the Authority to Request Collective Dispute Mediation
- Giving Effect of Interruption of Prescription to Application for Dispute Mediation and Collective Dispute Mediation
- Adding the Korea Consumer Agency to the list of Organizations that have the Authority to File Consumer Class Action

Section 2. Fundamental Rights and Duties of Consumers

1. Fundamental Rights of Consumers

On March 15, 1962, President John F. Kennedy articulated four basic consumer rights, later called “the Consumer Bill of Rights,”: the right to safety, the right to be informed, the right to choose, and the right to be heard. Later, these rights were expanded to eight by Framework Act on Consumers (§4). The eight rights are as follows: first, the right to have their lives, bodies or property protected against any danger and injury caused by goods or services (the right to safety); second, the right to be provided with the knowledge and information necessary for selecting goods, etc. (the right to be informed); third, the right to select freely the other party to transaction, purchasing place, price, conditions of transaction, etc. for using goods, etc. (the right to choose); fourth, the right to have their opinions reflected in policies of the State and local governments, business activities of business operators, etc. which have an influence on their daily lives as consumers (the right to be heard); fifth, the right to obtain proper compensation for damages sustained due to use of goods, etc. according to prompt and fair procedures (the right to redress); sixth, the right to receive the education necessary to act as rational consumers (the right to consumer education); seventh, the right to establish an organization and work therein in order to promote their rights and interests as consumers (the right to organize); and eighth, the right to enjoy consumption in a safe and pleasant consumption environment (the right to a healthy environment).

2. Duties of Consumers

Previously, the Consumer Protection Act regulates only the basic rights of consumers. However, Framework Act on Consumers¹⁾ regulates consumers' duties as well as basic rights. First, consumers shall make the right choice of goods, etc. and exercise justly their fundamental rights, recognizing themselves as well as business operators. etc. as the main actors in the free market economy. Second, consumers shall endeavor to acquire knowledge and information necessary to promote their own rights and interests. Third, consumers shall engage in resource-saving, rational, and environment-friendly consumption of their own free will, and thereby play a positive role in the improvement of their consumption pattern and the development of the national economy (§5).

Section 3. Duties of State, Local Governments and Business Operators

1. Duties of State and Local Governments

(1) Duties of enactment, etc.

In order to realize the fundamental rights of consumers, the State and local governments shall perform the following duties: the enactment, amendment and repeal of related Acts; the maintenance and operational improvement of necessary administrative organizations; the establishment and execution of necessary policies; and the support and encouragement of sound and autonomous organized activities of consumers (§6).

1) The Consumer Protection Act was enacted in 1979, and it was amended and renamed as Framework Act on Consumers in 2006.

(2) Duties of Establishing Criteria for Prevention of Danger and Injury

In order to prevent any danger and injury to the lives, bodies and property of consumers due to goods, etc. supplied by business operators, the State and local governments shall determine criteria to be observed by business operators (§8).

(3) Duties to take measures necessary for weighing goods.

In order to prevent consumers from sustaining any loss by weighing in transaction with business operators, the State and local governments shall take measures necessary for weighing goods, etc (§9).

(4) Duties to determine the criteria for labeling on goods, etc.

In order to prevent consumers from taking wrong selection of goods, etc. in transaction with business operators or from misusing goods, etc. due to any label or package, etc., the State and local governments shall determine the criteria for labeling on goods, etc (§10).

(5) Duties to determine the criteria for advertising.

In order to prevent any danger and injury to the lives, bodies or property of consumers which may arise from any wrong or excessive consumption of goods, etc., the State and local governments shall determine the criteria concerning the contents and methods of advertisements (§11).

(6) Duties to establish policies to protect consumers from damage

In order to protect consumers from unreasonable damage caused by unfair transaction conditions or methods of business operators, the State and local governments shall establish and implement necessary policies (§12).

(7) Duties to make policies necessary for provision of information to consumers

The State and local governments shall formulate necessary policies so that business operators' information relating to transaction terms and methods, quality, safety, environment-friendliness, etc. of goods, etc. can be provided for consumers to reasonably choose goods, etc. (§13).

(8) Duties to provide consumer education

The State and local governments shall provide consumers with necessary education so that they may exercise their rights properly, improve their ability to make reasonable judgment about goods, etc. and hold themselves accountable for the consequences of their consumption (§14).

(9) Duties to protect personal information

The State and local governments shall take necessary measures to protect consumers from any unjust damage caused by the loss, theft, leakage, alteration or damage of personal information in transaction with business operators (§15).

(10) Duties to establish organs to redress damage to consumers

The State and local governments shall take necessary measures, including the establishment of related organs so as to resolve promptly and fairly any complaints by and damage to consumers (§16).

(11) Duties to establish testing and inspection facilities

The State and local governments shall have the mechanism and facilities to conduct any test, inspection or investigation on the size, quality, safety, etc. of goods, etc. (§17).

2. Duties of Business Operators

(1) Cooperation, etc. in Policies for Promotion of Consumers' Rights and Interests

Business operators shall cooperate positively in policies of the State and local governments for promotion of consumers' rights and interests. Business operators shall cooperate positively where consumer organizations and the Korea Consumer Agency request the provision of data and information necessary to carry out business activities related to the promotion of consumers' rights and interests. Business operators shall endeavor to develop environment-friendly technology and recycle resources in supplying goods, etc. so as to create safe and pleasant consumptive environment (§18).

(2) Duties of Business Operators

In order to prevent any danger and injury to the lives, bodies or property of consumers due to goods, etc., business operators shall take necessary

measures. No business operator shall use any condition or method of trade which might infringe on the rational choice or interest of consumers, in the supply of goods, etc. Business operators shall sincerely provide consumers with accurate information on goods, etc. Business operators shall sincerely handle the personal information of consumers lest such information should be lost, stolen, leaked, altered or damaged. Business operators shall settle any consumers' complaints or damages due to the defects of goods, etc. through providing necessary compensation, etc., and indemnify them for any damages caused by non-fulfillment, etc.

(3) Observance of Criteria for Promotion of Consumers' Rights and Interests

No business operator shall manufacture, import, sell or provide any goods, etc. that are in contravention of the criteria determined by the State. No business operator shall violate the criteria for indication determined by the State. No business operator shall violate the criteria for advertisement determined by the State. No business operator shall commit any such act as designated and notified publicly by the State. No business operator shall violate the criteria for protection of personal information determined by the State (§20).

Chapter II. Consumer Policy and Consumer Safety

Section 1. Consumer Policy

1. Consumer Policy Committee

In order to deliberate and decide on a fundamental policy concerning the enhancement of consumers' rights and interests and the improvement of consumers' lives, the Consumer Policy Committee shall be established in the Fair Trade Commission (§23). The Committee shall be composed of 25 or fewer members, including two chairpersons (the chairpersons shall be the chairperson of the Fair Trade Commission and one person appointed by the President from among those having extensive knowledge and experience pertaining to consumer issues) (§24). The committee deliberates and decides on the basic plan and the comprehensive implementation plan, matters concerning the comprehensive implementation of consumer policy, matters concerning the appraisal and institutional improvement of consumer policy, other matters concerning the promotion of consumers' rights and interests and the improvement of their lives as consumers, which are referred to it by the chairperson (§25).

2. Basic Plan and Implementation Plan

(1) Basic Plan

The Fair Trade Commission shall establish a basic plan for consumer policy every three years, subject to the review and resolution of the Consumer Policy Committee. A basic policy shall include changes in economic and social environment relating to the consumer policy, basic direction of the

consumer policy, goal of the consumer policy, methods of raising funds necessary to implement the consumer policy, preparation of safety standard by age to prevent any danger or injury to children, and other matters necessary to establish and implement the consumer policy (§21).

(2) Implementation Plan

The head of the central administrative agency concerned shall, in conformity with the basic plan, establish an implementation plan thereof for the next year necessary to execute the consumer policy, not later than October 31, every year. The Special Metropolitan City Mayor, Metropolitan City Mayor, Provincial governor, or the Governor of a Special Self-Governing Province shall, in conformity with the basic plan and central administrative agency implementation plans, establish implementation plans thereof for the next year necessary to execute the consumer policy, not later than November 30 every year. The Fair Trade Commission shall put together and adjust the central administrative agency implementation plans and the City/Province implementation plans and establish a comprehensive implementation plan, subject to the deliberation and resolution of the Consumer Policy Committee, not later than December 31, every year (§22).

Section 2. Consumer Safety

1. Consumer Safety Measures

(1) Duty to report information on defects

If a business operator has found that there exist any serious defects in the manufacture, design, or label etc. of goods, etc. supplied by him/her

to consumers that cause or are likely to cause any danger or injury to consumers' lives, bodies, or property, he/she shall report (including any electronic report) the contents of the defects to the head of the central administrative agency in charge. The head of the central administrative agency, who has received the report, shall request the testing and inspection institution or the Korea Consumer Agency, etc. to test and inspect the goods, etc. with respect to the contents of the defects reported by the enterpriser, and if the goods, etc. in question meet the conditions for measures such as a recall as a result of such test and inspection, may demand the enterpriser that he/she take necessary measures(§47).

(2) Voluntary Recall, etc. of Goods, etc.

If a business operator deems that goods, etc. furnished by him/her to consumers cause or are likely to cause any danger or injury to consumers' lives, bodies, or property due to their defects, he/she shall recall, destroy, or repair such goods, etc., exchange them for other goods, etc., refund their costs, prohibit their manufacture, import, sale or supply, or take other necessary measures(§48).

(3) Recommendation, etc. of Recall, Destruction, etc.

If the head of a central administrative agency deems that goods, etc. furnished by a business operator cause or might cause any danger or injury to consumers' lives, bodies or property due to their defects, he/she may recommend the enterpriser to recall, destroy, or repair such goods, etc., to exchange them for other goods, etc., to refund their costs, to prohibit their manufacture, import, sale or supply, or to take other necessary measures(§49).

(4) Order, etc. of Recall, Destruction, etc.

If the head of a central administrative agency deems that goods, etc. furnished by a business operator causes or might cause any danger or injury to consumers' lives, bodies, or property due to any defect in goods, etc., he/she may order the business operator to recall, destroy, or repair such goods, etc., exchange them for other goods, etc., refund their costs, or prohibit the manufacture, import, sale or supply of them, and to repair facilities related to such goods, etc. or take other necessary measures, subject to the procedures determined by the Presidential Decree (§50).

2. Gathering, etc. of Information on Dangers

The Consumer Safety Center may collect information on goods, etc. that cause or might cause any danger or injury to consumers' lives, bodies or property. The director of the center shall analyze the information on dangers and injuries collected and report to the president of the Korea Consumer Agency on the results thereof, and the president may take the following measures if necessary in consequence of the analysis of information: issuance of a consumer safety warning to prevent any danger or injury and accident, publication of the facts relating to the safety of goods, etc., recommendation of correction for business operators who supply any dangerous goods, etc., proposal of corrective measures and institutional improvement to the State and local governments; and other measures necessary to secure the safety of consumers. The Fair Trade Commission may, if necessary to assist the Consumer Safety Center in efficiently gathering information on dangers and injuries, designate and operate

administrative agencies, hospitals, schools, consumer organizations, etc. as organs submitting information on dangers and injuries(§52).

Section 3. Settlement of Consumer Disputes

1. Settlement, etc. of Consumer Complaints by Business Operators

Business operators and business organizations shall actively strive to establish and operate organs to reflect consumers' opinions or complaints, etc. in the management of the enterprises concerned and to address consumers' damage speedily(§53). The head of a central administrative agency may encourage business operators or business organizations to establish and operate consumer consulting organs or provide them with support necessary for the establishment and operation thereof(§54).

2. Remedy for Damage by Korea Consumer Agency

(1) Application, etc. for Remedy for Damage

Consumers may apply for remedy for damage caused by use of goods, etc. to the Korea Consumer Agency. If contents of the application for remedy are judged unsuitable to be addressed by the Korea Consumer Agency, the president may inform the applicant of the reason and stop handling the case(§55). If the president has found in the course of addressing a case claiming a remedy for damage the fact that the party or the person concerned violated any Act or subordinate statute, he/she shall notify the agency concerned of such fact and request it to take proper measures(§56).

(2) Remedy for Damage

The president may recommend the applicant for the remedy to settle the case(§57). If an settlement is not reached within thirty days after receiving an application for remedy for the damage, the president shall immediately apply to the Consumer Dispute Mediation Commission for the mediation of the dispute(§58). If one of the parties brings a lawsuit to a competent court during a procedure for remedy for damage, he/she shall notify the Korea Consumer Agency thereof. The Korea Consumer Agency shall, if it gains knowledge of the lawsuit filed, discontinue without delay the procedure for remedy for damage and notify it to the parties concerned(§59).

Part III. Consumer Protection Acts Concerning Overall Consumer Transactions

Chapter I. Act on the Regulations of Terms and Conditions

Section 1. Overview of Act on the Regulations of Terms and Conditions

1. Background to the Enactment of Act on the Regulations of Terms and Conditions

A contract is entered into when the parties reach an agreement. Equally, the terms and conditions of the contract are, in principle, to be agreed upon by the parties. However, in multiple transactions, the necessity of agreement on the terms of a contract causes inconvenience for both parties. Therefore, a business operator prepares the content of a contract in advance, presents it to the other party at the time of conclusion of a contract, and enters into a contract with the consent of the other party. As a result, both parties may conclude a contract in a short time or with convenience. The terms and conditions, however, may be unfavorable to the other party because they are unilaterally set by a business operator. Unfair terms and conditions cause a number of consumers to incur a loss. For prevention of and remedy for consumer damage caused by unfair terms and conditions, Act on the Regulations of Terms and Conditions was enacted in 1986.

2. Purpose of Act on the Regulations of Terms and Conditions

The purpose of this Act is to establish sound order in business transactions, and thus to protect consumers and promote the balanced improvement of people's lives by regulating unfair contractual terms and by preventing business operators from setting unfair terms and conditions and using them in business transactions by taking unfair advantage of their bargaining position (§1). The purpose of this Act is to protect consumers. There are two ways to regulate unfair terms and conditions: first, to make unfair terms and conditions null and void; and second, to impose administrative regulation.

3. History of Act on the Regulation of Standard Contract and Major Contents

(1) Enactment of Act on the Regulation of Standard Contract (1986)

- Imposing a responsibility on Business Entities to Prepare and Explain Terms and Conditions
- The Principle of Objective Interpretation of Terms and Conditions and Contra Proferentem
- General Principle of Nullity of Terms and Conditions
- Individual Standards of Nullity of Terms and Conditions
- Institutions for Correction of Unfair Terms and Conditions
- Establishment, etc. of Terms and Conditions Review Committee at the Economic Planning Board

(2) Revision of Act on the Regulation of Terms and Conditions(1992)

- Introduction of Corrective Order against Unfair Terms and Conditions
- Introduction of Standard Terms and Conditions
- Transferring, ect. Terms and Conditions Review Committee to the Fair Trade Commission

(3) Revision of Act on the Regulation of Terms and Conditions (2012)

- Establishment of Mediation Committee on Resolving Disputes over Unfair Terms and Conditions at the Korea Fair Trade Mediation Agency

4. Definitions of Terms

(1) Terms and Conditions

The term “terms and conditions” regardless of its name, form or scope means the content of terms and conditions set by a party to the contract in advance(§2 (1)). Terms and conditions meets the following conditions: First, terms and conditions are to be prepared in advance. That is, a business operator must set the content of a contract before the conclusion of the contract. Second, terms and conditions are to be set unilaterally by a business operator without consultations with the other party. Third, terms and conditions are to be set not for a single contract but for multiple contracts. Fourth, terms and conditions shall have a specific form. One of such forms is writing. If terms and conditions of a contract are orally presented, they do not constitute terms and conditions. Terms and conditions may constitute terms and conditions notwithstanding the

absence of the title to that effect. Lastly, terms and conditions shall concern the terms and conditions of a contract.

(2) Business Operator

The term “business operator” means a party to a contract who offers terms and conditions to the other party as the content of the contract (§2 (2)). Those who offer terms and conditions are deemed business operators; therefore, they are not limited to those who offer terms and conditions made by themselves. In other words, those who offer terms and conditions made by other business operators shall also be deemed business operators.

(3) Customers

The term “customer” means a party to a contract who has been offered terms and conditions from a business operator as the content of a contract (§2 (3)). Customers are not limited to consumers. They may include business operators. Under the Civil Code of Germany, customers are limited to consumers. However, Act on the Regulations of Terms and Conditions allows business operators as well as consumers to qualify as customers.

Section 2. Preparation and Incorporation of Terms and Conditions

1. Preparation of Terms and Conditions

(1) Ease of Understanding

Because terms and conditions are unilaterally prepared by a business operator, consumers have difficulty understanding the content. In order for

consumers to deem the terms and conditions as the content of a contract, the terms and conditions shall be easy to understand (§3 (1)).

(2) Terms and Conditions in Korean

Business operators shall prepare terms and conditions in Korean in order for consumers to understand it with ease. This is because it may be hard for consumers to understand the terms and condition written in foreign languages. With regard to terms and conditions targeting foreign customers, the business operator may prepare it in the language of the foreign customer concerned (§3 (1)).

(3) Standardized and Systemized Terms

When business operators prepare terms and conditions, they shall use general and standardized terms in order for consumers to easily understand the content. If slang or jargon, which is used by a particular group, are used in terms and conditions, it is hard for consumers to understand the content (§3 (1)).

(4) Important Details of Terms and Conditions

Contents about business operators' and consumers' rights and duties are important information for consumers in deciding whether or not to incorporate terms and conditions of terms and conditions into the content of a contract. Therefore, in order for consumers to easily recognize important details, business operators shall explicitly show them with signs, color, bold and large letters, etc (§3 (1)).

2. Incorporation of the Terms and Conditions

(1) Specification of the Terms and Conditions

When entering into a contract, a business operator shall clearly state to his/her customers the details of the relevant terms and conditions of the terms and conditions in a way that is generally expected of the type of contract in question (§3 (2)). Since the terms and conditions are prepared by business operators, it is extremely difficult for consumers to gain the correct knowledge of the terms and conditions. Therefore, business operators shall help consumers understand what the contents of the terms and conditions are. This requirement may not apply to the terms and conditions of businesses or services that falls under any of the following: passenger transportation business; electric utility business, gas business, and waterworks business; postal service; and telecommunications business that provides public telephone service.

(2) Explanation of Terms and Conditions

A business operator shall explain important details provided in the terms and conditions so that consumers may understand them. Important details refer to the content regarding business operators' and consumers' rights and duties (§3 (3)). The purpose of explanation is to help consumers understand material details of the terms and conditions and consent to them. This may not apply where it is considerably difficult to explain them due to the nature of the contract. A case in point is terms and conditions of a passenger transportation business.

(3) Delivery of a Copy of Terms and Conditions

At the request of a consumer, a business operator shall deliver a copy of the terms and conditions to the consumer (§3 (2)). The purpose of this is to help consumers recognize the terms and conditions and utilize it in the case of a dispute. A business operator shall deliver a copy to consumers only if they request it.

(4) Effect of Violation of Duties

If a business operator enters into a contract and he/she fails to specify or explain the terms and conditions or deliver a copy of the terms and conditions, he/she may not claim that the relevant terms and conditions constitute the content of the contract in question. If a business operator fails to specify terms and conditions or to deliver a copy of the terms and conditions, he/she may not claim that the whole terms and conditions of the terms and conditions constitute the content of the contract. However, if a business operator fails to explain important details, he/she may not claim that the important details constitute the content of the contract (§3 (4)).

3. Interpretation of Terms and Conditions

(1) Separate Agreement

If a business operator and a customer agree on a matter in a manner that is different from the manner stipulated in the terms and conditions the agreement shall prevail over such terms and conditions of the terms and conditions (§4). For example, in the case where the terms and conditions

state “A” but relevant parties agree to “B”, “B” becomes the content of the contract. This is because the terms and conditions are unilaterally set by a business operator but the separate agreement is mutually reached by the parties concerned.

(2) Trust and Good Faith

Terms and conditions shall be construed impartially in accordance with the principle of trust and good faith, and shall not be construed differently depending on customers. This means that the content of terms and conditions shall be reasonably and objectively interpreted, and shall not be differently applied to each consumer (§5 (1)).

(3) Benefit of the Doubt for Customers

If the meaning of terms and conditions is not clear, it shall be construed in favor of customers (§5 (2)). This applies to the cases where the terms and conditions may be construed in ways that favors both the business operator and the consumer respectively. In this case, the terms and conditions shall be construed in favor of consumers. This is because business operators prepared the terms and conditions that may be interpreted in different ways although business operators could have prepared them in favor of themselves. According to *contra proferentem*, the terms and conditions shall be construed in favor of consumers.

Section 3. Unfair Terms and Conditions and their Effect

1. General Principles of Unfair Terms and Conditions

(1) Violation of the Principle of Good Faith

Any clause in terms and conditions which is not fair and contrary to the principle of good faith shall be null and void (§6 (1)). Terms and conditions are unilaterally prepared by a business operator, but they are also applied to consumers. Therefore, the terms and conditions shall be prepared in a way that reconciles the interests of both parties. If the terms and conditions are favorable only to the business operator, they become unfavorable to consumers. In this case, the terms and conditions shall be null and void, and the business operator may not claim that the terms and conditions constitutes the content of the contract.

(2) Presumption of Unfair Terms and Conditions

Any of the following clauses in terms and conditions shall be presumed to be unfair: a clause which is unreasonably unfavorable to customers; a clause which customers would have difficulty anticipating in view of the various circumstances concerned, including the type of transaction the contract represents; and a clause which is so restrictive of essential rights under a contract that the purpose of the contract may not be achieved (§6 (2)). Therefore, if a business operator fails to prove that the presumed unfair clauses are not unfair, the terms and conditions become null and void owing to unfairness.

(3) The Relations between General Standards and Particular Standards

Act on the Regulations of Terms and Conditions provides general standards and particular standards for judging whether or not certain terms and conditions are unfair. In the process of judging unfairness of terms and conditions, particular standards shall first be applied. If the particular contract is not applicable, general standards shall be applied.

2. Particular Principles of Unfair Terms and Conditions

(1) Prohibition of Exemption Clause

A clause in terms and conditions concerning the liability of contracting parties that falls under any of the following categories shall be null and void(Article 7).

- ① A clause which exempts a business operator from liability for intentional or gross negligence on the part of the business operator, his/her agents, or his/her employees;

ex) Consumers may not claim compensation for nonfulfillment of obligation of the business operator.

- ② A clause which limits, without a substantial reason, the extent of indemnification payable by a business operator, or which passes a risk to be borne by a business operator to a customer;

ex) Obligation to compensate is up to 50 dollars regardless of the damage caused to consumers.

- ③ A clause which, without a substantial reason, excludes or limits the warranty liability of a business operator, or tightens requirements for customers' exercising the rights under the warranty thereof;

ex) In order for consumers to claim the liability of warranty against defects, they shall prove the negligence of the business operator.

- ④ A clause which, without considerable reasons, excludes or limits the warranty for the subject-matter of a contract for which a business operator has provided a sample, or has indicated the quality, performance, etc.

ex) The sample and the actual article may be different, and the business operator shall not be liable for the difference at all.

(2) Predetermination of Amount of Indemnification

Any clause in terms and conditions which obligates customers to pay heavy damages, including but not limited to, unreasonably excessive damages for delay, shall be null and void(Article 8).

ex) If consumers do not make the payment, they shall pay 50%-percent interest per year during the delayed period.

(3) Rescission or Termination of Contract

A clause in terms and conditions concerning the rescission or termination of a contract which falls under any of the following categories shall be null and void(Article 9):

Part III. Consumer Protection Acts Concerning Overall Consumer Transactions

- ① A clause which excludes the right of customers to rescind or terminate the contract under Acts, or limits the exercise of such right;

ex) In any case, consumers shall not exercise the right of rescission

- ② A clause which grants a business operator the right to rescind or terminate the contract which is not provided for by Acts, therefore might put customers at an unreasonable disadvantage;

ex) At any time, the business operator may exercise the right of termination.

- ③ A clause which mitigates a business operator's requirements for exercising the right to rescind or terminate the contract under Acts, therefore might put customers at an unreasonable disadvantage;

ex) The business operator may rescind a contract without notification.

- ④ A clause which, without a substantial reason, obligates customers to pay excessive restitution due to rescission or termination of a contract, or which unreasonably requires customers to waive their claim to restitution;

ex) Consumers shall return the articles intact provided by the business operator.

- ⑤ A clause which unreasonably reduces the restitution obligation of a business operator or his/her duty to pay indemnity in the event of rescinding or terminating a contract;

ex) The business operator shall be under obligation within the limit of 10 dollars regardless of the amount of damage to the consumers.

- ⑥ A clause in terms and conditions providing for a continuous creditor-debtor relationship which might put customers at an unreasonable disadvantage by setting a duration that is unreasonably short or long or by allowing implied extensions or renewals of the contract.

ex) A contract shall be automatically extended unless consumers do not express their intention to terminate the contract.

(4) Performance of Obligations

A clause in terms and conditions concerning the performance of obligations which falls under any of the following categories shall be null and void(Article 10):

- ① A clause which, without a substantial reason, gives a business operator power to unilaterally determine or change the details of performance;

ex) The business operator may change the article without consent of consumers.

- ② A clause which, without a substantial reason, allows a business operator to unilaterally suspend performance of his/her obligations or imputes performance of his/her obligation to a third party.

ex) The business operator may let the third party to perform obligation without consent of consumers.

(5) Protecting Rights and Interests of Customers

A clause in terms and conditions concerning the rights and interests of customers which falls under any of the following categories shall be null and void(Article 11):

- ① A clause which, without a substantial reason, excludes or limits a customer's rights of defense, rights of set-off, etc., which are provided for by Acts;

ex) Even if the business operator fails to perform obligation, consumers shall perform payment of price.

- ② A clause which, without a substantial reason, deprives customers of the right to perform their obligations during a given time;

ex) The business operator may rescind an installment contract after up to 7 days.

- ③ A clause which unreasonably limits a customer's right to enter into contracts with a third party;

ex) Consumers shall not enter into a contract with other business operators.

- ④ A clause which, without any justifiable reason, allows a business operator to divulge confidential information of customers he/she has obtained in the course of his/her business.

ex) The business operator may provide the information given by the consumers to the third party under any circumstances.

(6) Deemed Expression of Intent

A clause in terms and conditions concerning an expression of intent which falls under any of the following categories shall be null and void(Article 12):

- ① A clause which provides that once a certain act of feausance or omission has occurred, customers shall be deemed to have expressed or to not have expressed a certain intent: This shall not apply where customers are separately notified that if they fail to express their intent within a given period, which is a considerable length of time, the customers shall be deemed to have expressed or not have expressed their intent, or where it is impossible to issue such notice due to unavoidable circumstances.

ex) Unless consumers express their intent to refuse within a week after the business operator changes the terms and conditions, consumers shall be deemed to have consented.

- ② A clause which imposes unreasonably strict restrictions on the requirements for customers' expressing their intent or the way it is expressed.

ex) If consumers withdraw offer, they shall express their intent through contents-certified mail.

- ③ A clause which provides, without a substantial reason, that the intent of a business operator, which may materially affect the interest of customers, is deemed to have been communicated to customers.

ex) Notification on a cyber mall shall be deemed expression of intent to consumers.

- ④ A clause which provides for an unreasonably long or indefinite term during which a business operator may express his/her intent which may materially affect the interests of customers.

ex) The business operator may consent to consumers' offer within a year.

(7) Additional Obligations of Agents

If a contract is entered into by the agent of a customer and the customer fails to perform his/her obligations, any clause in the terms and conditions which imposes on the agent an obligation to carry out the customer's obligations in whole or in part shall be null and void(Article 13).

ex) If the agent of a consumer enters into a contract and the consumer fails to perform his/her obligations, the agent shall perform the obligations.

(8) Prohibition, etc. of Filing Lawsuits

A clause in terms and conditions concerning filing, etc. of lawsuits which falls under any of the following categories shall be null and void(Article 14):

- ① A clause which prohibits customers from filing a lawsuit unreasonably disadvantageous to them or requires them to agree to jurisdiction;

ex) Regardless of exclusive jurisdiction, a consumer shall file a lawsuit to the court having jurisdiction over the business operator's residence.

- ② A clause in the terms and conditions which imposes the burden of proof on customers without any justifiable reason.

ex) In terms of product liability, consumers shall prove intent or negligence of the business operator.

3. Limitations on Application and Special Principle of Partial Nullity

(1) Limitations on Application

With regard to terms and conditions which are commonly used internationally or to which other special reasons apply (internationally commonly used terms and conditions of transportation business, financial and insurance businesses and the terms and conditions on trade insurance under Trade Insurance Act), the application of Articles 7 through 14 may be limited depending on the clauses in the terms and conditions or the category of business or service(Article 15).

(2) Special Principle of Partial Nullity

Where a part of a juristic act is null, the entire part of the juristic act shall be made null: Provided, That where it is deemed that the juristic act would have been done if the null part had not existed, then the rest of the act shall not become null(Korean Civil Act §137). However, this Act provides for the contrary. Where the whole or any part of terms or

conditions fails to constitute the content of a contract under Article 3 (4) or is null and void under Articles 6 through 14, the contract shall remain effective with only the remaining portion of the terms and conditions: Where it is impossible to achieve the objective of the contract with only the effective parts or such effective parts are unreasonably unfavorable to one party, the relevant contract shall be null and void.

Section 4. Standard Terms and Conditions

1. The Meaning of Standard Terms and Conditions

Standard Terms and Conditions refers to the terms and conditions examined, established, or amended by the Fair Trade Commission in order to prevent the use of unfair contractual terms and conditions and to establish sound order in business transactions (§19-3 (1)).

2. Procedures of the Establishment of Standard Terms and Conditions

(1) Application for Examination of business operators, etc.

business operators or trade organizations may develop standard terms and conditions for specific business transactions in order to prevent the use of unfair terms and conditions and to establish sound order in business transactions, and file an application with the Fair Trade Commission for review as to whether the content of the standard terms and conditions violates this Act (§19-3 (1)).

(2) Establishment Request by the Korea Consumer Agency

Any consumers' organization registered pursuant to Article 29 of the Framework Act on Consumers or the Korea Consumer Agency established pursuant to Article 33 of the same Act may request the Fair Trade Commission to prepare standard terms and conditions for transactions in which consumers frequently incur loss (§19-3 (2)). The Fair Trade Commission may recommend a business operator or trade organization to formulate standard terms and conditions and to apply for the review thereof in any of the following cases: first, at the consumers' organizations, etc. request; and second, where no terms and conditions is found to exist or unfair terms and conditions of the terms and conditions are found after investigating the circumstances of any loss when the loss is incurred to a large number of customers in connection with certain types of business transactions. Where any business operator or trade organization fails to take necessary measures within four months from the date they receive a recommendation, the Fair Trade Commission may formulate a standard terms and conditions, after hearing opinions of each party to the transaction in question and consumer organizations, etc. and holding consultations with relevant ministries and agencies (§19-3 (3), (4)).

3. Indication and Recommendation of Standard Terms and Conditions

(1) Recommendation of Using Standard Terms and Conditions

The Fair Trade Commission may publish terms and conditions examined or newly developed and recommend business operators and trade organizations to use them (§19-3 (5)).

(2) Indication of Particular Terms and Conditions Different From Standard Terms and Conditions

business operators and trade organizations recommended by the Fair Trade Commission to use standard terms and conditions shall, if they use terms and conditions different from the standard ones, indicate the major differences in a manner that customers can readily understand (§19-3 (6)).

4. Mark of Standard Terms and Conditions

(1) Use and Prohibition of the Mark of Standard Terms and Conditions

The Fair Trade Commission may designate a mark of standard terms and conditions in order to promote the use of them (§19-3 (7)). business operators and trade organizations may, if they use standard terms and conditions, use the mark of standard terms and conditions, as published by the Fair Trade Commission. Where any business operator or trade organization uses any terms or conditions different from standard terms and conditions, the business operator or trade organization shall be prohibited from using the mark of standard terms and conditions (§19-3 (8)).

(2) The Effect of False Use of the Mark

Where any business operator or trade organization falsely uses the mark of standard terms and conditions, terms and conditions of a contract that are more disadvantageous to customers than the standard terms and conditions shall be made invalid (§19-3 (9)).

Section 5. Administrative Regulation of Unfair Terms and Conditions

1. Prohibition on Use of Unfair Clauses in Terms and Conditions

No business operator shall include in a contract any of the unfair clauses referred to in Articles 6 through 14 (hereinafter referred to as “unfair terms and conditions of terms and conditions”)(Article 17).

2. Investigation on Terms and Conditions and Request for Examination

(1) Investigation

The Fair Trade Commission may conduct an investigation to verify whether terms and conditions violate this Act in any of the following cases:

- ① Where the investigation is deemed necessary for the purpose of rendering a recommendation or ordering correction;
- ② Where a request is filed for examination of the terms and conditions.

The public officials conducting an investigation shall carry a certificate identifying his/her authority and produce it to the relevant person(Article 20).

(2) Request for Examination of Terms and Conditions

A person falling under the following categories may request examination by the Fair Trade Commission as to whether terms and conditions

violates this Act : a person who has legal interests in relation to the terms and conditions; a consumer organization registered under Article 29 of the Framework Act on Consumers; the Korea Consumer Agency established under Article 33 of the Framework Act on Consumers; and a business operator organization. A request for examination shall be submitted to the Fair Trade Commission either in writing or in an electronic document(Article 19). The Fair Trade Commission may change the subject-matter of examination ex officio or at the request of a person requesting examination when any clause of the terms and conditions subject to examination are modified(Article 19-2).

(3) Statement of Opinions

Before deliberating on whether the terms and conditions are in violation of this Act, the Fair Trade Commission shall notify the pertinent business operator or interested person who has engaged in a transaction under the terms and conditions of the fact that the terms and conditions are subject to its examination. The party or interested person who has received notice may attend the hearing of the Fair Trade Commission and state his/her opinion or submit necessary materials. If terms and conditions subject to examination have been authorized or is to be authorized by an administrative agency under other Acts, the Fair Trade Commission may request that the pertinent administrative agency state its opinion before commencing deliberation(Article 22).

3. Corrective Measures

(1) Recommendation of Corrective Measures

Where a business operator violates Article 17 (Prohibition on Use of Unfair Clauses in Terms and Conditions), the Fair Trade Commission may recommend the business operator to take measures necessary to correct the violation, including a deletion, revision, etc. of the relevant unfair terms and conditions(Article 17-2 (1)).

(2) Corrective Order

If a business operator violating Article 17 falls under any of the following categories, the Fair Trade Commission may order it to notify the public of the fact that it received the order to delete, revise, or correct the relevant unfair terms and conditions of the terms and conditions, and take other measures necessary to correct the terms and conditions(Article 17-2 (2)):

- ① Where it is a market-dominating business operator under subparagraph 7 of Article 2 of the Monopoly Regulation and Fair Trade Act;
- ② Where it enters into a contract by taking unfair advantage of its bargaining position;
- ③ Where the customer has difficulties in amending the terms and conditions of a contract due to the urgency and swiftness of entering into such contract in a case where a business operator provides goods or services to the general public.:
- ④ Where it is practically compulsory for customers to include the terms and conditions in a contract because the business operator is

in a significantly predominating positions as a party to the contract, or the customer has a limited scope of choosing other business operators;

- ⑤ Where it is impossible to cancel, rescind or terminate a contract in view of the nature or purpose of the contract, or where significant property loss occurs to the customer if the contract is cancelled, rescinded, or terminated;
- ⑥ Where loss is incurred or is very likely to be incurred to several customers because the business operator fails to comply with the recommendation without any justifiable grounds.

(3) Recommendation of Correction to Other business operators

When rendering a recommendation or an order to correct violations, the Fair Trade Commission may, if necessary, also recommend other business operators engaging in the same kind of business as the relevant business operator to not use the same unfair terms and conditions of the terms and conditions(Article 17-2 (3)).

4. Government-Authorized Terms and Conditions, etc.

If the Fair Trade Commission deems that the terms and conditions prepared by an administrative agency or authorized by an administrative agency pursuant to other Acts is unfair, the Fair Trade Commission may inform the relevant administrative agency of such fact and request it to take measures necessary to correct the violation. Where a request for correction is filed with the administrative agency, the Fair Trade Commission shall not make any recommendation or order for correction. If the Fair

Trade Commission deems that terms and conditions of a bank under the Banking Act is unfair, the Fair Trade Commission may inform the Financial Supervisory Service established under the Act on the Establishment, etc. of Financial Services Commission of such fact and recommend that it take measures necessary to correct the violation(Article 18).

5. Disclosure of Unfair Terms and Conditions

The Fair Trade Commission shall disclose via its Internet website a list of the terms and conditions it has deliberated and determined to be in violation of this Act(Article 23).

Section 6. Penalty

1. Punishment

(1) Violation of Corrective Order

A person who fails to comply with an order shall be punished by imprisonment with labor for not more than two years, or by a fine not exceeding one hundred million won(Article 32).

(2) Joint Penalty Provisions

If the representative of a corporation or an agent, employee or any other servant of a corporation violates Article 32 in connection with the business of the corporation or the individual, not only shall such violator be punished, but the corporation or the individual shall also be punished by a fine under the relevant Article; The same shall not apply where the corporation or the individual has not neglected to pay due attention and

exercise supervision concerning the relevant business in order to prevent such violation(Article 33).

2. Administrative Fines

(1) An Administrative Fine not Exceeding 50 Million Won

Any of the following persons shall be punished by an administrative fine not exceeding 50 million won(Article 34 (1)):

- ① A person who uses the mark of standard terms and conditions while using different contents as the terms and conditions, in violation of Article 19-3 (8);
- ② A person who refuses, interferes with or evades an investigation under Article 20.

(2) An Administrative Fine not Exceeding 5 Million Won

Any of the following persons shall be punished by an administrative fine not exceeding five million won(Article 34 (3)):

- ① A person who fails to clearly state to his/her customers the terms and conditions or fails to deliver a copy of it to his/her customers, in violation of Article 3 (2);
- ② A person who fails to explain the important details of the terms and conditions, in violation of Article 3 (3);
- ③ A person who fails to indicate the major differences between the terms and conditions and the contract concerned in a manner that customers can easily understand, in violation of Article 19-3 (6).

(3) Imposition and Collection of Administrative Fines

Administrative fines shall be imposed and collected by the Fair Trade Commission(Article 34 (3)).

Chapter II. Act on Fair Labeling and Advertising

Section 1. Overview of Act on Fair Labeling and Advertising

1. Necessity of Act on Fair Labeling and Advertising

(1) Consumers' Right to Know

Consumers intend to buy goods or services that fit their needs. To that end, they shall obtain information about the goods and terms. Business operators have the information; therefore, they shall let consumers know it. However, it is not easy for business operators to provide individual consumers with the information. Therefore, business operators provide the information through goods or business places. Business also attempts to enter into contracts with multiple consumers via labeling or advertising. In other words, it is only when business operators let consumers know them or the goods they sell, they may enter into contracts with consumers. What meets the needs of consumers and business operators is labeling and advertising.

(2) Consumers' Right to Choose

There are a variety of business operators and goods in the market. That is why consumers need information to choose the right goods that meet their needs. However, business operators have relevant information, so they shall provide it to consumers in order to help consumers make a rational decision.

(3) Consumer Protection from Unfair Labels and Advertisements

In order to guarantee consumers' right to know and right to choose, it is necessary to require business operators to provide relevant information. However, business operators may provide information favorable to themselves through labeling or advertising. That is, business operators ended up not offering the information that consumers need, but offering the information business operators themselves want to provide or engaging in unfair labeling or advertising. As a result, consumers suffer damage due to errors in their choice. Also, this unfair labeling and advertising not only damage consumers but also other business operators who conduct their business in a healthy way. In that sense, in order to satisfy consumers' right to know and help them make a reasonable choice, it is necessary to require business operators to offer sufficient and accurate information based on facts. This is the purpose of Act on Fair Labeling and Advertising.

2. History of Act on Fair Labeling and Advertising and Major Contents

(1) Enactment of Act on Fair Labeling and Advertising(1999)

- Prohibition of Unfair Labeling and Advertising
- Public Notification of Material Information
- Duty of Business Entities to Verify Details of Labels and Advertisements related to Facts
- Corrective Measures against Unfair Labeling and Advertising
- Temporary Suspension Orders

(2) Revision of Act on Fair Labeling and Advertising(2013)

- Deletion of Requirements for Corrective Measures by the Fair Trade Committee in the Requirements for Liability without Fault Caused by Unfair Labeling and Advertising
- Establishment of A System for Court Recognition of Damages

(3) Revision of Act on Fair Labeling and Advertising(2014)

- Establishment of Commitments Decision

3. Definitions

(1) Label

The term “” means characters or figures written on or attached to containers or packages of products (including attachments and contents), bulletins in places of business or certificates specifying rights to products, etc., such as gift certificates, membership cards and purchase rights, and containers or packages indicating characteristics of products, in order that business operators or business operators’ organizations (hereinafter referred to as “business operators, etc.”) may inform consumers of any of the following matters concerning products or services (hereinafter referred to as “products, etc.”)(Article 2 1).

(2) Advertising

The term “advertising” means that business operators, etc. widely inform or publicize matters about themselves or other business operators, matters

about their products or other business operators' products, terms and conditions of business, or other matters about the transaction through the following methods: newspapers and Internet newspapers defined in subparagraphs 1 and 2 of Article 2 of the Act on the Promotion of Newspapers, Etc., periodicals defined in subparagraph 1 of Article 2 of the Act on Promotion of Periodicals, Including Magazines, broadcasting defined in subparagraph 1 of Article 2 of the Broadcasting Act, telecommunications defined in subparagraph 1 of Article 2 of the Framework Act on Telecommunications, and other methods, including leaflets, pamphlets, samples, or tickets; the Internet or PC communication; posters, signs, neon signs, ad balloons, electronic displays, or videos; records, publications, movies, or plays; products of other business operators, and other methods or media that are similar to the above(Article 2 2).

(3) Business operator

The term business operator means a business operator defined in subparagraph 1 of Article 2 of the Monopoly Regulation and Fair Trade Act. The term "business operator" means a person who conducts manufacturing business, service business, or any other business. Any executive, employee, agent or any other person who acts in the interest of the business operator shall be deemed a business operator in application of the provisions pertaining to business operators' organizations(Article 2 3).

(4) Business operators' organization

The term "business operators' organization" means a business operators' organization defined in subparagraph 4 of Article 2 of the Monopoly Regulation and Fair Trade Act. The term "business operators' organization"

means an association or a federation which is organized by two or more business operators for the purpose of increasing their common interests, regardless of its form or federation thereof(Article 2 4).

(5) Consumer

The term “consumer” means a person who uses products produced or provided by business operators, etc.

Section 2. Prohibition against Unfair Labeling or Advertising and Public Notification of Material Information

1. Prohibition against Unfair Labeling or Advertising

(1) Purpose of Unfair Labeling or Advertising

Unfair labeling or advertising refers to labeling or advertising that is likely to deceive or mislead consumers(Article 3). business operators, etc. shall not place any labeling or advertising that is likely to undermine fair trade order, or compel other business operators to do so.

(2) Types of Unfair Labeling or Advertising

1) False or exaggerated labeling or advertising

False or exaggerated labeling or advertising refers to labels or advertisements that are different from facts or that are too exaggerated.

2) Deceptive labeling or advertising

Deceptive labeling or advertising refers to labels or advertisements that cover up or reduce facts.

3) Unfairly comparative labeling or advertising

Unfairly comparative labeling or advertising refers to labels or advertisements in which business operators compare themselves to other business operators or to business operators' organizations (hereinafter referred to as "business operators, etc.") or products or services (hereinafter referred to as "products, etc.") to other products, etc. without disclosing clear comparison target or standard.

4) Slanderous labeling or advertising

Slanderous labeling or advertising refers to labels or advertisements that slander other business operators, etc. or products, etc. with contents without objective ground or only with unfavorable facts.

2. Public Notification of Material Information

(1) Meaning of Material Information

Material information refers to information that is required for protecting consumers or maintaining fair trade order, in consideration of characteristics of products, etc. or fields of trade. business operators shall provide any of the following matters(Article 1).

- ① Matters, the omission of which in labels or advertisements often causes damage to consumers;
- ② Matters, the omission of which in labels or advertisements is likely to lead to any of the following situations: Where consumers' inaccurate knowledge of major defects or functional limits of products, etc. has a decisive influence on their decision to purchase products, etc.;

Where lives, bodies or property of consumers are likely to be jeopardized or injured; When consumers' rational choices are substantially interrupted, or fair trade order is likely to be substantially undermined.

(2) Public Notification of Material Information

The Fair Trade Commission may publicly notify the methods of labeling or advertising (including online labeling or advertising; hereinafter the same shall apply). However, that matters prescribed to be labeled or advertised by other statutes shall be excluded herefrom. Where the Fair Trade Commission intends to provide public notification, it shall consult in advance with the heads of the relevant administrative agencies. In such cases, the Fair Trade Commission may hold a public hearing to hear opinions of business operators' organizations, consumer organizations registered under Article 29 of the Framework Act on Consumers (hereinafter referred to as "consumer organizations"), or other interested parties, when deemed necessary. In providing public notification on material information, the Fair Trade Commission may make integrated announcement on matters prescribed to be included in labels or in advertisements and matters restricted or prohibited in labels or in advertisements by other statutes (hereinafter referred to as "integrated announcement") in order to provide comprehensive information to interested parties, including consumers and business operators. Where a statute concerning matters subject to integrated announcement has been enacted or amended, the heads of the relevant administrative agencies shall report it to the Fair Trade Commission before the enforcement date of such statute to ensure that integrated announcement on such matters is made(Article 4 (2), (3), (4)).

(4) Business Operators' Public Notification of Material Information

Where business operators, etc. place labeling or advertising, they shall include material information publicly in such labeling or advertising (Article 4 (5)).

3. Verification, etc. of Details of Labels and Advertisements

(1) The Fair Trade Commission's Request for Verification.

Business operators, etc. shall be able to verify matters concerning facts included in labels or advertisements they have placed. Where business operators, etc. are likely to place an unfair label or advertisement, so verification is deemed necessary, the Fair Trade Commission may request relevant data from the relevant business operators, etc. upon specifying details of the request. Business operators, etc. in receipt of a request to submit data necessary for verification shall submit the data, within 15 days after receipt of such request, to the Fair Trade Commission. However, the Fair Trade Commission may extend a period for submission, when any justifiable ground exists. The Fair Trade Commission may keep the verification data submitted by business operators, etc. make it available for public perusal or disclose it to the public in other appropriate means if it is deemed necessary to prevent consumers from being misled about products or to maintain fair trade order. However, this shall not apply where such data is business secrets of business operators, etc. and is likely to disturb business activities of such business operators, etc. if disclosed to the public. When business operators, etc. in receipt of a request to submit verification data continue placing labeling or advertising

without submitting such data within a period for submission, the Fair Trade Commission may order business operators, etc. to suspend placing labeling or advertising until they submit the verification data(Article 5).

(2) Method of Verification

If a business operator, etc. intends to conduct a test or investigation, to verify matters concerning facts contained in labels or advertisements that he/she has placed, he/she shall comply with the following criteria.

- ① The method of a test or investigation used for verification shall be an objective and appropriate method such as a method generally recognized in the academia or industry.
- ② The test or investigation shall be conducted at a test or investigation agency under statutes, or at a test or investigation agency managed independently from a business operator, etc. However, this shall not apply if it is deemed impossible or inappropriate to conduct a test or investigation at a test or investigation agency under statutes, or at a test or investigation agency managed independently from a business operator, etc.

The test or investigation agency managed independently from a business operator, etc. shall be a test or investigation agency that does not fall under any of the following.

- ① A test or investigation agency operated by a business operator, etc. or an affiliated company of a business operator (referring to an affiliated company under subparagraph 3 of Article 2 of the Monopoly Regulation and Fair Trade Act)

- ② A test or investigation agency operated by a company that once belonged to the scope of an enterprise group (referring to the scope of an enterprise group under Article 3 of the Enforcement Decree of the Monopoly Regulation and Fair Trade Act) to which a business operator, etc. belongs, but is excluded from the enterprise group pursuant to Article 3-2 (1) 2 of the Enforcement Decree of the same Act

(3) Submission and Public Disclosure of Verification Data

1) Submission of Verification Data

When a business operator, etc. submits verification data, he/she shall attach methods of verification, the name of the test or investigation agency, and the name, address and telephone number of the representative (only applicable to cases where a test or investigation is conducted), and contents or results of verification. Where he/she wishes not to disclose to the public any verification data on the ground that it constitutes a business secret, its contents and reason.

2) Public Disclosure of Verification Data

The Fair Trade Commission may, where he/she makes available for perusal or discloses to the public any verification data, do so by summarizing or compiling information necessary for consumers' choice of purchase. However, this shall not apply where such data is trade secret under subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act.

4. Prohibition against Restrictions on Labeling or Advertising by Business Operators' Organizations

Any business operators' organization shall not restrict labeling or advertising of business operators who belong to the relevant business operators' organization, except as otherwise provided by statutes. However, this shall not apply where the Fair Trade Commission deems it necessary for protecting the interests of consumers and maintaining fair trade order. In cases where a business operators' organization intends to obtain approval from the Fair Trade Commission to restrict labeling or advertising of a business operator that is a member of the business operators' organization, it shall submit an application form specifying the reasons and details to the Fair Trade Commission. The Fair Trade Commission shall, when it receives an application decide whether to grant approval, and notify the applicant of its decision in writing within 60 days from the date of the application. When the Fair Trade Commission intends to approve restrictions on labeling or advertising placed by business operators' organization, it shall consult in advance with the heads of the relevant administrative agencies. When business operators' organizations commit a violation, the Fair Trade Commission may issue orders to take measures, including suspension of the relevant violation; revision of articles of association or regulations prescribing the relevant violation; other measures necessary for correcting violations (Article 6).

Section 3. Unfair Labeling and Advertising and Administrative Regulation

1. Temporary Suspension Orders

(1) Purpose

Where the relevant labeling or advertising is obviously suspected to be unfair labeling or advertising and where the relevant labeling or advertising is likely to cause irrecoverable damage to consumers or rival business operators, and thus prevention of such damage is deemed urgently required, The Fair Trade Commission may order business operators, etc. to temporarily suspend labeling or advertising(Article 8).

(2) Requirements, etc. for Temporary Suspension Order

Cases where an act of labeling or advertizing is obviously suspected to be unfair shall be any of the following cases:

- ① Where labeling or advertizing has been placed without the material information publicly notified by the Fair Trade Commission;
- ② Where the verification data required to be submitted has not been submitted;
- ③ Where it is obviously deemed to fall under the detailed types and standards of unfair labeling or advertizing determined and publicly notified by the Fair Trade Commission;
- ④ Where it is obviously deemed to be identical or substantially similar to the types of unfair labeling or advertizing in light of judicial precedents or rulings.

Cases where labeling or advertising is likely to cause irrecoverable damage to consumers or competing business operators shall be any of the following cases:

- ① Where there is a likelihood of serious harm to the safety of the life or body of consumers, or serious damage to their property;
- ② Where there is a likelihood of damage that could make it impossible for a competing business operator to continue business or expose a competing business operator to material managerial crisis.

(3) Requesting Temporary Suspension Order

1) Requesters

Those who may request the Fair Trade Commission to issue an order to temporarily are the following: consumer organizations; the Korean Communications Standards Commission under Article 18 of the Act on the Establishment and Operation of Korea Communications Commission; the Korea Consumer Agency established under Article 33 of the Framework Act on Consumers; the Korea Press Ethics Commission as an incorporated association and the Korea Advertising Review Board as an incorporated association established under Article 32 of the Korean Civil Act; and other agencies or organizations established under other statutes to review labeling or advertising placed by a business operator, etc.

2) Method and Content of Requesting Temporary Suspension Order

Consumer organizations, etc, shall submit to the Fair Trade Commission a written request specifying each of the following matters, in order to request the Fair Trade Commission to issue a temporary suspension order: the name of a consumer organization, agencies or organizations,

and the name, address and telephone number of the representative; the name of the business operator, etc. who has placed the labeling or advertising; the details of the labeling or advertising that is subject to the temporary suspension order; and grounds for requesting a temporary suspension order. Where labeling or advertising by business operators, etc. is deemed to fall into the category of temporary suspension order, consumer organizations, etc. may request the Fair Trade Commission to issue an order to temporarily suspend labeling or advertising.

(4) Raising Objection to Temporary Suspension Order

A person who protests against an order may file an objection to the Fair Trade Commission within seven days after receipt of such order. If a person subject to an order files an objection, the Fair Trade Commission shall, without delay, notify the Seoul High Court of such fact, and the Seoul High Court, in turn, shall proceed to a trial in accordance with the Non-Contentious Case Procedure Act.

2. Corrective Measures

(1) Order of Corrective Measures

Where business operators, etc. engage in unfair labeling or advertising in violation of Article 3 (1), the Fair Trade Commission may issue any of the following measures to the relevant business operators, etc. to correct such violation: suspension of the relevant violation; publication of the fact that a corrective order has been issued to the relevant business operators, etc.; corrected advertising; other measures necessary for correcting violations(Article 7).

(2) Methods of Publication of Receipt of Corrective Order

The Fair Trade Commission shall, when it renders an order to a business operator, etc. for publication of the fact that a corrective order has been issued or for corrected advertising, it shall determine the contents, frequency, scale, medium, etc. of the publication or corrected advertising in consideration of each of the following matters: substance and severity of violations; and duration and number of violations. When the Fair Trade Commission renders an order for publication of the fact that a corrective order has been issued or for corrected advertising, it may require the relevant business operator, etc. to have consultation with the Fair Trade Commission for the wording, etc. thereof in advance.

3. Commitments Decision

(1) Purpose

Business operators, etc. (hereafter referred to as “applicant”) under investigation or deliberation by the Fair Trade Commission may file an application with the Fair Trade Commission for a commitments decision for improvement of trade order, such as voluntary removal of consumer misconceptions caused by the act subject to the relevant investigation or deliberation (hereafter referred to as “relevant act”), remedy of consumer damage, etc., a system that is referred to as commitments decision(Article 7-2 (1)).

(2) Exclusion from Application

business operators, etc. under investigation or deliberation by the Fair Trade Commission due to the likelihood of violation of Act on Fair

Labeling and Advertisement may file an application with the Fair Trade Commission for a commitments decision. However, in cases falling under any of the following, applicants shall not file an application for a commitments decision: when the violation may substantially hamper competition because the degree of the violation is obvious from an objective point of view and serious, the Fair Trade Commission shall file with the Prosecutor General the complaints; and where the applicant withdraws the application before a commitments decision is rendered(Article 7-2 (1)).

(3) Filing an Application for Commitments Decision

Applicants under investigation or deliberation by the Fair Trade Commission may file an application with the Fair Trade Commission for a commitments decision under paragraph (3) for improvement of trade order, such as voluntary removal of consumer misconceptions caused by the act subject to the relevant investigation or deliberation (hereafter referred to as “relevant act”), remedy of consumer damage, etc.(Article 7-2 (1)).

In cases where an applicant files an application, the application shall be in writing, specifying each of the following matters: facts that establish the relevant act; commitments for active improvement of trade order, such as discontinuance of the relevant act and removal of consumer misconceptions; and commitments to remedy or prevent damage to consumers, other business operators, etc.(Article 7-2 (2)).

(4) Procedures for Commitments Decisions

The Fair Trade Commission shall determine whether to commence the procedures for a commitments decision, in overall consideration of the

necessity of a prompt measure, the necessity of direct compensation for consumer damage, and other relevant matters. The Fair Trade Commission shall provide an opportunity to present opinions for a period of 30 days or longer prior to rendering a commitment decision, by notifying interested persons, such as a reporting person, of the following matters, or publishing the following matters on the official gazette or the web site of the Fair Trade Commission: outline of the relevant act; provisions of applicable statutes; commitments (in cases where the commitments have been modified pursuant to the latter part of Article 7-2 (3), referring to the modified commitments); other information that helps reporting persons' or other interested persons' understanding in relation to the relevant act (However, it shall exclude any information that is inappropriate for disclosure, for protection of confidentiality in business or privacy or on public interest grounds). The Fair Trade Commission shall notify the head of relevant administrative agencies of the matters prescribed above and hear his/her opinions, and consult with the Prosecutor General. The Fair Trade Commission shall, in cases where it intends to render or revoke a commitments decision, shall undergo the deliberation and decision of a relevant meeting under the classification of Article 37-3 of the Monopoly Regulation and Fair Trade Act(Article 7-3).

(5) Effects of Commitments Decisions

If the Fair Trade Commission deems that the commitments satisfy all of the following requirements after completing investigation into the facts of the relevant act, it may suspend the deliberation procedures and render a decision that is to the same effect as the commitments. In such cases, it may modify the commitments after consultation with the applicant: the

commitments are in balance with the corrective measures and other sanctions that can be expected if the relevant act is found to violate this Act; the commitments are deemed appropriate to recover a fair and free trade order or to protect consumers, other business operators, etc.(Article 7-2 (3)).

The applicant who has obtained a commitments decision shall submit to the Fair Trade Commission a plan for performance of the commitments decision and the result of the performance(Article 7-3 (5)).

A commitments decision of the Fair Trade Commission shall not mean an admission that the relevant act violates this Act, and no one shall assert the relevant act as a violation this Act on the ground that the applicant obtained a commitments decision(Article 7-2 (4)).

(6) Revocation of Commitments Decisions

The Fair Trade Commission may, in cases falling under any of the following, revoke a commitments decision: where the commitments have become inappropriate due to a remarkable change in facts such as market conditions that made the basis for the commitments decision, and other relevant matters; where the commitments decision has been based on incomplete or incorrect information provided by the applicant, or has been obtained by the applicant by fraud or other improper means; where an applicant fails to perform the commitments decision without good cause. In cases where the Fair Trade Commission revokes a commitments decision, if the applicant files an application for a commitments decision, the Fair Trade Commission may render a commitments decision again(Article 7-4).

(7) Charge for Compelling Performance, etc.

The Fair Trade Commission may impose charges for compelling performance in an amount of up to two million won per day until a commitments decision is performed or revoked, on a person who fails to perform a commitments decision within a reasonable period without good cause. With respect to imposition, payment, collection and refund, etc. of the charges for compelling performance, Article 17-3 (2) and (3) of the Monopoly Regulation and Fair Trade Act shall apply mutatis mutandis(Article 7-5).

4. Penalty Surcharges

(1) Targets and Amount of Penalty Surcharges

The Fair Trade Commission may impose penalty surcharges on business operators, etc. who have placed unfair labeling or advertising, up to the amount of sales (referring to the sales amount, purchase amount or the amount equivalent of the relevant products, etc. which have been sold or bought during the period of violation by violating business operators, or operating profits in cases of business operators who enter the aggregated amount of the price of products, etc. as operating revenues, etc. on financial statements) multiplied by 2/100. Provided, That it may impose penalty surcharges up to 500 million won on business operators, etc., when the relevant violator (who falls under any of the following: business operation has not been commenced, or there is no sales performance record due to business suspension, etc.; he/she fails to submit, or submits falsely, the data for calculation of sales amount; it is

otherwise deemed impractical to calculate the sales amount objectively.) has no sales or it is impractical to calculate the amount of sales(Article 9 (1)).

The Fair Trade Commission may impose penalty surcharges up to 500 million won on business operators' organizations which have restricted labeling or advertising by business operators, etc.(Article 9 (2)).

(2) Considerations in terms of Calculating Penalty Surcharges

The Fair Trade Commission shall take into account of the followings when it imposes penalty surcharges: substance and severity of a violation; duration and frequency of a violation; scale of profits generated from a violation; degree of effort by business operators, etc. to prevent damage of consumers and to compensate for such damage for consumers(Article 9 (3)).

(3) Succession of Penalty Surcharges

When a corporation that is the business operator that has placed an unfair label or advertisement merges with another corporation, penalty surcharges shall be imposed and collected by deeming that the violation committed by the corporation has been committed by a corporation surviving the merger or established after such merger.

Section 4. Unfair Labeling or Advertising and Compensation for Damage

1. Compensation Liability

(1) Special Rules on the Korean Civil Act

In the Korean Civil Act, the requirements for compensation liability are nonperformance of the obligation and an unlawful act. However, if the obligor has no intention or gross negligence, such obligor shall be free of compensation liability. Therefore, what both have in common is that there shall be purpose or negligence in terms of liability. The difference lies in who has the responsibility to prove the absence of the purpose or negligence (the Korean Civil Act Article 390). In contrast, in terms of unlawful acts, an obligee shall prove the existence of purpose or negligence of the obligor (the Korean Civil Act Article 750).

Unlike in the Korean Civil Act, in Act on Fair Labeling and Advertising, any person who has suffered damage from unfair labeling or advertising may put in a claim for damages even if business operators prove the absence of purpose or negligence. In other words, Act on Fair Labeling and Advertising adopts not principle of liability with fault but principle of liability without fault.

(2) Requirements for Obligation to Compensate for Damage

Where any person has suffered damage from unfair labeling or advertising, business operators, etc. shall be obligated to compensate for such damage to the aggrieved person. No business operators, etc. obligated to compensate

for damage shall be exempted from such obligation, on the ground that damage has not been caused by intention or negligence(Article 10). business operators, etc. who fail to include publicly notified material information in labeling or advertising in violation of public notification of material information are not obligated to compensate unless the relevant labels or advertisements are deed unfair. In this case, sufferers shall claim compensation under the Korean Civil Act, etc.

2. Recognition of Damages

(1) The Necessity of Recognition of Damages

A person who has suffers damage caused by another person's act, he/she may claim compensation. In order for sufferers to claim compensation, they shall prove the requirements for liability. However, it is hard to prove the purpose or negligence because they are subjective requirements. This Act is faithful to consumer protection in that it stipulates liability without fault. One of the things that consumers suffering from damage shall prove in order to claim compensation is the amount of damages. It is the actual amount of compensation to claim from the victimizer. However, one of the things that are hard to prove is the amount of damages. Therefore, this Act introduces a way that a court may ex officio recognize damages even if consumers fail to prove the actual damages.

(2) Requirements and Methods of Recognition of Damages

Where it is recognized that damage is caused by unfair labels or advertisements, but it is impracticable to verify the damages in light of

the character of the case, the court may recognize reasonable damages based on the gist of the entire arguments and the outcome of investigating evidence(Article 11). Therefore, consumers can seek compensation for damages without proving the actual amount of damages.

Section 5. Voluntary Regulations concerning Labeling or Advertising

1. Voluntary Regulations concerning Labeling or Advertising

Business operators, etc. may voluntarily determine regulations, standards, etc. concerning labeling or advertising (hereinafter referred to as “voluntary regulations”) to prevent unfair labeling or advertising. Voluntary regulations shall be appropriate for preventing unfair labeling or advertising, and shall not restrict labeling or advertising placed by business operators, etc. and information provided to consumers, without justifiable grounds. Business operators, etc. may request the Fair Trade Commission to examine whether voluntary regulations. The Fair Trade Commission in receipt of a request to examine voluntary regulations shall notify the applicants of the results of the examination within 60 days of receipt of such request. Where voluntary regulations fall into the category of unfair labeling or advertising, the Fair Trade Commission may order business operators, etc. to make a correction thereof(Article 14).

2. Voluntary Review Organizations, etc. on Labels or Advertisements

A person who operates an organization aimed at preventing unfair labeling or advertising (hereinafter referred to as “voluntary review

organization, etc.”), including deliberations (referring to determination as to whether labeling or advertising violate statutes or voluntary regulations, regardless of the title; hereinafter the same shall apply) on whether labeling or advertising by business operators, etc. violate Act on Fair Labeling and Advertising or voluntary regulations, may report thereon to the Fair Trade Commission. A voluntary review organization, etc. shall make determinations in accordance this Act or voluntary regulations, in deliberating on labeling or advertising, and shall restrict labeling or advertising by business operators, etc. or information provided to consumers without justifiable grounds. The Fair Trade Commission may request data on details, results, etc. of deliberation from a voluntary review organization, etc. Where details, results, etc. of deliberation by a voluntary review organization, etc. violate the criteria, the Fair Trade Commission may request correction thereof, and the voluntary review organization, etc. shall comply with such request except in extenuating circumstances. Where the Fair Trade Commission determines that labeling or advertising is subject to deliberation by a voluntary review organization, etc., it may request a voluntary review organization, etc. to deliberate on such labeling or advertising. The Fair Trade Commission shall not order business operators, etc. to take corrective measures when business operators, etc. have corrected unfair labeling or advertising in accordance with the results of deliberation by a voluntary review organization, etc. on labeling or advertising subject to deliberation, which has been requested by the Fair Trade Commission. However,t this shall not apply where violations of this Act are repeated or corrective measures of the voluntary review organization, etc. are deemed impractical to prevent damage to consumers or rival business operators, even when business operators, etc. have taken

corrective measures in accordance with the results of deliberation by the voluntary review organization, etc. When a voluntary review organization, etc. (including a voluntary review organization of business operators' organizations recognized by the Fair Trade Commission under the proviso to Article 6 (1), and deliberation agencies, to which deliberation has been delegated by other statutes) which has reported deliberates on labeling or advertising, which has been requested by the Fair Trade Commission, the Fair Trade Commission may subsidize expenses incurred therein within budgetary limits(Article 14-2).

Section 6. Penalty Provisions

1. Punishment

(1) Penalty Provisions

Any person who falls under any of the following subparagraphs shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 150 million won: a business operator, etc. who places unfair labeling or advertising in violation of Article 3 (1), or who compels other business operators, etc. to do so; a person who fails to comply with orders issued under Article 6 (3) or Article 7 (1)(Article 17). Any person who divulges any confidential information of business operators, etc. known to him/her in the course of performing his/her duties, or uses such information for any purposes other than for the enforcement of this Act, in violation of Article 12, shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding five million won(Article 18).

(2) Joint Penalty Provisions

If the representative of a corporation (including organizations without legal personality; hereafter the same shall apply in this Article), or an agent or employee of, or other person employed by, a corporation or an individual commits a violation under Article 17 in connection with the business of the corporation or the individual, not only shall such violator be punished, but also the corporation or the individual shall be punished by a fine under the relevant Article: Provided, That this shall not apply where such corporation or the individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such violation(Article 19).

2. Administrative Fines

(1) Administrative Fine not Exceeding 100 Million Won

Where business operators, etc. fall under any of the following cases, such entities shall be subject to an administrative fine not exceeding 100 million won(Article 20 (1)):

- ① Where a business operator or a person fails to include publicly notified material information in labeling or advertising;
- ② Where a business operator or a person fails to submit verification data;
- ③ Where a business operator or a person fails to suspend labeling or advertising;
- ④ Where a business operator or a person fails to comply with a temporary suspension order;

- ⑤ Where a business operator or a person fails to appear without any justifiable ground in violation of Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (2);
- ⑥ Where a business operator or a person fails to file a report or submit necessary data or articles pursuant to Article 50 (1) 3 or paragraph (3) of the same Article of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (2) or who files a false report or submits false data or articles;
- ⑦ Where a business operator or a person refuses, interferes with or evades an investigation conducted under Article 50 (2) of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (2).

(2) Administrative Fine not Exceeding 30 Million Won

Where business operators, etc. fail to comply with an order to take corrective measures, such entities shall be subject to an administrative fine not exceeding 30 million won(Article 20 (1)).

(3) Administrative Fine not Exceeding 10 Million Won

Any executive officer, employee or other interested person of a corporation or business operators' organization fall under any of the following cases, he/she shall be subject to an administrative fine not exceeding 10 million won(Article 20 (1)):

- ① Where a business operator or a person fails to include publicly notified material information in labeling or advertising;

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- ② Where a business operator or a person fails to submit verification data;
- ③ Where a business operator or a person fails to suspend labeling or advertising;
- ④ Where a business operator or a person fails to comply with a temporary suspension order;
- ⑤ Where a business operator or a person fails to comply with an order to take corrective measures;
- ⑥ Where a business operator or a person fails to appear without any justifiable ground in violation of Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (2);
- ⑦ Where a business operator or a person fails to file a report or submit necessary data or articles pursuant to Article 50 (1) 3 or paragraph (3) of the same Article of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (2) or who files a false report or submits false data or articles;
- ⑧ Where a business operator or a person refuses, interferes with or evades an investigation conducted under Article 50 (2) of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (2).

(4) Administrative Fine not Exceeding 1 Million Won

Any person who fails to comply with an order to maintain order issued under Article 43-2 of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 16 (1) shall be punished by an administrative fine not exceeding one million won(Article 20 (2)).

Part IV. Consumer Protection Acts Concerning Special Transactions

Chapter I. Installment Transactions Act

Section 1. Installment Transactions and Consumer Protection

1. Necessity of Consumer Protection in Installment Transactions

(1) Deferred Installment Transactions

Consumers shall pay the price in order to buy goods. Consumers who do not have the ability to pay the price may not buy goods. Business operators shall sell many goods, but they shall not sell goods to consumers unable to pay the price. Therefore, business operators have developed a sales method, installment transactions. That is, consumers make a series of payments instead of a lump sum to buy goods. As a result, consumers may buy goods without the purchase money. Business operators may sell goods to a lot of consumers. However, installment payments caused consumers to impulsively buy goods. In addition, consumers end up paying more money because they shall pay not only the price but also the installment commission. Therefore, when consumers buy goods, they shall be able to choose whether to pay in a lump sum or installments. Also, if consumers impulsively buy goods, they need a way to cancel the transaction. Therefore, Installment Transactions Act was enacted to protect consumers from installment contracts.

(2) Prepaid Installment Transaction

Initially, installment transaction recognized only deferred installment transactions. However, in case of a funeral or wedding ceremony, which is costly, it is hard for consumers to pay in a lump sum for the cost. Therefore, a new way of installment transaction has emerged: consumers gradually save up the money in advance, and then they pay the price with the money when they have a funeral or wedding ceremony. The long period sometimes gave rise to early termination of the contract. In those instances, excessive cancellation fee, etc. caused consumer damage. Or, when consumers shall have a funeral or wedding ceremony, business operators, such as funeral service companies, sometimes failed to provide services, causing consumer damage, because the business operators had already been shut down. In order to prevent and remedy consumer damage in those fields, Installment Transactions Act was amended, and prepaid installment transaction businesses have begun to be regulated.

2. History of Installment Transactions Act and Major Contents

(1) Enactment of Installment Transactions Act(1991)

- Duty to Issue Contract
- Rights to Withdraw an Offer
- More than 14 days of Notification Period in Cases of Seller's Withdrawal
- Buyer's Right to Defend

(2) Revision of Installment Transactions Act (2010)

- Addition of Credit Providers' and Installment Business Operators' Duty to Refund In Cases of Consumers' Withdrawal of an Offer
- Addition of more circumstances where Consumers may exercise their Right of Defence
- Establishment of Installment Business Operators' Duty of Notification in Cases of Consumers' Unfair Exercise of their Right of Defence
- Establishment of Registration System for Prepaid Installment Operators
- Establishment of Duty of Provision of Information Before Conclusion of Prepaid Installment Contract and Issuance of Contracts
- Stipulation of Consumers' Rights to Withdraw an Offer for and Rescind Prepaid Installment Contract
- Duty of Prepaid Installment Business Operators to Conclude Consumer Damage Indemnification Insurance Contract, etc

(3) Revision of Installment Transactions Act(2015)

- Establishment of Duty of Prepaid Installment Business Operators to Submit and Publicly Disclose Accounting and Audit Reports
- Establishment of Transfer of Prepaid Installment Contracts
- Addition of Solicitors as a Person who is Liable besides Prepaid Installment Operators, etc.

3. Definitions of Installment Transactions

(1) Definitions of Deferred Installment Transactions

1) Direct Installment contract

The term “direct installment contract” means any of the contracts, irrespective of its name, on goods or services (including a right to use a particular facility or a right to receive a type of service) under which a consumer makes installment payments of the price of goods or services on three or more occasions over a period of two or more months to a business operator and receives the goods or services from the business operator before full payment of the price of the goods, etc. is made (Article 2).

2) Indirect Installment Contract

The term “indirect installment contract” means any of the contracts under which a consumer makes installment payments of the price of goods, etc. on three or more occasions over a period of two or more months to a credit provider and receives the goods from the business operator before full payment of the price of the goods, etc. is made (Article 2).

(2) Prepaid Installment Contract

The term “prepaid installment contract” means a contract under which a consumer agrees to pay a business operator the price of the goods, etc. specified in any of the following in at least two installments over a period of at least two months and to have the goods supplied by the business operator after fully or partially paying the price, irrespective of its name or form: services for funeral or wedding (excluding cases where the time of provision is fixed) and other goods incidental to such services; and any such goods, etc. equivalent to those prescribed in the above, which may cause damage to the consumer, as determined by the Presidential Decree for prevention of such damage (Article 2).

Section 2. Deferred Installment Transactions

1. Application Scope and Exclusion from Application

(1) Application Scope

Installment Transactions Act covers consumer protection in deferred installment transactions. That is, this Act regulates only the cases where consumers do not pay in a lump sum but pay in installments when they buy goods from business operators. The method of deferral shall fulfill the requirements about the duration and number of payments. In order to constitute an installment transaction, a consumer shall make installment payments on three or more occasions over a period of two or more months. However, there is no limit to the price to be paid. Therefore, if a transaction, however small, meets the requirements of duration and period, this Act applies to it. However, when the price is small, consumers shall not exercise the right to withdraw an offer.

(2) Exclusion from Application

1) Commercial Activities

Installment Transaction Act does not apply to a transaction in which a business operator receives goods, etc. for a commercial purpose. This Act shall apply where a business operator trades, in actuality, with the same status and on the same transaction conditions as those applicable to other consumers. In other words, the purpose of this Act is to protect consumers in installment transactions. Therefore, when the buyer is a business operator, this Act does not apply to the transaction(Article 3).

2) Installment Transactions on Special Goods

Installment Transaction Act does not apply to the following transactions: agricultural, fishery, livestock, forest, or mineral products not produced by the manufacturing sector under the Korea Standard Industrial Classification prepared in accordance with Article 22 of the Statistics Act; drugs under subparagraph 4 of Article 2 of the Pharmaceutical Affairs Act; insurances under the Insurance Business Act; securities under Article 4 of the Financial Investment Services and Capital Markets Act and bills under Article 336 (1) 1 of the same Act; real property.

2. Duty to Provide Information

(1) Information Business Operators shall Provide

Before concluding an installment contract, an installment business operator shall indicate each of the following so that consumers may understand the terms and conditions of the installment contract: the type and details of the goods, etc.; cash price (referring to the full price that shall be paid to the installment business operator when the consumer receives the goods, etc. without an installment contract); the amount of installments (referring to the total sum of down payment and installments that the consumer shall pay to the installment business operator or a credit provider); the amount of each installment, the number of payments, and the date of payment; the actual annual rate of an installment commission; down payment (referring to a payment by the consumer to the installment business operator when he/she concludes the installment contract, regardless of its name, such as an initial payment, an advance payment, etc.); the rate applied in calculating damages for delay(Article 5).

(2) Display Measure of Installment Contract

Installment business operator shall display the contents of installment contract according to each measure of following. First, display at office or on paper. When displayed at office, it shall be in noticeable place for consumer, and when provided on paper, it shall be printed bigger than font size 9. Second, an actual annual rate of installment commission, shall be displayed up to one decimal point.

3. Principle of Executing Installment Contract in Written Form

(1) Entered Matters of a Contract

An installment business operator shall conclude an installment contract in written form which indicates each of the following (including an electronic document under subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions;): names and addresses of the installment business operator, the consumer, and the credit provider; types and details of the goods, etc. and date of provision of the goods, etc.; cash price; the amount of installments; the amount of each installment, the number of payments, and period and date of payment; the actual annual rate of an installment commission; down payment; matters concerning the retention of title to the goods, etc.; matters concerning the period to withdraw an offer, method of exercise and effect of withdrawal; matters concerning the installment business operator's rescission of an installment contract; the rate applied in calculating damages for delay; matters concerning acceleration of a consumer's obligation;

matters on the consumer's rights of defense and methods of exercising those rights(including electronic documents according to subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions. With respect to an indirect installment contract between a credit card holder and a credit card merchant under the Specialized Credit Finance Business Act, installment business operator may not indicate the amount of installments, the period and date of payment, and the rate applied in calculating damages for delay(Article 6 (1)).

(2) Delivering Contracts

Where concluding an installment contract, an installment business operator shall deliver a written contract where what shall be written is written to a consumer. In the case of an indirect installment contract between a credit card holder and a credit card merchant under the Specialized Credit Finance Business Act, the installment business operator may replace it by sending the terms and conditions of the contract concerned by fax or electronic document delivery referred to in subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions after obtaining consent from the consumer, and where a dispute arises over the terms and conditions or arrival of the contract sent by fax or electronic document delivery, the installment business operator shall have the burden of proof(Article 6 (2)). A credit provider shall issue a written statement indicating the amount of installments; the sum of each installment; the number of installment; the period and date of payment; the annual rate of an installment commission; matters concerning the period to withdraw an offer, method of exercise and effect of the withdrawal; and the rate applied in calculating damages for delay, matters concerning acceleration

of a consumer's obligation(Article 6 (3)). If an installment contract fails to meet the requirements, or if the terms and conditions thereof are unclear, the terms and conditions of the contract shall not, in any event, be interpreted to the detriment of a consumer unless otherwise specially agreed to by a consumer and an installment business operator(Article 6 (4)).

(3) Rate of Installment Commission

The method of calculating an actual annual rate of installment commission and the ceiling thereof shall be determined by Presidential Decree up to the ceiling of the interest prescribed by the Interest Limitation Act(Article 7).

4. The Right to Withdraw an Offer

(1) The Purpose and Necessity of Withdrawal of Offers

1) The Purpose of the Right to Withdraw an Offer

The right of withdrawal gives the consumer the right to unilaterally go back on his decision to conclude a contract. As such, it is a far-reaching instrument, protecting one party from another party by restricting the binding nature of the contract. It is, therefore, at odds with the principle of *pacta sunt servanda*, which is commonly regarded as one of the pillars of contract law.

2) Necessity of the Right to Withdraw an Offer

Installment transactions allow consumers to pay by installments and to receive the goods before payments are completed. Consumers may buy goods without the purchase money, so that consumers may impulsively

enter into a contract. In that case, consumers may not arbitrarily cancel the contract without the consent of the business operator. As a result, consumers who make irrational decisions shall not be protected. But business operators let consumers pay by installments, causing consumers to impulsively enter into a contract. Therefore, consumers shall be given an opportunity to judge their purchase decision again. The right to withdraw an offer plays this role.

(2) Period and Method of Exercise

1) Period for Exercise

A consumer may withdraw an offer of an installment contract within seven days from the date on which he/she received a contract (when transacting parties have agreed on a longer period, referring to such longer period). But when the goods, etc. are provided later than the date on which he/she received the contract, the consumer may withdraw an offer of an installment contract within seven days from the date on which he/she received the goods, etc. Where he/she has not received the contract, where he/she has received a contract on which the address, etc. of an installment business operator is not stated, or where he/she cannot withdraw the offer due to a reason, such as the change, etc. of the address of the installment business operator, the consumer may withdraw an offer of an installment contract within seven days from the date on which he/she may withdraw the offer, such as the date on which he/she became aware or may have become aware of the address. Also, in cases where matters concerning the withdrawal of an offer have not been stated on the contract, the consumer may withdraw an offer of an installment

contract within seven days from the date on which he/she became aware or may have become aware of the fact that he/she may withdraw the offer. Where an installment business operator obstructs withdrawal of the offer, the consumer may withdraw an offer of an installment contract within seven days from the date on when such obstruction ends(Article 8 (1)).

2) Exercise Limit

No consumer may withdraw an offer in any of the following cases: first, where goods, etc. are lost or damaged due to a reason attributable to the consumer: This shall not apply to cases where the package, etc. is damaged in the process of checking the contents of the goods, etc; second, where he/she has used or consumed following goods, etc., the value of which is likely to be reduced considerably due to such use or consumption: ships under the Ship Act; aircraft under the Aviation Act; vehicles running on railroads under the Railroad Enterprise Act and the Urban Railroad Act; construction machinery under the Construction Machinery Management Act; and automobiles under the Automobile Management Act; third, in cases of installing any of the following goods, installation of which requires professional skills and additional components: freezers under subparagraph 4 of Article 3 of the High-Pressure Gas Safety Control Act, air conditioners (including two-way air conditioners), and boilers; fourth, where the value of goods, etc, is remarkably reduced to the extent that it cannot be resold due to the lapse of time; fifth, where the package of goods, etc. that can be reproduced is damaged; sixth, an installment contract, whose installment value is less than 100 thousand won (It refers to an installment contract, whose installment value is less than 200 thousand won, in the case of an installment

transaction by using a credit card under the Specialized Credit Finance Business Act); lastly, an installment contract, the purpose of which is to provide goods, etc. individually produced according to consumers' needs (Article 8 (2)). With respect to goods, etc. for which a consumer cannot withdraw an offer, the installment business operator shall take measures, such as clearly indicating such fact on the package of the goods, etc. or on other place readily recognizable to the consumer, or providing samples, so that the consumer is not to be hindered in the withdrawal of an offer(Article 8 (6)).

3) Exercise Method

Where a consumer has withdrawn an offer of an indirect installment contract to an installment business operator, he/she shall issue a written statement indicating his/her intention of the withdrawal to the installment business operator within the period. Withdrawal of an offer shall take effect on the date of sending the written statement(Article 8 (3), (4)).

4) Burden of Proof

If any dispute arises in connection with whether and when a contract was sent, whether and when the provision of the goods, etc. was made, and whether it falls under the causes of exclusion, the installment business operator shall have the burden of proof(Article 8 (5)).

5) Notification for Credit Provider

Where a consumer has withdrawn an offer of an indirect installment contract to an installment business operator, he/she shall issue a written statement indicating his/her intention of the withdrawal to the credit provider within the certain period(Article 9 (1)).

(3) Effect of Withdrawal of Offer

1) Return of Goods and Prohibition of Claim to Return of Services

Where a consumer has withdrawn an offer, he/she shall return the goods, etc. already provided(Article 10 (1)). A consumer does not have to return good if he/she has withdrawn the offer before the provision. If service has already been provided (excluding the right to use a particular facility or to receive a type of service), the installment business operator may not demand the return of the same service that has already been provided(Article 10 (3)). Where a consumer has withdrawn an offer, the installment business operator shall be liable to pay the expenses incurred in returning the goods, etc. provided(Article 10 (10)).

2) Refund of Payment

Where a consumer has withdrawn, an installment business operator (including a person who has received the downpayment or installments of the goods, etc. from the consumer or who has concluded the installment contract with the consumer) shall refund the downpayment and installments already paid within three business days from the date on which he/she received the goods, and in case of providing service, within three business days from the date on which he/she received the document concerning withdrawal of the offer. In such cases, where the installment business operator delays the refund of the down payment and installments of the goods etc. to the consumer, he/she shall also pay delay compensation according to the period of delay(Article 10 (2)). In the case of an indirect installment contract, where the credit provider has paid the price of the goods, etc. to the installment business operator within cooling-off

period, or where the credit provider has been asked to suspend or cancel the request for the installment payments from the installment business operator, a consumer may reject the credit provider's demand for installment payment(Article 9 (2)). Where an installment business operator has received a document concerning withdrawal of the offer, he/she shall request without delay the credit provider to suspend or cancel the request for installment payment of the goods, etc(Article (4)). In such cases, where the installment business operator has already received the price of the goods, etc. from the credit provider, he/she shall refund it to the credit provider without delay. Where a credit provider has been asked to suspend or cancel the request for installment payment from an installment business operator, he/she shall take necessary measures without delay (Article 10 (5)). In such cases, where a consumer has made an installment payment, the credit provider shall refund it without delay. Where an installment business operator has delayed making the request and caused a consumer to make installment payments to the credit provider, he/she shall pay the consumer damages for delay with respect to the amount that the consumer has paid for the period until the date the consumer receives the refund(Article 10 (6)). Where a credit provider has delayed making the refund, he/she shall pay the consumer damages for delay according to the period of delay. Where an installment business operator has delayed making the request and caused the credit provider to delay the refund of the installment payment to the consumer, the installment business provider shall pay damages for delay(Article 10 (7)).

3) Prohibition of Imposing Damage

Where any dispute arises with a consumer as a result of withdrawing an offer, the installment business operator or the credit provider shall not

give any disadvantage to the consumer until the dispute is resolved, for instance, by treating him/her as a person who has failed to meet the obligations within the prescribed period by reason of the refusal of payment of installments(Article (8)).

4) Prohibition of Claim for Benefits from Use and Penalty or Damages

Where a consumer has withdrawn an offer and the goods, etc. have already been used or partially consumed, the installment business operator may not request the consumer's payment in excess of an amount equivalent to the benefit gained by the consumer by using or partially consuming the goods, etc., or the expenses incurred in providing the goods, etc. as prescribed by Presidential Decree(Article 10 (9)). Where a consumer has withdrawn an offer, the installment business operator shall be liable to pay the expenses incurred in returning the goods, etc. provided and may not request the consumer to pay the penalty or damages(Article 10 (10)).

5. Rescission of Installment Contract

(1) Meaning of Rescission

When a contract is entered into, both parties shall fulfill their obligations. If one of the parties does not fulfill his/her obligation, the other party has the right to rescind the contract, which is a right of rescission. Causes of occurrence of a right of rescission are the following: delay in performance; impossibility of performance; and imperfection of performance.

(2) Right of Rescission under the Korean Civil Act

Consumers who have entered into a installment contract shall pay installments according to the date of payment. If consumers do not pay installments, that constitutes delay in performance. This is because non-performance of a monetary obligation is not impossibility of performance but delay in performance. The right of rescission does not simply arise from delay in performance. Creditors shall fix a reasonable period and give peremptory notice demanding its performance. The reasonable period depends on the types of obligation, and there is no limit to the method of notification.

(3) Right of Rescission under the Installment Transactions Act

In installment transactions, obligation is borne not only by consumers but also by installment business operators. The right of recession under the Installment Transactions Act is limited to nonperformance of consumers. In order for installment business operators to rescind a installment contract when consumers do not pay installments, the following requirements shall be fulfilled.

1) Non-payment of Installments

Consumers shall not pay the installments when they are supposed to be paid. If consumers do not pay installments because there are reasons to refuse to pay installments (such as installment business operators' failure to perform a liability for warranty against defects), that is not deemed non-payment of installments. The amount or the number of non-payment of installments does not matter. In other words, one non-payment of installment fulfills this requirement.

2) More than 14 days of Notification Period

Consumers' non-payment of installments is deemed delay in performance. Therefore, installment business operators shall notify consumers that they shall pay installments again. The difference from the Korean Civil Act is that the Installment Transactions Act specifically sets the notification period. Under the Korean Civil Act, it is a reasonable period. But under the Installment Transactions Act, it is longer than 14 days. If an installment business operator asks consumers to pay an installment and sets the period as 10 days, he/she shall not rescind the contract even if consumers do not pay the installment with 10 days(Article 11 (1)).

3) Notification in Writing

When installment business operators notify consumers that they shall pay installments, the notification shall be in writing. Therefore, verbal notification does not have effect, so the right of rescission does not arise during that period(Article 11 (1)).

(4) Effect of Rescission

1) Recovery and Compensation

When an installment business operator rescinds an installment contract, the contract lapses. Therefore, the consumer shall return the goods, and the installment business operator shall return installment payments paid by the consumer(Article 11 (2)). However, rescission of a contract is due to a reason attributable to the consumer, so the installment business operator may claim compensation from the consumer.

2) Prohibition of Exercise of the Right of a Claim for a Return based on Ownership

In the case where an installment contract contains a condition that the ownership of goods is transferred after full payment, the ownership belongs to the installment business operator even if consumers use the goods. Therefore, if consumers do not pay the price, the installment business operator may exercise the right of a claim for a return based on the ownership. However, even if the installment business operator has the ownership of the goods, he/she shall not claim the return of the goods unless he/she rescind the installment contract(Article 11 (3)).

6. Limitation of Liability for Damage

(1) Basic Principle of Liability for Damage

If a party fails to fulfill his/her obligation, the other party suffers damage. Therefore, the perpetrator (obligor) shall compensate the victim (obligee) the damage. If the obligator does not have any intention or is not negligent, he/she does not have liability for damage.

(2) Scope of Compensation for Damages under the Korean Civil Act

The scope of compensation for damages shall be limited to the damages arising from the non-performance of an obligation. The damages are divided into two: ordinary damages and special damages. Only if an obligor had foreseen or could have foreseen special damages, the obligor is responsible for reparation for the damages.

(3) Scope of Compensation for Damages under Installment Transactions Act

1) The amount of damages in the case of Consumer's Non-payment of the Price

The amount of damages that an installment business operator or a credit provider seeks against a consumer on the ground of the consumer's failure to meet the obligations of making installment payments may not exceed damages for delay equivalent to the amount calculated by multiplying the amount of overdue installment payments by the agreed interest rate(Article 12 (1)).

2) Damages by Rescission

Where an installment business operator rescinds an installment contract, the amount of damages sought against a consumer shall not exceed the sum of the amount provided for in any of the following and the amount of damages for delay: first, in cases of restitution, such as the return, etc. of the goods, the sum of the amount of the usual user fee and the expenses normally necessary for the conclusion of the contract and for its performance: If the amount obtained by deducting the value at the time of the return of the goods, etc. from the value of installments is higher than the total of the amount of the user fee and the expenses, then such deducted amount; second, in cases of failure to perform restitution, such as the return, etc. of the goods, etc., an amount equivalent to the value of installments: If service has been provided, an amount equivalent to the price of the service already provided or the benefit gained by the service; third, in cases where the goods, etc. have not yet been provided,

the expenses normally necessary for the conclusion and performance of the contract(Article 12 (2)).

3) Prohibition, ect. of Claim for other Damages

An installment business operator or a credit provider shall not demand an amount of damages exceeding the amount regardless of its name or form, such as liquidated damages or penalty, etc(Article 12 (3)). An installment business operator or a credit provider shall, when demanding an amount of damages, endeavor in good faith to minimize the consumer's damage sustained(Article 12 (4)).

7. Relinquishment and Forfeiture of Benefit of Time

(1) Meaning of Benefit of Time

Benefit of time is the benefit that accrue from non arrival of time. For example, in terms of a contract where the price shall be paid on the 30th of March, if the day has not arrived yet, the obligor may not perform the obligation. That is benefit of time. Generally, obligors have benefit of time, but there are cases when obligees have it. If the contract contains interest payment, the obligee may receive the interest and the interest is benefit of time.

(2) Renunciation of Benefit of Time

Benefit of time may be relinquished. That is, the person having benefit of time may relinquish it and immediately perform the obligation. However, if the other party also has benefit of time, the person relinquishing it shall not infringe upon the benefit of time of the other

party. Therefore, if a person who has borrowed money intends to pay back the borrowed money, he/she shall pay the interest, the benefit of time of the other party. However, there is a exceptional provision to the Installment Transactions Act. If a consumer relinquish benefit of time, he/she may pay the principle without paying the installment fee(Article 14).

(3) Forfeiture of Benefit of Time

A consumer may not claim the benefit of time for installment payment in either of the following cases: where an installment payment has not been made on two consecutive occasions until the next payment date and the overdue amount exceeds 10/100 of the amount of installments; where it is difficult to guarantee the fulfillment of an obligation to make the installment payment in the Republic of Korea, as prescribed by Presidential Decree. The amount to be paid by a consumer to an installment business operator or a credit provider in lump sum shall be the amount obtained by deducting the installment commission for the remaining period from the balance of the installment amount. In such cases, the installment commission shall be calculated on a daily basis(Article 13).

8. Extinctive Prescription of Installment Payment

(1) Meaning of Extinctive Prescription

Extinctive prescription means a system that extinguishes a right when the person who holds the right does not exercise it for a certain period of time even though he/she may do it. Therefore, when the extinctive prescription is complete, the right of the person having it and the obligation of the obligor are also extinguished.

(2) Period of Extinctive Prescription

1) Extinctive Prescription Under the Korean Civil Act and the Korean Commercial Act

The extinctive prescription of a claim shall become complete if not exercised for a period of ten years. The extinctive prescription of property rights, other than a claim and ownership, shall become complete if not exercised for a period of twenty years (Korean Civil Act §162). The extinctive prescription of claims (Interest · support fees · salaries · rent and other claims purporting for the delivery of money or other things within a time limit of one year, Claims of medical practitioners · midwives · nurses and pharmacists for medical treatment · professional services and dispensation of medicines, Claims of contractors, engineers and persons engaging in planning or supervising works for the execution of their works, Claims against attorneys-at-law · patent agents · notaries public · certified public accountants and certified judicial scriveners for the return of documents kept in connection with their services, Claims of attorneys-at-law · patent agents · notaries public · certified public accountants and certified judicial scriveners for their services, Items received in exchange for products and merchandise sold by producers and merchants, Claims of artisans and manufacturers for their works shall become complete if not exercised for a period of three years (Korean Civil Act §163). The extinctive prescription of claims (the right to claim fees of hotels, restaurants, assembly rooms for hire, places of lodging and entertainment, refreshment, hire of rooms, admission fees, and the price of articles of consumption, as well as for substituted donation for another person; claims of rent for the hire of clothing, bedding, funeral necessities, and

other movables; claims of wages of manual workers and public performers and the price of Articles supplied to them; claims of school proprietors, keepers of boarding schools, and teachers, for the education, clothing, food, and lodging of pupils, and apprentices shall become complete if not exercised for a period of one year (Korean Civil Act §164). Except as otherwise provided for in this Act, a claim arising out of a commercial activity shall be extinguished by prescription if it is not exercised within five years: If a shorter period for prescription is provided by other Acts and subordinate statutes, such provision shall apply (Korean Commercial Act §64).

2) Extinctive Prescription of Claim for Installment Payments under Installment Transaction Act

A claim for installment payments under an installment contract shall be time-barred if not exercised within three years(Article 15). This applies not only to installment payments of installment business operators but also to that of credit providers.

9. Right of Defense

(1) Meaning of Right of Defense

Right of defense means a right that allows a party to lawfully refuse the performance if the other party exercises a claim. Therefore, in order to exercise the right of defense, a claim shall exist. In the case of the exercise of the right of defense, an obligor are not responsible for nonperformance of obligation, even if the obligor fails to perform obligation. In other words, creditors shall not perform the right of rescission, including liability for damages.

(2) Requirements of Right of Defense

1) Common Reasons

Where any of the following events occur to a consumer, he/she may refuse to pay an installment to an installment business operator: where the installment contract has not been established or has been invalidated; where the installment contract has been revoked, rescinded or terminated; where the whole or part of goods, etc. has not been provided to the consumer by the date of provision of the goods, etc.; where the installment business operator has failed to perform a liability for warranty against defects; where the purpose of the installment contract cannot be achieved due to the installment business operator's failure to meet his/her obligations; or where the consumer reasonably withdraws the offer under other Acts(Article (1)).

2) Additional Reasons in the case of Indirect Installment Transactions

In the case of an indirect installment contract, if any of the events for the common reasons occurs to a consumer, the consumer may refuse to pay an installment to a credit provider only when the value of installments exceeds 100 thousand won in the case of direct installment transactions or 200 thousand won in the case of indirect installment transactions after notifying the credit provider of his/her intention to refuse to pay the installment(Article 16 (2)).

(3) Duty to Notify whether or not to Accept the Right of defense

Where an installment business operator or a credit provider receives the defense of a consumer in writing, he/she shall confirm without delay

whether the exercise of the right of defense suits the requirements. When such exercise of the right of defense does not suit the requirements, the installment business operator shall notify the consumer in writing of his/her intention not to accept the right of defense of the consumer and the fact that the exercise of the right of defense does not meet the requirements within five business days from the date of receiving the defense of the consumer, and the credit provider shall do the same within seven business days from the date of receiving the defense of the consumer(Article 16 (5)). Where an installment business operator or a credit provider fails to notify, he/she shall be deemed to have accepted the consumer's intention to refuse to make an installment payment(Article 16 (6)).

(4) Effect and Effective Date of the Right of Defense

Where a consumer exercises the right of defense in writing, such right of defense shall take effect on the date of sending the written statement (Article 16 (4)). Where a consumer exercises the right of defense, he/she may refuse to pay the installments to the installment business operator or the credit provider. The amount of installments which a consumer may refuse to pay to a credit provider is the remaining amount of installment not paid to the credit provider at the time when the consumer refuses to pay the installment(Article 16 (3)).

(5) Prohibition of Imposing Disadvantage on Exercise of the Right of Defense

Where a consumer refuses to make an installment payment and a dispute arises between an installment business operator or a credit provider

and the consumer, such installment business operator or credit provider shall not give any disadvantage to the consumer by treating him/her as a person who has failed to meet obligations by the due date until the dispute is resolved due to his/her refusal to make the installment payment (Article 16 (7)).

Section 3. Prepaid Installment Contract

1. Registration, etc. of Installment Business

(1) Registration, etc. of Business

A prepaid installment business operator shall prepare the following documents for registration and shall submit them to the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Metropolitan Autonomous City Mayor, a Do Governor, or a Special Self-Governing Province Governor (hereinafter referred to as “Mayor/Do Governor”): a written application indicating the company name, its address, telephone number, and email address (including business offices and agencies), and the name, resident registration number, address, etc. of the representative; a document certifying that its capital is at least 1.5 billion won; a document certifying that a consumer damage indemnification insurance contract, etc. under Article 27 has been concluded; other documents necessary for confirming identification of the prepaid installment business operator. Where registration for a prepaid installment business operator has been completed, the Mayor/Do Governor shall promptly issue a registration certificate of the prepaid installment business. Where the following matters registered are changed, the prepaid installment business

operator shall report such fact to the Mayor/Do Governor: the company name, its address, telephone number, and email address (including business offices and agencies), the name, resident registration number, address, etc. of the representative, the capital, a consumer damage indemnification insurance contract, etc. Where a prepaid installment business operator suspends or discontinues his/her business or recommences his/her business after suspension of business, he/she shall report such fact to the Mayor/Do Governor. In such cases, the Mayor/Do Governor shall, upon receiving a report on business discontinuance, cancel the registration: where a prepaid installment business operator meets requirements for cancellation of registration before filing a report on business discontinuance, his/her registration is deemed to have been cancelled on the date of reporting the discontinuance of business(Article 18).

(2) Information Disclosure

The Fair Trade Commission shall disclose the following matters concerning a prepaid installment business operator: matters registered and matters reported; such other matters determined by the Fair Trade Commission as are deemed necessary for establishing a fair trade order and protecting consumers. Where the disclosure of matters concerning management and trade secrets of the prepaid installment business operator is deemed likely to cause substantial damage to his/her legitimate interest and the disclosure of matters concerning individuals is deemed likely to violate their privacy or freedom, the Fire Trade Commission shall not disclose such matters. The Fair Trade Commission may, where it is necessary for disclosure, request a prepaid installment business operator to submit the relevant data. In such cases, the prepaid installment business

operator shall comply with such request unless there is a compelling reason not to do so(Article 18).

(3) Submission and Public Disclosure of Accounting Audit Reports

A prepaid installment business operator shall submit audit report prepared by the auditor defined under Article 3 of the Act on External Audit of Stock Companies to the Fair Trade Commission within three months after the end of each fiscal year in accordance with the procedure and method prescribed by Presidential Decree. The Fair Trade Commission and prepaid installment business operators shall disclose the accounting audit reports under paragraph (1) to the public in accordance with the procedure and method prescribed by Presidential Decree(Article 18-2).

(4) Additional Requirements for Registration

In order to be qualified for the registration, a person shall be a company defined under the Korean Commercial Act whose capital shall be at least 1.5 billion won(Article 19).

(5) Reasons for Disqualification

Any of the following persons shall be disqualified from registration. First, a company with an officer falling under any of the following shall be disqualified: a minor; a limited ward or a adult ward; a person declared bankrupt and not reinstated yet; a person in whose case five years have not passed since imprisonment without labor or any heavier penalty declared by a court was completely executed (or is deemed to

have been completely executed) or was remitted; a person who was sentenced to the suspension of imprisonment without labor or any heavier penalty and is still in the period of suspension; and a person in whose case three years have not passed since he/she was sentenced to a fine for a violation of this Act. Second, a company whose controlling shareholder is any of the following persons: a person in whose case five years have not passed since imprisonment without labor or any heavier penalty declared by a court was completely executed (or is deemed to have been completely executed) or was remitted; a person who was sentenced to the suspension of imprisonment without labor or any heavier penalty and is still in the period of suspension. Third, a company for which five years have not yet passed since its registration was revoked. Lastly, a company whose officer or controlling shareholder was a former officer or controlling shareholder at the time of revocation of registration(Article 20).

(5) Ex Officio Cancellation

Where a prepaid installment business operator who has been registered is declared bankrupt or reports on the discontinuance of business to the district tax office or where it is deemed that he/she cannot actually conduct business due to a failure to conduct business for six months or longer, the Mayor/Do Governor may cancel the registration ex officio (Article 21).

2. Succession of Status

(1) Transfer, Merger or Division

1) Succession of Status

Where a prepaid installment business operator transfers its entire business or engages in a merger, consolidation or division, the company that acquires the entire business, the company surviving the merger or resulting from the consolidation or the company that succeeds to the entire business as a consequence of the division shall succeed to the status of the prepaid installment business operator: if the person who intends to succeed to the status is disqualified, the person shall not succeed to the status(Article 22 (1)).

2) Public Notification and Report

A prepaid installment business operator who engages in a merger, consolidation or division, or transfers its entire business shall give public notice of the following matters within 14 days from the date prescribed by Presidential Decree. The information to be disclosed under Article 18 (5) includes the names, addresses, etc. of the following companies: the merging company and the company surviving the merger or resulting from the consolidation; the divided company and the company that succeeds to the relevant business entirely as a consequence of the division; the company that transfers the entire business and the company that acquires the entire business; the number of prepaid installment contracts transferred through the merger, division, or transfer of entire business and the amount of advances; terms and conditions of, and the procedure for, the merger, division, or transfer of entire business; other matters prescribed as those necessary for protecting consumers' rights(Article 22 (2)). A company that succeeds to the status of a prepaid installment business operator shall submit a report thereon to the relevant Mayor/Do Governor, along with documents evidencing relevant facts(Article 22 (3)).

(2) Transfer of Prepaid Installment Contracts

1) Notification of Transfer

A prepaid installment business operator who transfers a prepaid installment contract (hereinafter referred to as “transferor prepaid installment business operator”) shall make a public announcement of the following matters within 14 days from the date of conclusion of the agreement on the transfer of the prepaid installment contract (hereinafter referred to as “transfer agreement”) by the method prescribed by Ordinance of the Prime Minister:

the information to be disclosed under Article 18 (5), including the names, addresses, etc. of the transferor prepaid installment business operator and the prepaid installment business operator to whom the prepaid installment contract is transferred (hereinafter referred to as “transferee prepaid installment business operator”); the number of members involved in the transferred prepaid installment contracts and the amount of advances; terms and conditions of, and the procedure for, the transfer agreement; other matters prescribed as those necessary for protecting consumers’ rights(Article 22-2 (1)).

2) Explanation and Agreement

The transferor prepaid installment business operator shall explain the following matters to consumers who have signed a prepaid installment contract within 30 days from the date of conclusion of the transfer agreement so that the consumers can understand terms and conditions of the transfer agreement and shall obtain consent to the transfer agreement from the consumers within seven days from the date of explanation: the

information to be disclosed under Article 18 (5), including the names, addresses, etc. of the transferor prepaid installment business operator and the transferee prepaid installment business operator; the number of members involved in the transferred prepaid installment contracts and the amount of advances; terms and conditions of, and the procedure for, the transfer agreement; other matters prescribed as those necessary for protecting consumers' rights; and the statement that, if a consumer does not express opposition to the transfer agreement within seven days, the consumer shall be deemed to have consented to the transfer agreement. A consumer who does not express opposition to the transfer agreement within the specified period shall be deemed to have consented to the transfer agreement(Article 22-2 (2)). The transferor prepaid installment business operator shall obtain confirmation from each consumer on the fact that the consumer understands and consents to the terms and conditions by having the consumer affix his/her signature or seal, by recording relevant conversations by an audio recording system, or by other methods: If a consumer does not express opposition to the transfer agreement within the specified days, the transferor prepaid installment business operator shall ensure that it can be confirmed that he/she has completed the explanation, etc. to relevant consumers by the methods, such as stating the time and method of his/her contacts with the consumer, the number of times he/she contacted each consumer, etc.

3) Effect of Transfer

The transferee prepaid installment business operator to whom a prepaid installment contract is transferred shall succeed to the rights and obligations that the transferor prepaid installment business operator has under the

contract. The foregoing shall also apply to the assets to be transferred under the relevant transfer agreement.(Article 22-2 (4)). Where a transfer agreement is made, the assets related to prepaid installment contracts shall be distributed to the transferor prepaid installment business operator and the transferee prepaid installment business operator, and the ownership of such assets shall be vested in them in accordance with the following standards(Article 22-2 (5)). The standard for the transferor prepaid installment business operator is as follows: the amount distributed at the ratio of advances paid by the consumers who do not consent to the transfer of prepaid installment contracts to total advances paid by consumers who signed prepaid installment contracts. The standard for the transferee prepaid installment business operator is as follows: the amount distributed at the ratio of advances paid by the consumers who consent to the transfer of prepaid installment contracts to total advances paid by consumers who signed prepaid installment contracts.

4) Preservation and Report of Documents

The transferor prepaid installment business operator and the transferee prepaid installment business operator shall preserve the documents confirmed for five years from the day after the end of such period for explaining terms and conditions to consumers and obtaining their consent as specified in the main sentence of paragraph (2) (hereinafter referred to as “day after the end of the period for consent”)(Article 22-2 (6)). The transferee prepaid installment business operator shall submit a report to the relevant Mayor/Do Governor, along with documents evidencing the transfer agreement within two months from the day after the end of the period for consent (Article 22-2 (7)).

3. Protection of Consumers' Rights and Interests

(1) Provision of Information and Issuance of Contracts

1) Provision of Information

A prepaid installment business operator or a solicitor (hereinafter referred to as "prepaid installment business operator, etc.") shall explain the following matters to each consumer so that the consumer can understand terms and conditions of the prepaid installment contract before signing the contract: the company name, address, telephone numbers, electronic mail address of the prepaid installment business operator or solicitor (the name of the solicitor, if the solicitor is a natural person) and the name of its representative; type and details of the goods, etc.; price of the goods, etc. and method and time of payment thereof; method and time of provision of the goods, etc.; down payment; matters on the specified period for withdrawal of offer and termination of contract, method of exercise and effect thereof and the form which is necessary for exercise of rights for withdrawal of offer and termination of contract, matters on the settlement of complaints about goods, etc. and disputes between the consumer and the business operator; Matters with respect to indemnification for consumer damage, including the contract term and consumer's damages under the consumer damage indemnification insurance contract, etc., and the person liable for damages under the same Article (4), etc.; the ratio of the total amount of the reserves set aside out of total advances that the prepaid installment business operator has received from the consumer until the end of the month immediately before the month in which the prepaid installment contract was made; terms and conditions of prepaid

installment transactions; and other matters such as terms and conditions of transactions, which affect consumers' decisions on whether to purchase or matters necessary to remedy any damage suffered by a consumer (Article 23 (1)). The prepaid installment business operator, etc. shall obtain confirmation from each consumer on the fact that the consumer understands the details explained by having the consumer affix his/her signature or seal, by recording relevant conversations by an audio recording system, or by any other methods(Article 23 (2)).

2) Issuance of Contracts

Where a prepaid installment business operator concludes a prepaid installment contract, he/she shall deliver to the relevant consumer a written contract stipulating the matters that shall be explained(Article 23 (3)).

3) Notification about Matters Changed

If a change occurs to any of the matters necessary for the protection of consumers, from among the matters that shall be explained, the prepaid installment business operator shall notify consumers of the change in writing or by other means(Article 23 (5)).

4. Withdrawal of Offer

(1) Withdrawal Period

A consumer may withdraw an offer to make a prepaid installment contract within any of the following periods (referring to the period on which parties to a transaction have agreed, if the period on which the parties agreed is longer than the specified periods in the following). A

consumer may withdraw an offer within fourteen days from the date on which he/she received a written contract. A consumer may withdraw an offer in any of the following cases, within fourteen days from the day on which he/she may withdraw an offer, such as the date on which he/she became aware or may have become aware of the address: where he/she has received the contract on which the address, etc. of the prepaid installment business operator is not stated; where he/she cannot withdraw the offer within fourteen days from the day on which he/she received a written contract due to a reason such as the change, etc. of the address of the prepaid installment business operator. A consumer may withdraw an offer within fourteen days from the date on which he/she became aware or could have become aware of the fact that he/she could withdraw the offer, where the written contract had no stipulation concerning the withdrawal of the offer. A consumer may withdraw an offer within fourteen days from the date on which the prepaid installment business operator's hindrance ceases, where the prepaid installment business operator hindered the consumer from withdrawing an offer. A consumer may withdraw an offer within three months from the date of contract, where he/she has not received the written contract. In terms of calculating the withdrawal period, if any dispute arises in connection with whether and when a contract was sent, the prepaid installment business operator shall have the burden of proof(Article 24).

(2) Method of Exercise and Effective Date

Where a consumer withdraws an offer, he/she shall send to the prepaid installment business operator a written statement indicating his/her intention

to withdraw the offer within the period. The withdrawal of an offer shall take effect on the date when a written statement is sent(Article 24).

(3) Effect

Where a consumer has withdrawn an offer, the prepaid installment business operator shall refund the down payment and installments already received within three business days from the date of receiving an application for withdrawal of offer. In such cases, where a prepaid installment business operator delays the refund, he/she shall also refund damages for delay according to the period of delay(Article§24).

5. Rescission of Prepaid Installment Contract by Consumer or by Prepaid Installment Business Operator

(1) Rescission of Prepaid Installment Contract by Consumer

1) Requirements

Where a consumer concludes a prepaid installment contract and fails to receive the goods, etc. under the contract, he/she may rescind the contract (Article 25 (1)).

2) Penalty

① Cases where Penalty shall not be Claimed

Where a consumer rescinds a contract due to any of the following reasons, the prepaid installment business operator shall not claim a penalty against the consumer: where the prepaid installment business operator reports on the suspension of business or the discontinuance of

business; where the prepaid installment business operator is subject to suspension of business; where the registration of prepaid installment business operator is revoked or cancelled; where the prepaid installment business operator is subject to suspension of current account transactions by a bank under the Banking Act; where the prepaid installment business operator files an application for bankruptcy or composition; and where the consumer does not consent to the transfer agreement on the relevant prepaid installment contract(Article 25 (3)).

② Prohibition of Claim for Excessive Penalty and Refund of Payment

Where a contract is rescinded, the prepaid installment business operator shall not request the consumer to pay a penalty exceeding the loss caused by the rescission of the contract. Where a prepaid installment contract is rescinded, the prepaid installment business operator shall refund the consumer the amount obtained by deducting the penalty from the payment already received within three business days from the date on which the prepaid installment contract is rescinded. In such cases where the prepaid installment business operator delays the refund, he/she shall also pay damages for delay according to the period of delay. The Fair Trade Commission may determine and publicize standards for calculating the refund of penalty and payment(Article (4), (5)).

(2) Rescission of Prepaid Installment Contract by Prepaid Installment Business Operator

Where a consumer fails to meet his/her obligation to make installment payments, a prepaid installment business operator may rescind the relevant prepaid installment contract. In such cases, the prepaid installment business

operator shall serve on the consumer a written peremptory notice before rescinding such contract, requiring performance of payment obligations within a specified period of not less than 14 days(Article 26).

6. Consumer Damage Indemnification Insurance Contract, etc.

(1) Duty to Conclude Consumer Damage Indemnification Insurance Contracts

Where a prepaid installment business operator is registered, he/she shall conclude any of the following contracts (hereinafter referred to as “consumer damage indemnification insurance contract, etc.”) in order to reserve the amount received in advance from consumers as the consideration for the goods, etc. (hereinafter referred to as “advances”) covered by the prepaid installment contracts: an insurance contract for indemnification; a debt guarantee contract for debt payment concluded with a bank under the Banking Act in order to indemnify consumers; a deposit contract concluded with a deposit institution in order to indemnify consumers; a mutual aid contract concluded with the mutual aid association(Article 27 (1)).

(2) The Amount of Money to be Reserved pursuant to a Consumer Damage Indemnification Insurance Contract, etc.

The amount to be reserved by a prepaid installment business operator pursuant to a consumer damage indemnification insurance contract, etc. and standards for the calculation thereof shall be determined by Presidential Decree within the scope not exceeding 50/100 of the total of the advances(Article 27 (2)).

(3) Duty to Notify

When a prepaid installment business operator concludes a prepaid installment contract with a consumer, it shall notify the person liable to indemnify of the conclusion of the contract and the details thereof within seven days from the date of conclusion of the contract(Article 27 (6)). Upon receipt of the notice of the conclusion of a contract, etc. from a prepaid installment business operator, the person liable to indemnify shall issue a certificate of indemnification for consumer damage within 30 days from the date of notice, and further details of the procedure and method for issuing such certificates, the descriptions of the certificates, etc. shall be prescribed by Ordinance of the Prime Minister(Article 27 (7)).

(4) Prohibition of Transferring or Providing the Deposit as Security

No one may offset or seize (including provisional seizure) the deposit, and no prepaid installment business operator may transfer or provide the deposit as security unless otherwise determined by Presidential Decree (Article 7 (3)).

(5) Liability to Pay

A person who is liable to indemnify consumers pursuant to a consumer damage indemnification insurance contract, etc. (hereinafter referred to as “person liable to indemnify”) shall promptly pay such indemnification when any of the following causes for payment arises: where the prepaid installment business operator discontinues his/her business; where the prepaid installment business operator is subject to suspension of current

account transaction by a bank referred to in the Banking Act; Other cases where registrations have been revoked pursuant to Article 21 or cancelled pursuant to Article 40. and where damages have been caused by a default, etc. of the prepaid installment business operator. Where a person liable to indemnify delays the payment without any good cause, he/she shall pay damages for delay(Article 27 (4)). Where a cause for payment arises, the deposit institution shall withdraw the deposit and preferentially pay it to a consumer who has concluded the prepaid installment contract with the prepaid installment business operator concerned(Article 27 (5)).

(6) Return of Deposit

When a prepaid installment business operator deposits an amount in the deposit institution or requests the deposit institution to return a deposit, it shall submit a document evidencing an increase or a decrease in advances and the deposit institution shall return the deposit after verifying the relevant document(Article 27 (12)).

7. Mutual Aid Association

(1) Establishment of Mutual Aid Association

Prepaid installment business operators may establish a mutual aid association with approval from the Fair Trade Commission in order to conduct a mutual aid business. The mutual aid association shall be a juristic person and shall be established by effecting registration of association at the registry where its head office is located. A person who has joined the mutual aid association shall make a capital contribution,

etc. necessary for the performance of mutual aid business to the association. The basic assets of the mutual aid association shall be comprised with contributions, etc. of its members, which shall be an amount not less than 20 billion won: The Government may make a contribution or grant a subsidy within its budgetary limits. Except as otherwise provided for in this Act, the provisions concerning incorporate associations in the Korean Civil Act shall apply mutatis mutandis to the mutual aid association(Article 28).

(2) Business of Mutual Aid Association

The mutual aid association shall conduct any of the following businesses: a mutual aid business for indemnifying consumers and a public-interest business for protection of consumers' rights and interests; a publishing and educational business for prevention of consumer damage and public relations; a self-purification business for the sound development of the market; a business entrusted by the Fair Trade Commission. The Insurance Business Act shall not apply to the business of a mutual aid association under this Act(Article 29).

(3) Articles of Association and Mutual Aid Regulations of Mutual Aid Association

The mutual aid association shall draft its articles of association which state each of the following matters and obtain approval thereon from the Fair Trade Commission: matters concerning eligibility requirements for members, entry and secession; matters concerning its officers; matters concerning standards for allotment of contributions; matters concerning the board of directors; matters concerning the election of a chairman of the

board of directors; and other matters. This shall also apply to any amendment to the articles of association. The mutual aid association shall formulate regulations of mutual aid concerning the scope and method of conducting a mutual aid business and shall obtain approval thereon from the Fair Trade Commission. This shall also apply to any amendment to the regulations of mutual aid(Article 30).

(4) Supervision of Mutual Aid Association

The Fair Trade Commission may, where deemed necessary, order the mutual aid association to submit a report on its business and accounting or to take other necessary measures, or have public officials under its control investigate the current status of business and accounting of the mutual aid association or examine its books or other documents. Where the mutual aid association operates its business or conduct its affairs not in accordance with any Act or subordinate statute or the articles of association, etc., the Fair Trade Commission may order the association to rectify such and may request the association to take appropriate measures, where it is necessary, related to remedies for consumer damages. Where an officer or employee of the mutual aid association falls under any of the following, the Fair Trade Commission may request the association to take disciplinary action against or dismiss the relevant officer or employee or rectify the relevant offense: where he/she has performed his/her duties in violation of the regulations of mutual aid referred to in Article 30 (2); where he/she has failed to rectify the relevant offense or take appropriate measures(Article 31).

8. Prohibited Activities

No prepaid installment business operator, etc. shall commit any of the following acts(Article 34).

- ① To compel the conclusion of a contract or to threaten the other party in order to obstruct the withdrawal of an offer or rescission of a contract;
- ② To induce the other party to transact with him/her or to obstruct the withdrawal of an offer or rescission of a contract by conveying any false or exaggerated information or by using any deceptive method;
- ③ To change his/her address, telephone number, etc. in order to obstruct the withdrawal of an offer or rescission of a contract;
- ④ To cause damage to the other party by neglecting the status in which necessary human resources or facilities for handling disputes or complaints are insufficient for a considerable period;
- ⑤ To claim for the price of goods, etc. despite the absence of an offer by the other party;
- ⑥ To compel the conclusion of a contract through telephone, fax, computerized communications, etc. although consumers express their intention not to conclude the contract;
- ⑦ To conduct business without concluding a consumer damage indemnification insurance contract, etc.(excluding solicitors);
- ⑧ To make or use a sign indicating the conclusion of a consumer damage indemnification insurance contract, etc. or a sign similar thereto despite his/her not having concluded such contract;

- ⑨ To engage in business without setting aside the amount that shall be reserved in accordance with the consumer damage indemnification insurance contract, etc. (excluding solicitors);
- ⑩ To use (including cases of providing to a third party) information on consumers without obtaining consent from consumers or beyond the scope of consent (This shall not apply to any of the following cases: where it is unavoidable for the performance of contracts with consumers, such as delivery of goods, etc.; where it is necessary for the payment of the price following the transactions of goods, etc.; where it is necessary to verify the identification of consumers in order to prevent illegal use; where any inevitable cause arises under other Acts and subordinate statutes.);
- ⑪ To delay or refuse a disposition without good cause despite consumers' having rescinded the contract;
- ⑫ To use fraudulent means or exert force on consumers to collect the payment where a dispute arises in connection with the withdrawal of an offer or rescission of a contract;
- ⑬ To restrict consumers' transfer or acquisition of goods, etc. provided by him/her without reasonable causes or to impose excessive expenses on such transfer or acquisition (excluding solicitors);
- ⑭ To allow a third party to conduct a prepaid installment business by using his/her name or company name or to lend the certificate of registration of prepaid installment business to a third party (excluding solicitors);
- ⑮ To conclude a prepaid installment contract by a multi-level marketing method defined under subparagraph 5 of Article 2 of the Act on Door-to-Door Sales, Etc., or to act as an agent or mediator for the conclusion of a prepaid installment contract;

- ⑩ To request to sign a prepaid installment contract, taking advantage of a money lending relationship between the parties;
- ⑪ To conclude a transfer agreement on part of prepaid installment contracts made with consumers;
- ⑫ To withdraw money by a prepaid installment business operator who has concluded a transfer agreement from consumers' deposits, etc. without obtaining consent to the relevant transfer agreement from consumers.

Section 4. Investigation and Supervision

1. Investigation of Offenses

(1) Investigation EX Officio or Based on Report

Where the Fair Trade Commission, a Mayor/Do Governor or the head of a Si/Gun/Gu (referring to an autonomous Gu; hereinafter the same shall apply) deems that a prepaid installment business operator has violated this Act, he/she may conduct a necessary investigation ex officio(Article 35 (1)). Where a prepaid installment business operator is recognized to have violated this Act, anyone may report it to the Fair Trade Commission, a Mayor/Do Governor or the head of a Si/Gun/Gu (Article 35 (4)).

(2) Suspension of Overlapped Investigation

Where the Mayor/Do Governor or the head of a Si/Gun/Gu intends to conduct an investigation, he/she shall notify the Fair Trade Commission thereof and, where the investigation is likely to be overlapped, the Fair

Trade Commission may request the Mayor/Do Governor or the head of a Si/Gun/Gu to suspend the investigation. In such cases, the Mayor/Do Governor or the head of a Si/Gun/Gu who receives such request shall suspend the investigation in the absence of a reasonable cause(Article 35 (2)).

(3) Notification of Investigation Results

Where the Fair Trade Commission, the Mayor/Do Governor or the head of a Si/Gun/Gu performs an investigation, he/she shall inform the parties to the relevant case of the results thereof (including the details of the disposition, if he/she intends to make a disposition, such as a corrective order)(Article 35 (3)).

(4) Exclusion of Investigation

Where five years have passed since the end of violation of this Act by a prepaid installment business operator, the Fair Trade Commission shall neither issue an order for corrective action under this Act nor impose a penalty surcharge against such violation: This shall not apply where the disposition for corrective action or imposition of penalty surcharge is cancelled pursuant to the purpose of the judgment and a new disposition is made pursuant to the reasoning of the judgment(Article 35 (5)).

2. Disclosure of and Report on Information on Illegal Acts

(1) Disclosure of Information on Illegal Acts

Where necessary for ensuring fair trade practices and preventing consumer damage, the Fair Trade Commission may disclose information on illegal acts of a prepaid installment business operator, such as the results of

investigation into his/her violation of this Act, as prescribed by Presidential Decree(Article 36).

(2) Reporting and Supervision

Where the Mayor/Do Governor or the head of a Si/Gun/Gu issues a corrective recommendation, he/she shall report such fact to the Fair Trade Commission, as prescribed by Presidential Decree. Where it is deemed necessary for the efficient enforcement of this Act, the Fair Trade Commission may request the Mayor/Do Governor or the head of a Si/Gun/Gu to investigate, confirm or submit data on the matters under his/her jurisdiction or take other necessary corrective actions. In such cases, the Mayor/Do Governor or the head of a Si/Gun/Gu shall comply with such request unless any other special ground exists to the contrary (Article 37).

Section 5. Corrective Action and Imposition of Penalty Surcharges

1. Corrective Recommendations for Offenses

(1) Corrective Recommendations

Where a prepaid installment business operator violates this Act or fails to meet his/her obligation under this Act, the Fair Trade Commission, the Mayor/Do Governor or the head of a Si/Gun/Gu (hereinafter referred to as “administrative agency”) may determine, before taking a corrective action under Article 39, corrective methods for the prepaid installment business operator to suspend the relevant act, to meet his/her obligations

under this Act, and to take measures necessary for the prevention and remedy of consumer damage and may recommend the prepaid installment business operator to comply therewith. In such cases, where the relevant prepaid installment business operator accepts such recommendation, he/she shall also notify the intention that a corrective action is deemed to have been ordered. A prepaid installment business operator who receives a corrective recommendation shall notify the administrative agency that has issued such corrective recommendation as to whether he/she will accept the recommendation, within ten days from the date of receiving the relevant notice. Where a prepaid installment business operator who receives a corrective recommendation accepts such recommendation, it shall be deemed that corrective action has been ordered(Article 38).

(2) Corrective Action

Where a prepaid installment business operator commits any of the following acts or fails to fulfill its obligations under this Act, the Fair Trade Commission may order the prepaid installment business operator to take corrective action therefor: where it violates any provision of Articles 18 (1), (3), (4) and (6), 19, 20, 22, 22-2, 23 through 26, 27 (1), (3) through (7) and (10), 32 and 33; where it commits an act prohibited under any subparagraph of Article 34. Corrective actions shall include any of the following: suspension of the offense concerned; performance of obligations prescribed in this Act; publication of the fact that the prepaid installment business operator is ordered to take corrective action; measures necessary for the prevention and remedy of consumer damage; other measures necessary for correction(Article 39).

(3) Requests for Mediation of Dispute Arising from Consumer Damage

Where a consumer files an application seeking remedy for damage related to violation of this Act, the Fair Trade Commission, the Mayor/Do Governor or the head of a Si/Gun/Gu may, before issuing a corrective recommendation or ordering corrective action, request a consumer damage dispute mediation agency determined by Presidential Decree, such as an agency or organization that performs the duties related to consumer protection with respect to prepaid installment transactions, to mediate the dispute. In such cases, the Fair Trade Commission, the Mayor/Do Governor or the head of a Si/Gun/Gu shall, where the party concerned accepts and acts on the mediatory suggestion, inform the party concerned of his/her intention not to order corrective action. Where the party concerned accepts and acts on the mediatory suggestion of the consumer damage dispute mediation agency, corrective action shall not be ordered (Article 41).

2. Suspension of Business and Penalty Surcharges

(1) Suspension of Business, etc.

In any of the following cases, the Fair Trade Commission may order a prepaid installment business operator to suspend all or part of its business operations for a specified period not exceeding one year. The following cases are: first, where a prepaid installment business operator repeatedly commits violations or fails to take corrective action to comply with an order to do so under Article 39 in either of the following cases: where a prepaid installment business operator fails to make a report in accordance

with Article 18 (3) or (4) or makes a false statement in such report; where a prepaid installment business operator commits an act prohibited under any provision of subparagraphs 1 through 3, 7 through 9, and 12 of Articles 34; second, where it is deemed difficult to prevent damages to consumers through the corrective measures or impossible to compensate for the damages in cases that fall under subparagraph 1. Where a prepaid installment business operator falls under any of the following cases, the Mayor/Do Governor may cancel the operator's registration under any of the following cases: where the prepaid installment business operator files for registration under Article 18 (3) by fraud or other improper means; where the prepaid installment business operator has a reason for disqualification under any subparagraph of Article 20; where the consumer damage indemnification insurance contract, etc. is terminated; where the prepaid installment business operator conducts business during the period of suspension of business; where the prepaid installment business operator has been ordered more than three times under paragraph (1) to suspend its business operations during the last five years (including cases where penalty surcharges have been imposed in lieu of the suspension of business operations under Article 42). Where he/she has filed registration under Article 18(1) by fraud or illegal means, or disqualifies under each subparagraph of Article 20, the registration shall be cancelled. Where the Mayor/Do Governor intends to cancel registration of a prepaid installment business operator, he/she shall hold a hearing thereon(Article 40).

(2) Penalty Surcharge

Where the Fair Trade Commission finds it necessary to order business suspension and business suspension is likely to pose any severe

inconvenience to consumers or damage public interests, it may impose a penalty surcharge on the prepaid installment business operator concerned, within the scope not exceeding the sales in relation to an offense prescribed by Presidential Decree, in lieu of such business suspension. In such cases, where related sales are nonexistent or indeterminate, the Fair Trade Commission may impose a penalty surcharge within the scope not exceeding 50 million won. The Fair Trade Commission shall take into consideration each of the following matters when imposing a penalty surcharge under paragraph (1): level of damage suffered by consumers due to the offense; level of efforts made by the installment business operator to indemnify consumers; amount of profits from the offense; and details, period, frequency, etc. of the offense. Where a company that is a prepaid installment business operator and violates this Act merges or consolidates with another company, the Fair Trade Commission may impose and collect a penalty surcharge, deeming that the offense made by such company has been committed by a company surviving the merger or resulting from the consolidation(Article 42).

Section 6. Penal Provisions

1. Penalty

- (1) Imprisonment with Labor for not more than Three Years or Fine not Exceeding 100 Million Won

Any of the following persons shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 100 million won. In such cases, if the amount equivalent to three times the total price for the sales or transactions made by any of the following

persons in violation of the Act exceeds 100 million won, the person shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding the amount equivalent to three times the total price for the sales or transactions:

- ① A person who engages in prepaid installment business without registration, in violation of Article 18 (1) (including cases where the registration is revoked under Article 40 (2));
- ② A person who engages in prepaid installment business after filing for registration under Article 18 (1) by fraud other improper means (including a person who engages in any prohibited act under subparagraph 7 of Article 34);
- ③ A person who commits an act prohibited under subparagraph 17 or 18 of Article 34;
- ④ A person who fails to comply with an order for corrective action under Article 39 (1);
- ⑤ A person who carries on business operations, in violation of an order for suspension of business under Article 40 (1).

The punishment of imprisonment with labor and of a fine may be imposed concurrently.

(2) Imprisonment with Labor for not more than Two Years or
Fine not Exceeding Two Million Won

A person who violates Article 62 of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 47 (4) shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding two million won. The punishment of imprisonment with labor and of a fine may be imposed concurrently(Article 49).

(3) Imprisonment with Labor for not more than One Year or
Fine not Exceeding 30 Million Won

Any of the following persons shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding 30 million won:

- ① A person who submits a false document on advances, etc. in concluding or maintaining a consumer damage indemnification insurance contract, etc., in violation of Article 27 (10);
- ② A person who commits an act prohibited under any provision of subparagraphs 1 through 3, 8, 9, 12, and 14 through 16 of Article 34.

The punishment of imprisonment with labor and of a fine may be imposed concurrently.

(4) Fine not Exceeding 10 Million Won

Any of the following persons shall be punished by a fine not exceeding ten million won:

- ① A person who commits an act prohibited under subparagraph 5 of Article 34;
- ② A person who commits an act prohibited under subparagraph 11 of Article 34(Article 51).

(5) Joint Penalty Provisions

When a representative of a juristic person, or an agent, an employee or any other servant of a juristic person or an individual commits an offense in violation of Article 48, 50 or 51 in connection with the business of the juristic person or the individual, not only shall such

offender be punished, but the juristic person or individual shall also be punished by a fine under the relevant provisions: Where such juristic person or individual has not been negligent in giving due attention and supervision concerning the relevant business to prevent such offense, this shall not apply(Article 52).

2. Administrative Fines

(1) Administrative Fine not Exceeding 50 Million Won

Any of the following persons shall be subject to an administrative fine not exceeding 50 million won(Article 53 (1)):

- ① A person who makes a false statement in a report filed under Article 18 (3) or (4);
- ② A person who makes a false statement in a report filed under Article 22 (3) or 22-2 (7).

(2) Administrative Fine not Exceeding 30 Million Won

Any of the following persons shall be subject to an administrative fine not exceeding 30 million won(Article 53 (2)):

- ① A person who fails to file a report under Article 18 (3) or (4);
- ② A person who fails to submit data in violation of Article 18 (6) or makes a false statement in such data;
- ③ A person who fails to file an accounting audit report under Article 18-2 (1);
- ④ A person who fails to file a report under Article 22 (3) or 22-2 (7);
- ⑤ A person who provides an explanation or obtains consent under Article 22-2 (2) by fraud or other improper means;

- ⑥ The relevant prepaid installment business operator, if a solicitor violates Article 23 (1) or (2): The foregoing shall not apply if the prepaid installment business operator has not failed to exercise due care and supervision over the relevant business to prevent such violation;
- ⑦ A person who provides an explanation or obtains confirmation under Article 23 (1), (2), or (4) by fraud or other improper means;
- ⑧ A person who delivers a written contract under Article 23 (3) or (4) by fraud or other improper means;
- ⑨ A person who fails to submit a document under Article 27 (12);
- ⑩ A person who enters a false statement in the records of transactions of goods, etc. or the details of conclusion of a consumer damage indemnification insurance contract, etc., which shall be provided for consumers' perusal under Article 33.

(3) Administrative Fine not Exceeding 10 Million Won

Any of the following persons shall be subject to an administrative fine not exceeding ten million won(Article 53 (3)):

- ① A person who fails to disclose an accounting audit report to the public in accordance with Article 18-2 (2)
- ② A person who fails to make a public announcement under Article 22 (2) or 22-2 (1) or who makes a false statement in such public announcement;
- ③ A person who violates Article 22-2 (2) or (3);
- ④ A person who fails to preserve data in violation of Article 22-2 (6);
- ⑤ A person fails to provide an explanation or obtain confirmation in violation of Article 23 (1) or (2);

- ⑥ A person who fails to deliver a written contract under Article 23 (3) or (4);
- ⑦ A person who fails to inform a consumer of the matters prescribed by Presidential Decree, in violation of Article 23 (5) or 32 (2);
- ⑧ A person who fails to refund a down payment, installment payments, or damages for delay, in violation of Article 24 (5);
- ⑨ A person who fails to refund the price or damages for delay, or requests an excessive penalty, in violation of Article 25;
- ⑩ A person who fails to continue business related to the withdrawal of an offer, etc. during the period of temporary closure of business or the period of suspension of business operations, in violation of Article 32 (1);
- ⑪ A person who fails to allow consumers to peruse the transaction records of goods, etc. or the details of conclusion of a consumer damage indemnification insurance contract, etc. under Article 33;
- ⑫ A person subject to a disposition for attendance under Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 47 (2), who violates this Act and fails to comply with the disposition for attendance on twice or more occasions without good cause;
- ⑬ A person who fails to file a report or submit necessary data or objects or files a false report or submits false data or objects under Article 50 (1) 3 or (3) of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 47 (2);
- ⑭ A person who refuses, obstructs or evades an investigation under Article 50 (2) of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 47 (2).

(4) Administrative Fine not Exceeding Five Million Won

Any of the following persons shall be subject to an administrative fine not exceeding five million won (including a credit provider, in the case of an indirect installment contract)(Article 53 (4)):

- ① A person who fails to indicate or makes a false indication, in violation of Article 5;
- ② A person who fails to issue a contract under Article 6 (2) or issues a contract giving false indication;
- ③ A person who fails to issue a written statement under Article 6 (3);
- ④ A person who receives an installment commission in violation of the ceiling of actual annual rate of an installment commission under Article 7;
- ⑤ A person who fails to refund a down payment, installment payments or damages for delay or to take actions necessary for the refund thereof, in violation of Article 10;
- ⑥ A person who gives disadvantages to consumers, in violation of Article 10 (8) or 16 (7);
- ⑦ A person who receives damages for delay in violation of the maximum limit of the interest rate which is applied at the time of calculating the damages for delay under Article 12 (1);
- ⑧ A person who fails to continue business for the withdrawal of an offer, etc. during the period of suspension of business or the discontinuance period of business, in violation of Article 17.

Chapter II. Act on Door-To-Door Sales, Etc.

Section 1. Special Transactions and Consumer Protection

1. Necessity of Consumer Protection in Special Transactions

(1) Door-to-Door Sales and Telemarketing

Door-to-door sales or telemarketing is a type of transaction where consumers are unexpectedly solicited by business operators and enter into a contract. Consumers make a purchase decision according to the solicitation of sellers. Therefore, in order for consumers to make a reasonable purchase decision, sellers need to provide necessary information. Also, consumers who have made a impulsive purchase decision need be protected.

(2) Multi-level Marketing and Door-to-door Sales under Sponsorship

As in the case of door-to-door sales, multi-level marketing or door-to-door sales is also a type of transaction where consumers are unexpectedly solicited. However, they are different from door-to-door sales, in that they allow consumers not only to buy goods but also to join an organization for sales and get bonus. Therefore, sellers will stress that consumers may have high returns, and consumers will buy goods in order not to meet their needs but to get bonus. In particular, in terms of multi-level marketing, it is necessary to impose more strict regulations especially on multi-level marketing than on others, because it may be highly likely to

turn into illegal multi-level marketing (fund-raising business conducted without permission) in which not goods but money is traded.

(3) Recurring Transactions

Most consumer transactions consist of one-time performance. However, there are transactions where business operators shall deliver performance continuously. These recurring transactions are relatively long-term; therefore, unexpected situation may occur and may lead consumers fail to receive the performance. However, business operators did not recognize consumers' right to terminate a contract prematurely, or they required too much penalty from consumers, doing a disservice to consumers. Therefore, it is necessary to give consumers the right to terminate a contract in terms of recurring transactions and to impose obligations within reasonable ranges on consumers to compensate the damage of business operators.

2. History of Act on Door-to-door Sales, etc. and Major Contents

(1) Enactment of Act on Door-to-door Sales, etc.(1991)

- Giving Buyers the Right to Withdraw an Offer with regard to Door-to-door sales and Multi-level Marketing
- Restrictions on Door-to-door sellers' or Multi-level Marketers' Claims for Damages, etc. in Cases of Cancellation of Door-to-door Sales Contracts or Multi-level Marketing Contracts
- Prohibition of Conclusion of Unfair Door-to-door Sales Contracts or Multi-level Marketing Contracts, etc.

(2) Revision of Act on Door-to-door Sales, etc.(1995)

- Introduction of Registration System for Multi-level Marketers
- Restrictions on the Maximum Price of Multi-level Marketing Goods
- Extension of Period of Withdrawing an Offer
- Recognition of Bonus in Multi-level Marketing
- Prohibition of Transferring or Acquiring a Multi-level Marketing Organization or the Status of a Multi-level Marketing Salesperson, etc.

(3) Revision of Act on Door-to-door Sales, etc.(1996)

- Door-to-door sellers' or Multi-level Marketers' Duty to Report
- Protection of Door-to-door sellers
- Measures to Ensure the Delivery of Goods within three days from the Payment with regard to Prepaid Mail Order Transactions
- Recognition of Withdrawal of an Offer in Mail Order Transactions
- Prohibition on Mail Order Sellers' Compelling Anyone to Buy Goods, etc.

(4) Revision of Act on Door-to-door Sales, etc.(2002)

- Introduction of Telemarketing, Recurring Transactions, Transactions for Soliciting Business
- Standardization of Period of Withdrawal of an Offer(14 days)
- Establishment of Duty of Conclusion of Consumer Damage Indemnification Insurance Contract, etc in terms of Multi-level Marketing
- Grounds for Establishment of Mutual Aid Association
- Introduction of Business Suspension and Penalty Surcharges

(5) Revision of Act on Door-to-door Sales, etc.(2012)

- Establishment of Definitions of Multi-level Marketing
- Introduction of Door-to-door Sales under Sponsorship
- Complementing of the Right to Withdraw an Offer in Door-to-door Sales Transactions
- Prohibition of Speculative Expansion of Sales Force
- Establishment of Grounds for Establishing System for Registration of Intention to Reject Telemarketing Calls, etc.

3. Special Transactions and Definition of Terms

(1) Type and Definition of Special Transactions

1) Door-to-door Sales and Door-to-door Seller

The term “door-to-door sales” means that a person (hereinafter referred to as “sales business operator”) engaging in the business of selling (including consignment sales and brokerage; hereinafter the same shall apply) goods or services (including a right to use a certain facility or to receive services; hereinafter the same shall apply) sells goods or services (hereinafter referred to as “goods or services”) by soliciting consumers at anyplace, other than his/her sales office, distribution shop, or other place of business specified by Ordinance of the Prime Minister²⁾ (hereinafter

2) “Place of business prescribed by ordinance of the Prime Minister” under Article 2 (1) 2 of the “Door-To-Door Sales, Etc Act”(hereinafter referred to as “The Act”), refers to the following place, regardless of what they’re called such as sales office, agency, branch, local office, etc.

1. It’s required to continue business for more than 3 months in a fixed place of his/her own or rented or occupied under permission. However, those period for not being able to do business don’t count due to inevitable reasons such as natural

referred to as “place of business”) to receive offer for a contract or conclude contracts (including where such person solicits consumers at any place, other than a place of business by making recommendations or by other means specified by Ordinance of the Prime Minister³⁾ to receive offer for a contract or enter into contracts at the place of business).

The term “door-to-door seller” means a person who sets up or manages and operates an organization for door-to-door sales in order to engage in business of door-to-door sales (hereinafter referred to as “door-to-door sales business operator”), or a person who engages in door-to-door sales on behalf of a door-to-door sales entity (hereinafter referred to as “door-to-door salesperson”).

2) Telemarketing and Telemarketer

The term “telemarketing” means selling goods or services by making recommendations to consumers by telephone or by inducing consumers to respond to a call.

The term “telemarketer” means a person who sets up or manages and operates an organization for telemarketing in order to engage in business

disaster, etc.

2. It's required to have facilities for sales

3. It's required to allow for consumers to visit at their will during business.

4. It's required to maintain condition where consumers can choose goods or service (hereinafter referred to as “goods, etc”) at their will in place of business.

3) “the methods prescribed by ordinance of the Prime Minister” under the Article 2(3) of the Act are one of the followings.

1. To bring consumers from other places and go to the place of business together by means of solicitation, etc.

2. To make consumers visit the place of business by means of providing free or low priced goods without notifying purpose of selling main goods, etc.

3. To make consumers visit the place of business by means of soliciting for selling or providing goods under absolute better conditions which other consumers cannot enjoy.

of telemarketing (hereinafter referred to as “telemarketing business operator”), or a person who engages in telemarketing on behalf of a telemarketing business operator (hereinafter referred to as “telemarketing salesperson”).

3) Multi-level Marketing

The term “multi-level marketing” means selling goods or services through a sales organization that meets all the following criteria: An organization has a recruitment scheme under which a salesperson who signed up under a sales business operator solicits certain persons to join the organization as subordinate salespersons of the relevant salesperson; Salespersons join the organization by three or more levels (Salespersons who have joined the organization without being solicited by any other salesperson are classified as Level 1 salespersons; hereinafter the same shall apply) (This shall include cases specified by Presidential Decree⁴⁾, where the salespersons are classified by two or less levels but are actually managed and operated at three or more levels); A sales business operator has a scheme to pay a bonus to his/her salespersons.

The term “multi-level marketer” means a person who sets up or manages and operates a multi-level marketing organization in order to engage in

4) “Cases specified by Presidential Decree” in the proviso to subparagraph 5 (b) of Article 2 of the Act on Door-to-Door Sales, Etc. (hereinafter referred to as the “Act”) means any of the following cases:

1. Where a method for paying bonuses to salespersons is the same as, or similar to, the method for paying bonuses where salespersons are classified as three or more levels;
2. Where a person (excluding a person registered as a multi-level marketing entity or door-to-door sales entity under sponsorship in accordance with Article 13 or 29 (3) of the Act) entrusted by another person, with sales or the management of an organization recruits, manages, and operates his/her subordinate salespersons and it is a sales organization with three or more levels or it is managed and operated in a similar manner, when the subordinate sales organizations of the entrusting person and the entrusted person are presumed to be a single sales organization.

business of multi-level marketing (hereinafter referred to as “multi-level marketing business operator”), or a person who joins a multi-level marketing organization as a salesperson (hereinafter referred to as “multi-level marketing salesperson”).

4) Door-to-door Sales under Sponsorship

The term “door-to-door sales under sponsorship” means cases that meet the requirements of Door-to-Door Sales and Multi-level Marketing, with a scheme for payment of bonus, under which a certain salesperson’s performance of purchase or sales affects only the bonus of one salesperson who is the immediate superior of the former, as prescribed by Presidential Decree⁵⁾. This transaction shall not be treated as a door-to-door sales or a multi-level marketing. The term “door-to-door seller under sponsorship” means a person who establishes or manages and operates an organization (hereinafter referred to as “door-to-door sales organization under sponsorship”) (hereinafter referred to as “door-to-door sales business operator under sponsorship”) in order to engage in business of door-to-door sales under sponsorship, or a person who joins a door-to-door sales organization

5) In paying bonuses in accordance with the former part of subparagraph 7 of Article 2 of the Act, a particular salesperson’s outcomes of purchase or sales and activities for education, training, and organizational management that directly affect such outcomes shall affect bonuses only for one single salesperson at the immediately higher level: The payment of allowances for any of the following costs and expenses shall not be included in the bonuses paid in accordance with the former part of subparagraph 7 of Article 2 of the Act:

1. Education and training fees paid on an irregular basis in accordance with the guidelines established in advance, such as hourly-rate education fees, regardless of outcomes of purchase or sales;
2. Bonuses paid equally to all salespersons or products for trial;
3. Subsidies paid for the operation of a business establishment according to expenses actually incurred.

under sponsorship as a salesperson(hereinafter referred to as “door-to-door salesperson”).

5) Recurring Transactions

The term “recurring transactions” means transactions made under a contract for providing goods or services continuously or on an irregular basis during not less than one month with an agreement that places restrictions on the refund of the consideration therefor or that requires the payment of a penalty if the contract is terminated prematurely.

6) Bonus

The term “bonus” means economic profits a sales business operator pays to his/her salesperson in connection with the following matters, irrespective of the names, such as sales commission, referral fees, incentives, and subsidies, and of the form of payment thereof: transaction performance of selling goods or services by the salesperson him/herself; transaction performance of selling goods or services by other salespersons having an impact on the salesperson’s bonus; outcomes of organizational management, education, and training of other salespersons having an impact on the salesperson’s bonus; and all other economic benefits paid in order to encourage, or reward for, sales activities of salespersons.

7) Consumer

The term “consumer” means a person who uses goods or services provided by a business operator for consumption. Or it means any of the following persons: an end-user of goods or services: Persons who use goods, etc. as raw materials (including intermediary goods) or capital

goods shall be excluded herefrom; a business operator who falls under the proviso to subparagraph 1 of Article 3 of the Act and who buys goods, etc. (limited to the relationship to a person who sells relevant goods, etc.); a person who buys goods, etc. for the first time from a multi-level marketing entity or door-to-door sales entity under sponsorship in order to become a multi-level marketing salesperson or door-to-door salesperson under sponsorship; a door-to-door salesperson or telemarketing salesperson (hereinafter referred to as a “salesperson engaging in door-to-door sales or telemarketing”) who deals with a door-to-door sales entity or a telemarketing entity (hereinafter referred to as a “door-to-door sales entity, etc.”); or a person who buys goods, etc. for activities for agriculture (including the livestock industry) or fisheries (excluding a person engaging in ocean fisheries with permission from the Minister of Oceans and Fisheries in accordance with Article 6 (1) of the Ocean Industry Development Act).

4. Exclusion from Application of the Act on Door-To-Door Sales, Etc.

The Act on Door-To-Door Sales, Etc. applies to contracts consumers enter into through special transactions. However, this Act shall not apply to the following transactions: a transaction through which a business operator (excluding the other party to a multi-level marketing salesperson, door-to-door salesperson under sponsorship, or transaction for soliciting business; hereinafter this subparagraph the same shall apply) buys goods or services for commercial activities: Where a business operator actually makes a transaction on the same terms and conditions as those applied to

any other consumer in the same position as other consumer's shall be excluded herefrom; a transaction for signing an insurance contract with an insurance company as defined in subparagraph 6 of Article 2 of the Insurance Business Act; and a transaction of an unprocessed product from agriculture, fisheries, livestock industry, or forestry provided by a door-to-door seller without a salesperson or a transaction of goods or services produced directly by a door-to-door seller.

Section 2. Door-to-door Sales and Telemarketing

1. Door-to-door Sales

(1) Reporting, etc. by Door-to-Door Sales Business Operators, etc

A door-to-door sales business operator or a telemarketing business operator (hereinafter referred to as "door-to-door sales or telemarketing business operator") shall file a report on his/her trade name, address, telephone numbers, e-mail address (if the business operator is a corporation, the name, resident registration number, and address of the representative thereof shall be included herein), and assets, liabilities, and capital of a door-to-door sales entity, etc., which is a company as defined in the Korean Commercial Act with the Fair Trade Commission or the competent Special Self-Governing City Mayor or Special Self-Governing Province Governor or the head of the competent Si/Gun/Gu (the head of a Gu means the head of an autonomous Gu; hereinafter the same shall apply). The foregoing shall not apply to the following persons: a door-to-door sales entity, etc. with no door-to-door salesperson or telemarketing salesperson

(hereinafter referred to as “door-to-door or telemarketing salesperson”); a multi-level marketing business operator registered in accordance with Article 13 (1); and a door-to-door sales business operator under sponsorship registered in accordance with Article 29 (3).

When a change occurs in any matter reported, such change shall be reported, and when a door-to-door sales or telemarketing business operator reported temporarily or permanently shuts down his/her business or resumes his/her business after temporary closure, he/she shall report thereon(Article 5).

(2) Preparation of List of Door-to-Door Sales or Telemarketing Salespersons

A door-to-door sales or telemarketing business operator shall prepare a list of door-to-door or telemarketing salespersons. Upon receipt of a request from a consumer, a door-to-door sales or telemarketing business operator shall allow the consumer to verify the identity of a door-to-door or telemarketing salesperson at any time in order to prevent or relieve damage suffered by the consumer. When a door-to-door seller or a telemarketer (hereinafter referred to as “door-to-door seller or telemarketer”) intends to sell goods or services to a consumer, he/she shall inform the consumer in advance of the purpose of his/her visit or phone call, which is soliciting a sale, and of the name or trade name of the door-to-door seller or telemarketer, and the kind and details of goods or services to be sold(Article 6).

2. Consumer Transactions by Door-to-door sales, etc.

(1) Duty of Door-To-Door Seller or Telemarketer to Provide Information to Consumers and Issuance of Contracts

1) Duty to Provide Information

A door-to-door seller or telemarketer shall explain the following matters to a consumer so that the consumer can understand details of a contract for the sale of goods or services before signing the contract: the name (referring to the representative's name, if the door-to-door seller or telemarketer is a corporation), trade name, address, telephone number, and e-mail address of the door-to-door seller or telemarketer; the name, address, telephone number, and e-mail address of the door-to-door or telemarketing salesperson (Cases where a door-to-door sales or telemarketing business operator enters into a contract directly with a consumer shall be excluded herefrom); the name, kind, and details of goods or services; the price of goods or services, and the methods and timing of payment of the price; the methods and timing of provision of goods or services; matters regarding deadlines, execution methods for, and effects of withdraw of offer and cancellation of contract (hereinafter referred to as "withdraw of offer, etc."), and forms required for the exercise of a right to withdraw of offer, etc., as prescribed by Ordinance of the Prime Minister; conditions and procedures for the exchange, return, warranty repair, and refund of the price of goods or services; technical matters necessary for installation and transmission of goods or services that can be supplied by electronic means; matters regarding the compensation for consumer damage, and the settlement of consumers' complaints about goods or services and

of disputes between consumers and business operators; standard contract terms and conditions of transactions; details of charges, if any, the consumer shall pay in addition to the price for goods or services, and the amount of such charges and details of restrictions on the date and timing of sale, the place for sale, the quantity sold, the place for delivery, and other terms and conditions of sale, if such restrictions exist(Article 7 (1)).

If a door-to-door seller or telemarketer intends to enter into a contract for goods or services with a minor, he/she shall obtain consent thereto from the legal guardian of the minor. In such cases, a minor shall be informed that the minor him/herself or his/her legal guardian may cancel the contract if the legal guardian declines consent to the contract(Article 7 (3)).

2) Issuance of Contracts

When a door-to-door seller or telemarketer enters into a contract for sale of goods or services with a consumer, he/she shall issue to the consumer a contract stating matters that shall be explained to consumers (Article 7 (2)). As for a contract for telemarketing among contracts, the details of the contract may be sent by facsimile or electronic documents (referring to electronic documents as defined in subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions; hereinafter the same shall apply) with the consumer's consent thereto in lieu of the issuance of the contract. In such cases, if a dispute arises with regard to the details or arrival of a contract sent by facsimile or electronic documents, the relevant telemarketer shall bear the burden of proof thereof(Article 7 (4)).

3. Withdrawal of offer

(1) Duration of Exercise

1) The Right of Withdrawal of Offer for General Cases

A consumer who has signed a contract for purchase of goods or services through door-to-door sales or telemarketing (hereinafter referred to as “door-to-door sales, etc.”) is entitled to withdrawal of offer, etc. within the relevant period specified in the following subparagraphs (or the agreed period, if the parties to a transaction have agreed on a period longer than the relevant period): 14 days from the date on which the contract is received (If goods or services are provided later than the date on which the contract is received, the period shall be 14 days from the date on which goods or services are provided, or on which the provision of goods or services commences); 14 days from the date on which the consumer became aware of, or could have become aware of, the address of the door-to-door seller or telemarketer in any of the following cases: if the contract has not been received; if the contract has been received without the address of the door-to-door seller or telemarketer stated therein; if it is impossible to withdraw the offer or cancel the contract within the period due to a change of the address of the door-to-door seller or telemarketer or other causes; 14 days from the date on which the consumer became aware, or could have become aware, that he/she had a right to withdraw the offer or cancel the contract, if the contract does not provide for matters regarding withdrawal of offer, etc.; 14 days from the date on which hindrance ends, where the door-to-door sales or telemarketing business operator hinders withdrawal of offer, etc.(Article 8 (1)).

In any of the following cases, no consumer may withdraw offer or cancel the contract against the will of the relevant door-to-door seller or telemarketer: if goods or services have been destroyed or damaged due to a cause attributable to the consumer (Where outer packaging is damaged in the course of verifying the content of goods or services shall be excluded herefrom); if the value of goods or services has been significantly diminished as a consequence of the consumer's use or partial consumption of goods or services; if the value of goods or services has been significantly diminished with the passage of time to the degree that goods or services become un-resalable; if the outer packaging of replicable goods or services has been damaged; and if goods or services are to be produced specially in accordance with a consumer's order, so the relevant door-to-door seller or telemarketer is likely to sustain a severe and irrecoverable loss if the consumer is allowed to withdraw offer or cancel the relevant contract and thus the door-to-door seller or telemarketer notifies the consumer of such fact separately with regard to the relevant transaction and obtains written consent thereto from the consumer (including an electronic document). If the door-to-door seller or telemarketer has not taken measures required by paragraph (5), the consumer may withdraw offer or cancel the contract even in the cases falling under subparagraphs 2 through 4(Article 8 (2)).

2) withdraw of offer due to failure of non-performance of obligation

If the content of goods or services is different from the content labeled or advertised or if a contract is not performed in compliance with the

terms and conditions of the contract, the consumer may withdraw offer or cancel the contract within three months from the date on which goods or services are provided, or 30 days from the date on which the consumer became aware, or could have become aware, of such non-conformity (Article 8 (3)).

(2) Effect Date and Exclusion Measure

1) Effect Date

When a consumer withdraws offer or cancels a contract in writing, the withdrawal or cancellation shall become effective on the date the document stating his/her intention of withdraw of offer, etc. is dispatched (Article 8 (4)). When a consumer withdraws offer or cancels a contract verbally, a declaration of intention made to a business operator shall take effect from the time it has reached him/her (Korean Civil Act Article 111).

2) Exclusion Measure

As for goods or services for which a consumer is not allowed to withdraw offer or cancel a contract, the door-to-door seller or telemarketer shall indicate such fact in the outer packaging of the relevant goods or services, or any other place where consumers can readily notice, or provide samples for trial, or take other measures, so that the consumer is not interfered with his/her exercise of the right to withdraw of offer, etc.(Article 8 (5)).

(3) Effects of withdraw of offer, etc.

1) Return of Goods, etc. and Burden of Expenses, etc.

When a consumer withdraws offer or cancels a contract, he/she shall return the goods or services already provided(Article 9 (1)). If goods or services have already been used or partially consumed, the door-to-door seller or telemarketer may request the consumer to pay the amount equivalent to benefits that the consumer has acquired by using or partially consuming the goods or services or to the costs and expenses incurred in provision of such consumable parts, where the use of goods or services makes it impracticable to re-sell consumable parts or significantly diminishes the resale price, or to the costs and expenses incurred in provision of consumed parts due to the consumer's partial consumption, where goods or services are composed of many identical divisible components(Article 9 (8)). Where a consumer withdraws offer or cancels a contract, the expenses incurred in returning provided goods shall be borne by the door-to-door seller or telemarketer, who shall not request the consumer to pay any penalty or damages on the grounds of withdrawing offer, etc(Article 9 (9)).

2) Return of Price

A door-to-door seller or telemarketer (including a person who has received the price for goods or services from a consumer and a person who has entered into a contract for door-to-door sales or telemarketing with a consumer) shall refund the price for goods or services already paid within three business days from the date on which the goods or services are returned. If a door-to-door seller or telemarketer delays

refunding to a consumer the price for goods or services, the door-to-door seller or telemarketer shall pay the consumer upon late payment penalty based the period of delay(Article 9 (2)). When a door-to-door seller or telemarketer intends to refund the price for goods or services in accordance with paragraph (1) or (2) to a consumer who paid the price for the goods or services by credit card, as defined in subparagraph 3 of Article 2 of the Specialized Credit Finance Business Act, or other means of payment specified by Presidential Decree (hereinafter referred to as “credit card, etc.”), the door-to-door seller or telemarketer shall request the business operator who provided the means of payment such as credit card, etc. (hereinafter referred to as “settlement agency”) without delay to suspend or cancel the bill for the price for the goods or services: If the door-to-door seller or telemarketer has already received the price for goods or services from the settlement agency, he/she shall refund it to the settlement agency without delay and shall notify the consumer of the fact(Article 9 (3)). Upon receipt of the price refunded by a door-to-door seller or telemarketer for goods or services, the settlement agency shall refund it to the consumer or take measures necessary for refunding it without delay.(Article 9 (4)). If a door-to-door seller or telemarketer delays refunding a price to a consume(Article 9 (5)). to cause the consumer to pay the price, the door-to-door seller or telemarketer shall pay to the consumer late payment penalty for the period of delay. If a door-to-door seller or telemarketer does not refund a price to a settlement agency without justifiable cause, the consumer may request the settlement agency to offset the refundable amount to which the consumer is entitled against his/her obligations owed to the door-to-door seller or telemarketer. In such cases, the settlement agency may offset such price against other obligations owed to the door-to-door seller or telemarketer, as prescribed

by Presidential Decree(Article 9 (6)). If a settlement agency neglects the offset without justifiable cause, the consumer may refuse to pay the price to the settlement agency. In such cases, neither the door-to-door seller nor telemarketer nor the settlement agency shall handle the consumer as a person who fails to perform his/her obligations by the agreed date on the ground of refusal of such payment, or treat the consumer unfavorably (Article 9 (7)). If a door-to-door seller or telemarketer, the person who received the price for goods or services, or the person who concluded a contract for door-to-door sales or telemarketing with the consumer is not a single person, such persons shall be jointly liable to perform the obligation to refund the price for goods or services upon withdraw of offer, etc(Article 9 (1)).

4. Restrictions on Claims for Damages, etc.

(1) Where the goods or services provided have been returned

Where a contract for sale of goods or services is cancelled due to a cause attributable to the consumer, the amount of damages that the door-to-door seller or telemarketer may claim the consumer to pay shall not exceed the amount calculated by adding the late payment penalty for failure of payment of the price to the relevant amount specified in the following: the greater of the following amounts, where the goods or services provided have been returned: the amount equivalent to the ordinary fees for the goods or services returned or the benefits that can be ordinarily obtained by using the goods or services; the amount calculated by subtracting the value of goods or services at the time of returning the goods or services from the sale price of the goods returned(Article 10).

(2) Where goods or services provided have not been returned

Where a contract for sale of goods or services is cancelled due to a cause attributable to the consumer and where goods or services provided have not been returned, the amount of damages that the door-to-door seller or telemarketer may claim the consumer to pay shall not exceed the amount calculated by adding the late payment penalty for failure of payment of the price to the sale price of the goods(Article (1)).

5. Prohibited Activities

No door-to-door seller or telemarketer shall commit any of the following offenses(Article 11).

- ① Threatening a consumer with intent to compel the consumer to sign a contract for sale of goods or services or to hinder the consumer from withdrawing offer or cancelling a contract;
- ② Soliciting or trading with a consumer, or hindering a consumer from withdrawing offer or cancelling a contract by making a false or exaggerated representation or by using any fraudulent means;
- ③ Collecting expenses, money, or other valuables in excess of 20,000 won a year, regardless of name or form, such as an admission fee, sales aids, sales individually allocated, or an education fee, from door-to-door or telemarketing salesperson or from persons who intend to become such salespersons, requiring such salespersons or persons to purchase goods or services, or imposing obligations upon such salespersons or persons as a condition required for becoming a salesperson or maintaining the status as salesperson;

- ④ Imposing an obligation to recruit other sales persons upon door-to-door or telemarketing salesperson;
- ⑤ Changing the address or telephone number with intent to hinder a consumer from withdrawing offer or cancelling or terminating a contract;
- ⑥ Causing injuries or damage to consumers by neglecting to rectify the lack of human resources or facilities necessary for the settlement of disputes or complaints unaddressed for a substantial period;
- ⑦ Providing goods or services unilaterally to a consumer without the consumer's order and requesting the consumer to pay the price for goods or services;
- ⑧ Compelling a consumer, by telephone, facsimile, or computer communications, to buy goods or services, although the consumer clearly expresses that he/she does not wish to buy such goods or services;
- ⑨ Using information about a consumer without the consumer's consent thereto or beyond the extent of consent given (including where such information is provided to a third party; hereinafter the same shall apply): Cases falling under any of the following items shall be excluded herefrom: Cases where it is inevitable for performing the contract with a consumer, such as the delivery of goods or services, including where information about a consumer is provided to a person to whom the delivery or conveyance of goods or services is entrusted, among persons engaging in the business of delivering or conveying goods or services, and where information about a consumer is provided to a person to whom the provision of relevant services is entrusted, among persons engaging in the business of

installing goods or services or providing after-sale services or other services as agreed; where it is necessary to settle the price for a transaction of goods or services; cases to verify the consumer's identity in order to verify the identity or real name of the consumer or the consumer's actual intention, including a key telecommunications business operator as defined in Article 5 (3) 1 of the Telecommunications Business Act, a credit information company as defined in subparagraph 5 of Article 2 of the Use and Protection of Credit Information Act, a settlement agency directly related to the payment of proceeds for the relevant transaction, and a person engaging in business of verifying real names for preventing misappropriation in accordance with any relevant Act and subordinate statutes or with authorization or permission under any relevant Act and subordinate statutes; where such information is used to verify whether a minor's legal guardian consents to a transaction by the minor; or it is inevitably required by any provision of an Act or an Act.

Section 3. Multi-level Marketing and Door-to-door Sales under sponsorship

1. Multi-level Marketing

(1) Registration, etc. of Multi-Level Marketing Business Operator

1) Registration, etc. of Multi-Level Marketing Business Operator

A multi-level marketing business operator shall file the following documents for registration with the Fair Trade Commission, the Special Metropolitan City Mayor, or the competent Metropolitan City Mayor,

Special Self-Governing City Mayor, Do Governor or Special Self-Governing Province Governor (hereinafter referred to as “Mayor/Do Governor”): an application stating the trade name, address, telephone number, and e-mail address (including the representative’s name, resident registration number, and address, if the applicant is a corporation); document certifying that the scale of business is not smaller than 500 million won; documents certifying the conclusion of a contract for indemnity insurance against consumer damage; documents regarding guidelines for calculation and payment of bonus; documents stating matters regarding sales methods, including inventory management and the payment of bonus; documents stating business day of the company(Article 13 (1)).

If a change occurs in any matter from among matters registered, the multi-level marketing business operator shall file a report thereon(Article 13 (2)). When a multi-level marketing business operator temporarily or permanently closes down his/her business or resumes his/her business after temporary closure, he/she shall file a report thereon, and the registration filed shall become ineffective when a report on permanent closure is filed: If ground for revocation of registration becomes applicable to a business operator before he/she files a report on permanent closure, his/her registration shall be deemed revoked on the date on which the report on closure is filed(Article 13 (3)).

2) Grounds for Disqualification

An individual or corporation that falls under any of the following subparagraphs shall be disqualified from registration under Article 13: An individual who falls under any of the following items or a corporation for which such individual serves as an executive officer: a minor, a person

under limited guardianship, or a person under adult guardianship; a person declared bankrupt, but not yet reinstated; a person in whose case five years have not passed since a sentence of imprisonment with labor imposed upon him/her for a violation of this Act was completely executed (or is deemed completely executed) or discharged; and a person sentenced to suspension of imprisonment with labor for a violation of this Act and, who is still within the suspension period; A corporation whose controlling shareholder falls under any of the following items: a person in whose case five years have not passed since a sentence of imprisonment with labor imposed upon him/her for a violation of this Act was completely executed (or is deemed completely executed) or discharged; a person sentenced to suspension of imprisonment with labor for a violation of this Act, who is still within the suspension period; an individual or corporation in whose case five years have not passed since the registration was revoked; and a corporation whose executive officer or controlling shareholder was an executive officer or controlling shareholder as at the time the registration of an individual or corporation was revoked in accordance with subparagraph 3(Article 14).

3) Public Announcement of Change of Address, etc.

If any of the following events occurs to a multi-level marketing business operator, the Fair Trade Commission or the competent Mayor/Do Governor shall publicly announce the occurrence: if a multi-level marketing business operator changes the trade name of the business or the address or telephone number of his/her principal place of business; if a multi-level marketing business operator files a report on temporary or permanent

closure; and if a multi-level marketing business operator becomes subject to business suspension or registration is revoked(Article 27).

(2) Multi-Level Marketing Salespersons

1) Joining

A person who intends to join a multi-level marketing organization as a multi-level marketing salesperson shall register him/herself with the multi-level marketing business operator who manages and operates the organization. A person who falls under any of the following subparagraphs shall be disqualified for registration as a multi-level marketing salesperson: a state public official, local public official, educational public official, or a teaching member as defined in the Private School Act; a minor: Where the legal representative consents to the minor's joining the organization, he'she shall be excluded herefrom; a corporation; the controlling shareholder or an executive officer or employee of a multi-level marketing business operator; a person who has been ordered on two or more occasions to take measures for rectification in accordance with Article 49 of the Act: A person in whose case three years have passed since the date on which latest measures taken for rectification are completed; a person in whose case five years have not passed since a sentence of imprisonment with labor imposed upon him/her for a violation of this Act was completely executed (or is deemed completely executed) or discharged; a person in whose case the execution of a sentence of imprisonment with labor imposed upon him/her for a violation of this Act was suspended, but who is still in the period of suspension(Article 15).

2) Withdrawal, etc.

No multi-level marketing business operator shall induce a prospective multi-level marketing salesperson or a multi-level marketing salesperson to buy goods or services excessively or to take a burden exceeding 50,000 won a year on the pretext of registration, the maintenance of qualification, or the application of more favorable guidelines to the payment of bonus. No multi-level marketer shall impose an obligation to recruit a certain number of subordinate salespersons upon a multi-level marketing salesperson or register a certain person as a subordinate salesperson without such person's consent thereto. If a multi-level marketing salesperson falls under any grounds for disqualification, the multi-level marketing business operator shall dismiss the multi-level marketing salesperson. A multi-level marketing salesperson may withdraw from a multi-level marketing organization at any time by expressing his/her intention to withdraw to the multi-level marketing business operator, and the multi-level marketing business operator shall not attach any condition to withdrawal. A multi-level marketing business operator shall recover the pocketbook from a multi-level marketing salesperson who is dismissed or withdraws and shall take other necessary measures to prevent consumer damage by such salesperson's activities of sales(Article 22).

(3) Issuance of Registration Certificate and Pocketbook

A multi-level marketing business operator shall issue a certificate of registration to a multi-level marketing salesperson who joins a multi-level marketing organization managed and operated by the business operator. A multi-level marketing business operator shall keep a register of multi-level

marketing salespersons, and shall allow a consumer to verify the identify of a multi-level marketing salesperson registered therein at a consumer's request, in order to prevent or relieve consumer damage. A multi-level marketing business operator shall issue a pocketbook for multi-level marketing salespersons (including a pocketbook contained in an electronic device), from which information about the following matters can be found, to each multi-level marketing salesperson registered: guidelines for calculation and payment of bonuses; matters regarding recruitment of and sponsorship for subordinate salespersons; matters regarding the return of goods or services and the withdrawal of multi-level marketing salespersons; rules with which multi-level marketing salespersons shall comply; explanations on the multi-level business sales issued by the Fair Trade Commission, the name of the pocketbook, the time of its publication, the name of the multi-level marketing business operator (printed on the cover of the pocketbook)(Article 15).

(4) Bonus

1) Representation, Advertisement, etc. about Bonuses

No multi-level marketing business operator shall furnish a prospective multi-level marketing salesperson or a multi-level marketing salesperson with false or exaggerated information about bonuses or retail profits (referring to profits that a multi-level marketing salesperson can earn from sales of goods or services) that a multi-level marketing salesperson is expected to receive or earn. A multi-level marketing business operator shall notify a prospective multi-level marketing salesperson or a multi-level marketing salesperson of information about the current status of payment

of bonuses, including the average bonus to all multi-level marketing salespersons. No multi-level marketing business operator shall spread false or exaggerated information about the operating system or activities of a multi-level marketing organization(Article 21).

2) Guidelines for Payment of Bonuses

No multi-level marketer shall calculate or pay a bonus contrary to the guidelines of which a multi-level marketing business operator has notified multi-level marketing salespersons with respect to the calculation and payment of bonuses and shall discriminate against a multi-level marketing salesperson by any other wrongful means. A multi-level marketing business operator shall establish objective and clear guidelines for the calculation and payment of bonuses and shall comply with the following procedure in amending guidelines for the calculation and payment of bonuses: first, each multi-level marketing salesperson or door-to-door salesperson under sponsorship shall be notified (including notice by e-mail or mobile phone text messages) of the amended guidelines, grounds for amendment, and the date when amended guidelines are applied, along with current guidelines for the calculation and payment of bonuses, by no later than three month prior to the date when amended guidelines are applied: The guidelines for the calculation and payment of bonuses may be amended immediately if the amendment is beneficial to all multi-level marketing salespersons or door-to-door salespersons under sponsorship or if all multi-level marketing salespersons or door-to-door salespersons under sponsorship consent thereto; second, notice by using e-mail or mobile phone text messages shall be limited to multi-level marketing salespersons or door-to-door salespersons under sponsorship who have given express consent to notification by

e-mail or mobile phone text messages in advance; and third, if it is impossible to give notice individually to a multi-level marketing salesperson or door-to-door salesperson under sponsorship because his/her address is unknown or due to any similar cause, such notice may be substituted by publishing the notice under paragraph (1) through the in-house newsletter or by posting such notice on the website for not less than one month. The total amount of bonuses that a multi-level marketing business operator may pay to a multi-level marketing salesperson shall not exceed the amount equivalent to 35/100 of the total value of goods or services supplied by the multi-level marketing business operator to the multi-level marketing salesperson (including the value-added tax). Detailed methods for the calculation of the total value and bonuses are as follows: first, the total value shall be based on the time of shipment or provision; second, a payable bonus shall be based on the time the grounds to pay the bonus occurs; third, the total value and bonuses shall be calculated on a yearly basis: If the duration of operation of business of multi-level marketing is less than one year, the total value and bonuses shall be based on the period of actual operation of business of the multi-level marketing business operator; and fourth, when the total value is calculated where goods or services are provided by consignment sales, the total value shall be based on the price at which the multi-level marketer to whom sales have been entrusted sells to multi-level marketing salespersons, while where goods or services are provided by brokerage, the total value shall be based on the commission that the multi-level marketer has received from the business operator that requested brokerage. A multi-level marketing business operator shall, at the request of a multi-level marketing salesperson, allow the multi-level marketing salesperson to inspect statements

of calculation and payment of bonuses. No multi-level marketing business operator shall discriminate against any subordinate salesperson or any subordinate salesperson thereof in paying bonuses, irrespective of the outcomes of the salesperson's sales, on condition that the multi-level marketing salesperson shall recruit or assist a certain number of subordinate salespersons(Article 20).

(5) Duty, ect of Multi-level Marketing Salesperson to Provide Information to Consumers

1) Duty to Provide Information

Multi-level marketing salesperson shall explain the following matters to a consumer so that the consumer can understand details of a contract for the sale of goods or services before signing the contract: the name (referring to the representative's name, if the multi-level marketing salesperson is a corporation), trade name, address, telephone number, and e-mail address of the multi-level marketing salesperson; the name, address, telephone number, and e-mail address of the multi-level marketing salesperson (Where a multi-level marketing salesperson enters into a contract directly with a consumer, he/she shall be excluded herefrom); the name, kind, and details of goods or services; the price of goods or services, and the methods and timing of payment of the price; the methods and timing of provision of goods or services; matters regarding deadlines, execution methods for, and effects of withdraw of offer and cancellation of contract (hereinafter referred to as "withdraw of offer, etc."), and forms required for the exercise of a right to withdraw of offer, etc., as prescribed by Ordinance of the Prime Minister; conditions and procedures for the exchange, return, warranty repair, and refund of the price of goods or

services; technical matters necessary for installation and transmission of goods or services that can be supplied by electronic means; matters regarding the compensation for consumer damage, and the settlement of consumers' complaints about goods or services and of disputes between consumers and business operators; standard contract terms and conditions of transactions; details of charges, if any, the consumer shall pay in addition to the price for goods or services, and the amount of such charges and details of restrictions on the date and timing of sale, the place for sale, the quantity sold, the place for delivery, and other terms and conditions of sale, if such restrictions exist(Article 16).

If a multi-level marketing salesperson intends to enter into a contract for goods or services with a minor, he/she shall obtain consent thereto from the legal guardian of the minor. In such cases, a minor shall be informed that the minor him/herself or his/her legal guardian may cancel the contract if the legal guardian declines consent to the contract(Article 16).

2) Issuance of Contracts

When a multi-level marketing salesperson enters into a contract for sale of goods or services with a consumer, he/she shall issue to the consumer a contract stating matters that shall be explained to consumers(Article 16).

(6) Withdrawal of Offer, etc.

1) Consumers' Withdrawal of Offer, etc.

① Duration of Exercise

② The Right of Withdrawal of Offer for General Cases

Part IV. Consumer Protection Acts Concerning Special Transactions

A consumer who has signed a contract for purchase of goods or services through multi-level marketing salesperson (hereinafter referred to as “a multi-level marketing , etc.”) is entitled to withdraw of offer, etc. within the relevant period specified in the following (or the agreed period, if the parties to a transaction have agreed on a period longer than the relevant period): 14 days from the date on which the contract is received (If goods or services are provided later than the date on which the contract is received, the period shall be 14 days from the date on which goods or services are provided, or on which the provision of goods or services commences); 14 days from the date on which the consumer became aware of, or could have become aware of, the address of the multi-level marketing salesperson in any of the following cases: if the contract has not been received; if the contract has been received without the address of the multi-level marketing salesperson stated therein; if it is impossible to withdraw offer or cancel the contract within the period due to a change of the address of the multi-level marketing salesperson or other causes; 14 days from the date on which the consumer became aware, or could have become aware, that he/she had a right to withdraw offer or cancel the contract, if the contract does not provide for matters regarding withdraw of offer, etc.; 14 days from the date on which hindrance ends, where the multi-level marketing salesperson business operator hinders withdraw of offer, etc.(Article 17 (1)).

In any of the following cases, no consumer may withdraw offer or cancel the contract against the will of the relevant multi-level marketing salesperson: if goods or services have been destroyed or damaged due to a cause attributable to the consumer (Cases where outer packaging is

damaged in the course of verifying the content of goods or services shall be excluded herefrom); if the value of goods or services has been significantly diminished as a consequence of the consumer's use or partial consumption of goods or services; if the value of goods or services has been significantly diminished with the passage of time to the degree that goods or services become un-resalable; if the outer packaging of replicable goods or services has been damaged; and if goods or services are to be produced specially in accordance with a consumer's order, so the relevant multi-level marketing salesperson is likely to sustain a severe and irrecoverable loss if the consumer is allowed to withdraw offer or cancel the relevant contract and thus the multi-level marketing salesperson notifies the consumer of such fact separately with regard to the relevant transaction and obtains written consent thereto from the consumer (including an electronic document). If the multi-level marketing salesperson has not taken measures required by paragraph (5), the consumer may withdraw offer or cancel the contract even in the cases falling under subparagraphs 2 through 4(Article 17 (1)).

ⓑ Withdrawal of Offer due to Failure of Non-Performance of Obligation

If the content of goods or services is different from the content labeled or advertised or if a contract is not performed in compliance with the terms and conditions of the contract, the consumer may withdraw offer or cancel the contract within three months from the date on which goods or services are provided, or 30 days from the date on which the consumer became aware, or could have become aware, of such non-conformity(Article17 (1)).

③ Exercise of the Right of Withdrawal on Multi-level Salesperson

If a consumer signed a contract for purchase of goods or services with a multi-level marketing salesperson, the consumer shall first withdraw offer or cancel the contract against the multi-level marketing salesperson, while a consumer may withdraw offer or cancel a contract against the multi-level marketer who has provided goods or services only where the consumer is unable to withdraw offer or cancel the contract against the multi-level marketing salesperson for the cause that the multi-level marketing salesperson's whereabouts are unknown (Article 17 (1)).

② Effect Date and Exclusion Measure

① Effect Date

When a consumer withdraws offer or cancels a contract in writing, the withdrawal or cancellation shall become effective on the date the document stating his/her intention of withdraw of offer, etc. is dispatched (Article 17 (1)). When a consumer withdraws offer or cancels a contract verbally, a declaration of intention made to the business operator shall take effect from the time it has reached him/her (Korean Civil Act Article 111).

② Exclusion Measure

As for goods or services for which a consumer is not allowed to withdraw offer or cancel a contract, the multi-level marketing person shall indicate such fact in the outer packaging of the relevant goods or services, or any other place where consumers can readily notice, or provide samples for trial, or take other measures, so that the consumer is not interfered with his/her exercise of the right to withdraw of offer, etc.(Article 17 (1)).

③ Effects of Withdrawal of Offer, etc.

① Return of Goods, etc. and Burden of Expenses, etc.

When a consumer withdraws offer or cancels a contract, he/she shall return the goods or services already provided(Article 18 (1)). If goods or services have already been used or partially consumed, the multi-level marketing salesperson may request the consumer to pay the amount equivalent to benefits that the consumer has acquired by using or partially consuming the goods or services or to the costs and expenses incurred in provision of such consumable parts, where the use of goods or services makes it impracticable to re-sell consumable parts or significantly diminishes the resale price, or to the costs and expenses incurred in provision of consumed parts due to the consumer's partial consumption, where goods or services are composed of many identical divisible components(Article 18 (7)). Where a consumer withdraws offer or cancels a contract, the expenses incurred in returning provided goods shall be borne by the multi-level marketing salesperson, who shall not request the consumer to pay any penalty or damages on the grounds of withdrawing offer, etc(Article 18 (8)).

② Return of Price

A multi-level marketer (including a person who has received the price for goods or services from the opposite party or a person who has entered into a contract for a multi-level marketing transaction with the opposite party) shall refund the price already received for goods or services within three business days from the date on which the goods or services are returned(Article 18 (2)). Where the consumer to a contract under which the price has been paid by credit card, etc. withdraws offer

or cancels the contract, the multi-level marketer shall request the settlement agency without delay to suspend or cancel the bill for the price for goods or services: If the multi-level marketer has already received the price for the goods or services from the settlement agency, he/she shall refund it to the settlement agency without delay and shall notify the consumer thereof, and the multi-level marketer shall pay the late payment penalty for the period of delay after the date of settlement, if the multi-level marketer delays refunding the price to the opposite party to cause the consumer to settle the price(Article 18 (3)).

Upon receipt of the price refunded by a multi-level marketer for goods or services, the settlement agency shall refund it to the consumer or take measures necessary to refund it without delay, and if a multi-level marketer does not refund a price to the settlement agency without justifiable cause, the consumer may request the settlement agency to offset the refundable amount to which the consumer is entitled against his/her obligations owed to the multi-level marketer, and the settlement agency may offset such price against other obligations owed to the multi-level marketer(Article 18 (4)). If a settlement agency neglects the offset without justifiable cause, the consumer may refuse to pay the price to the settlement agency. In such cases, neither the multi-level marketer nor the settlement agency shall register the consumer as a person who fails to pay his/her obligations by the agreed date on the ground of refusal to pay, or treat the consumer unfavorably(Article 18 (5)). If the amount refunded by a multi-level marketer is greater than the amount of goods or services provided by him/her to the multi-level marketing salesperson where the multi-level marketer refunds the price for goods or services following revocation of offer, etc., the multi-level marketer may

request the salesperson to pay the difference(Article 18 (6)). If a multi-level marketer is not the same as the person who has been paid the price for goods or services from the consumer or the person who executed a multi-level marketing contract with the consumer, both multi-level marketer and the other person shall be jointly liable to refund the price for the relevant goods or services(Article 18 (9)).

2) Multi-level Marketing Salespersons'Withdrawal of Offer, etc.

① Duration of Exercise and Grounds for Exclusion

A multi-level marketing salesperson who signed a contract for purchase of goods or services through multi-level marketing may withdraw offer or cancel the contract in writing within three months from the date the contract was signed except for cases falling under any of the following cases: where a salesperson holds an excessive inventory of goods or services by falsely reporting on his/her inventory to the multi-level marketing business operator; where goods or services have been damaged to the degree that they are not resalable; or where goods or services have been destroyed or damaged due to a cause for which the relevant multi-level marketing salesperson is responsible (Cases where the outer packaging is destroyed in order to verify components of goods or services shall be excluded herefrom); where the partial use or consumption of goods or services has significantly diminished the value of goods or services (The foregoing shall apply only where measures have been taken to avoid any interference with the exercise of the right to withdraw offer, etc. due to partial use of goods or services by clearly indicating the impossibility of withdrawing offer, etc. on the outer packaging or any readily noticeable part of goods or services or by providing samples);

where the outer packaging of replicable goods or services has been damaged; and where goods or services are to be produced specially according to the order of a multi-level marketing salesperson; the multi-level marketing business operator is likely to sustain a severe and irrecoverable loss if the multi-level marketing salesperson is allowed to withdraw offer or cancel the relevant contract and thus the business operator notifies the multi-level marketing salesperson of the fact separately with regard to the relevant transaction and obtains written consent thereto from him/her (including an electronic document)(Article 17 (2)).

② Effect of Withdrawal of Offer

The multi-level marketing salesperson shall return goods or services already provided(Article 18 (1)). A multi-level marketing business operator may deduct expenses not exceeding the maximum amount from the price refundable to a multi-level marketing salesperson for goods or services, but a multi-level marketer shall pay the late payment penalty for the period of delay, if he/she delays refunding the price for goods or services to the opposite party. The expenses multi-level marketing business operator may deduct shall be subject to the following limitations: where goods or services are returned not earlier than one month, but not later than two months from the date of provision: the amount agreed on by and between parties, which shall not exceed five percent of proceeds for goods or services; where goods or services are returned not earlier than two months, but not later than three months from the date of provision: the amount agreed on by and between parties, which shall not exceed seven percent of proceeds for goods or services. If goods or services are

returned because the registration of a business operator engaging in multi-level marketing is revoked, such deductible expenses shall not exceed one-half of the amount described above(Article 18 (2)).

(7) Restrictions on Claims for Damages, etc.

1) Where the goods or services provided have been returned

Where a contract for sale of goods or services is cancelled due to a cause attributable to the consumer, the amount of damages that the multi-level marketing business operator may claim the consumer to pay shall not exceed the amount calculated by adding the late payment penalty for failure of payment of the price to the relevant amount specified in the following: the greater of the following amounts, where the goods or services provided have been returned: the amount equivalent to the ordinary fees for the goods or services returned or the benefits that can be ordinarily obtained by using the goods or services; the amount calculated by subtracting the value of goods or services at the time of returning the goods or services from the sale price of the goods returned(Article19).

2) Where goods or services provided have not been returned

Where a contract for sale of goods or services is cancelled due to a cause attributable to the consumer, the amount of damages that the multi-level marketing business operator may claim the consumer to pay shall not exceed the amount calculated by adding the late payment penalty to the value of goods or services at the time of purchasing them if the goods or services provided have not been returned(Article 19).

(8) Prohibited Activities

1) Prohibited Activities for General Cases

No multi-level marketer shall commit any of the following offenses. No multi-level marketing business operator shall aid and abet a multi-level marketing salesperson to commit any offense(Article 23).

- ① Threatening the opposite party with intent to compel the opposite party to sign a contract for sale of goods or services or to hinder the opposite party from withdrawing offer or cancelling a contract;
- ② Soliciting the opposite party to make a transaction or hindering a consumer from withdrawing offer or cancelling a contract by making a false or exaggerated representation or by using any fraudulent means, making a false representation about the price, quality, etc. of goods or services, or misleading the opposite party to believe that goods or services are significantly better or more favorable than they actually are;
- ③ Changing the address or telephone number with intent to hinder the opposite party from withdrawing offer or cancelling or terminating a contract;
- ④ Causing any injury or damage to the opposite party by neglecting to rectify the inefficiency of human resources or facilities necessary for settlement of disputes or complaints for a substantial period;
- ⑤ Providing goods or services unilaterally to the opposite party without the opposite party's order and requesting the opposite party to pay the price for goods or services, selling goods or services to the opposite party by force, or selling goods or services to a subordinate salesperson;

- ⑥ Compelling a consumer, by telephone, facsimile, or computer communications, to buy goods or receive services, although the consumer clearly expresses that he/she does not wish to buy such goods or services;
- ⑦ Misleading consumers to believe that a multi-level marketing salesperson not employed by a multi-level marketing business operator is a person employed by the multi-level marketing business operator or allowing a person not registered as a multi-level marketing salesperson to work as a multi-level marketing salesperson;
- ⑧ Operating the business without a contract for indemnity insurance against consumer damage, etc. under Article 37;
- ⑨ Fixing the individual price for goods or services sold to the opposite party in excess of 1.6 million won;
- ⑩ Using information about a consumer without the consumer's consent thereto or beyond the extent of consent given (including where such information is provided to a third party; hereinafter the same shall apply): Cases falling under any of the following items shall be excluded herefrom: cases where it is inevitable to perform the contract with a consumer, such as the delivery of goods or services: where information about a consumer is provided to a person to whom the delivery or conveyance of goods or services is entrusted, among persons engaging in the business of delivering or conveying goods or services; where information about a consumer is provided to a person to whom the provision of relevant services is entrusted, among persons engaging in the business of installing goods or services or providing after-sale services or other services as agreed; cases where it is necessary to settle the price for a transaction of

goods or services; cases where it is necessary to verify the consumer's identity or real name of the consumer or the consumer's actual intention in order to prevent misappropriation if information is provided to a key telecommunications business operator as defined in Article 5 (3) 1 of the Telecommunications Business Act; a credit information company as defined in subparagraph 5 of Article 2 of the Use and Protection of Credit Information Act; a settlement agency directly related to the payment of proceeds for the relevant transaction; and a person engaging in business of verifying real names for preventing misappropriation in accordance with any relevant Act and subordinate statutes or with authorization or permission under any relevant Act and subordinate statutes; where such information is used to verify whether a minor's legal guardian consents to a transaction by the minor; and cases where it is inevitably required by any provision of an Act or an Act;

- ① Transferring or acquiring a multi-level marketing organization or the status of a multi-level marketing salesperson: The foregoing shall not apply where a person inherits the status of a multi-level marketing salesperson or where a business is transferred, acquired, or merged.

2) Prohibition of Speculative Expansion of Sales Force

No one shall commit any of the following offenses by using a multi-level marketing organization or any similar organization which is comprised of persons by levels. No multi-level marketing business operator shall aid and abet a multi-level marketing salesperson to commit an offense prohibited by paragraph (1)(Article 24).

- ① Making a monetary transaction without a transaction of goods or services or making an actual monetary transaction in disguise of a transaction of goods or services, which falls under any of the following items: paying bonuses to salespersons for the sales of goods or services at as a significantly high price as ten or more times the acquisition price or market price; paying bonuses without providing relevant goods or services without justifiable cause after executing a contract for sale of goods or services with a salesperson; and any other actual monetary transaction in light of the business operator's capacity for the provision of goods or services, the outcomes of provision of goods or services to consumers, contracts for provision or sales of goods or services between the business operator and consumers, and terms and conditions of payment of bonuses;
- ② Providing economic benefits to a salesperson or a prospective salesperson only for recruitment of subordinate salespersons or providing economic benefits in addition to a bonus to a salesperson or a prospective salesperson without justifiable cause;
- ③ Promising to pay a bonus in violation of Article 20 (3) to recruit a salesperson or inducing a person to join a sales force;
- ④ Collecting money more than 50,000 won a year, regardless of name or form, such as an admission fees, sales aids, sales individually allocated, or education fees, from salespersons or prospective salespersons or imposing such obligation upon such salespersons or prospective salespersons;
- ⑤ Selling gift certificates to salespersons in a manner specified in either of the following: repurchasing gift certificates sold by the business operator to consumers or soliciting other persons to purchase

such certificates; paying bonuses to any salesperson at a level where his/her transactions of goods or services cannot be deemed as the real transactions of goods or services in light of the issuer, etc.'s capacity for the provision of goods or services, the outcomes of provision of goods or services to consumers, the amount of gift certificates issued, etc.;

- ⑥ Compelling any person to register himself/herself as a salesperson or to buy goods or services by using social relationships, etc.;
- ⑦ Compelling salespersons or prospective salespersons to undergo education or stay together against their will;
- ⑧ Attracting a person on the pretext of referral of a job or part-time job, presentation sessions, educational meetings, etc. without clearly stating that the purpose is to recruit salespersons.

(9) Responsibilities of Multi-Level Marketing Business Operator

In order to prevent multi-level marketing salespersons from violating Article 23 or 24 in recruiting subordinate salespersons or sale to consumers goods or services supplied by a multi-level marketing business operator, the multi-level marketing business operator shall notify each multi-level marketing salesperson of relevant provisions in writing or by e-mail. If a multi-level marketing business operator neglects his/her duty to give notice and a multi-level marketing salesperson causes a loss to property of another multi-level marketing salesperson or a consumer due to Prohibited Activities, the multi-level marketing business operator shall be liable for such loss. The standard for the liability of a business operator shall be based on the amount of loss that has a reasonable causal connection to the violation of a multi-level marketing salesperson, but

shall not exceed the amount of sales related to the violation. In such cases, the multi-level marketing business operator may exercise the right to claim reimbursement against the multi-level marketing salesperson (Article 28).

2. Door-to-door Sales under Sponsorship

(1) Prohibited Activities

No door-to-door seller under sponsorship shall pay any bonus to a door-to-door salesperson under sponsorship in relation to performance of purchase or sales of any door-to-door salesperson under sponsorship other than the salesperson's immediately subordinate salespersons or promise a person to pay such bonus to recruit door-to-door salespersons under sponsorship(Article 29 (1)).

(2) Exemption

Where not less than 70/100 of goods or services supplied by a door-to-door sales business operator under sponsorship to a door-to-door salesperson under sponsorship is sold to consumers, not to salespersons, Articles 20 (3), 23 (1) 8 and 9, and Article 37 shall not apply to such cases(Article 29 (2)).

(3) Provisions of Multi-level Marketing Applicable Mutatis Mutandis

Provisions of the following shall apply mutatis mutandis to door-to-door sellers under sponsorship: Articles 6, 13, 14, and 15 (2): Article 13 (1) 2 shall not apply mutatis mutandis, and Article 13 (1) 3 shall be construed as "documents certifying the execution of a contract for indemnity

insurance against consumer damage under Article 37 or a document certifying that the distributor falls under Article 29 (2)”; Provisions of Articles 16 through 28 shall apply to door-to-door seller under sponsorship. In such cases, the term “35/100” in the part, other than subparagraphs of Article 20 (3) shall be construed as “38/100”(Article 29 (3)).

Section 4. Recurring Business

1. Provision of Information and Issuance of Contracts

(1) Provision of Information

When a recurring business operator enters into a contract for recurring transactions with the terms and conditions that are based on more than 100,000 won and 3 months, he/she shall explain the following matters to consumers, so that they may understand the content of the contract before executing the contract: the name (referring to the representative’s name, if such business operator is a corporation), trade name, address, telephone number, and e-mail address of the recurring or business-soliciting transaction business operator; the name, kind, and details of goods or services sold through recurring transactions (including other goods or services to be purchased separately in connection with recurring transactions, if any) and the price for goods or services (including all expenses to be paid in connection with the transaction of goods or services, regardless of name, such as an admission fee and installation charge; hereinafter in this Chapter the same shall apply) and the time and method for payment thereof; the method, period, and timing of the transaction of goods or services; the method and effect of termination of a contract and forms

necessary for the exercise of the right to terminate a contract; matters regarding compensation for consumer damage and the settlement of complaints about goods or services and disputes between consumers and the business operator; standard terms and conditions of transactions; matters regarding restrictions related to the conditions of sales, such as the date and timing, territories, and quantity of sales, and place of delivery(Article 30 (1)).

If a recurring or business-soliciting transaction business operator intends to enter into a contract for goods or services with a minor, he/she shall obtain consent thereto from the legal guardian of the minor. In such cases, a minor shall be informed that the minor him/herself or his/her legal guardian may cancel the contract if the legal guardian declines consent to the contract(Article 30 (4)).

(2) Issuance of Contracts

When a recurring or business-soliciting transaction business operator enters into a contract for sales of goods or services, it shall issue a written contractstating the matters that shall be explained to the consumer (Article 30 (2)).

(3) Automatically Renewed Contracts

Where a person engaging in the business of recurring transactions executes a contract for providing services to a consumer on condition that the contract shall be renewed automatically, unless the consumer expressly manifests his/her intention to the contrary, such person shall notify the consumer, in writing or by e-mail, of the fact that the contract

will expire within a short period of 50 days through 20 days prior to the expiry date of the contract: Such notice may be omitted where the duration of transaction under such contract is not more than two months or where the consumer expresses his/her intention to sign another contract or renew the contract.

2. Termination or Cancellation of Contracts

(1) Termination of Contracts

A consumer who signed a contract for recurring transactions or transactions for soliciting business with a recurring or business-soliciting transaction business operator may terminate the contract at any time during the contract period: The foregoing shall not apply where any other Act provides otherwise or where goods or services are to be produced specially in accordance with the order of a consumer; the relevant business operator engaging in recurring transactions is likely to sustain a severe and irrecoverable loss if the consumer is allowed to withdraw offer or cancel the relevant contract; and thus the business operator engaging in recurring transactions notifies the consumer of the fact separately with regard to the relevant transaction and obtains written consent thereto from the consumer (including an electronic document)(Article 31).

(2) Effects of Termination or Cancellation of Contract, Penalty, etc

Where a contract for recurring transactions or transactions for soliciting business is terminated or cancelled due to a cause not attributable to a recurring or business-soliciting transaction business operator, the business

operator shall not compel the consumer to pay a penalty significantly exceeding the loss incurred by the termination or cancellation and shall not unduly refuse to refund the proceeds received as an admission fee or other fees regardless of its names in excess of the price for goods or services actually supplied. When a contract for recurring transactions or transactions for soliciting business is terminated or cancelled, the consumer may return goods or services to the recurring or business-soliciting transaction business operator, who shall, then, refund the proceeds or reduce the penalty therefor. Where a contract for recurring transactions or transactions for soliciting business is terminated or cancelled due to a cause for which a recurring or business-soliciting transaction business operator is not responsible, and the proceeds received from the consumer for goods or services (including the refundable amount, if goods or services have been returned) are greater than the aggregate of the proceeds for goods or services already provided and the penalty, the recurring or business-soliciting transaction business operator shall refund the difference to the consumer. If a business operator delays the refund, he/she shall pay the late payment penalty for the period of delay along with the refundable amount(Article 32).

3. Prohibited Activities

No recurring or business-soliciting transaction business operator shall commit any of the following offenses(Article 34):

- ① Threatening a consumer with intent to compel the consumer to sign a contract for recurring transactions or transactions for soliciting

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business or to hinder the consumer from terminating or cancelling a contract;

- ② Soliciting a consumer, engaging in a transaction with a consumer, or hindering a consumer from terminating or cancelling a contract by making a false or exaggerated representation or by using any fraudulent means;
- ③ Soliciting a consumer to buy goods or services necessary for recurring transactions or transactions for soliciting business at a price significantly higher than the ordinary trading price;
- ④ Delaying taking appropriate measures or refusing to take appropriate measures without justifiable cause after a consumer terminates or cancels a contract for recurring transactions or transactions for soliciting business;
- ⑤ Changing the address or telephone number with intent to hinder a consumer from terminating or cancelling a contract;
- ⑥ Causing damage to consumers by neglecting to rectify the insufficiency in human resources or facilities necessary for the settlement of disputes or complaints for a substantial period;
- ⑦ Providing goods or services unilaterally to a consumer without the consumer's order and requesting the consumer to pay the price for goods or services;
- ⑧ Compelling a consumer, by telephone, facsimile, or computer communications, to buy goods or services, although the consumer clearly expresses that he/she does not wish to buy such goods or receive such services.

Section 5. Protection of Consumers' Rights and Interests

1. Special Cases for Consumer Protection in Extraordinary Transactions

(1) Burden of Proof on Extraordinary Sales Business Operators

If a dispute arises with the opposite party to a contract over any of the following matters, the burden of proof shall rest on the extraordinary sales business operator: whether the consumer is liable for damage to goods or services; the fact that the contract has been executed and the timing of such execution; the fact that goods or services have been provided or the timing of such provision; the fact that the contract has been issued and the timing of such issuance; and other aspects of the transaction with no express agreement on burden of proof. In such cases, an extraordinary sales business operator may keep records of transactions, including records of conversations necessary for proof(Article 36).

(2) Prohibition of Contract Unfavorable to Consumers, etc.

Any contract which violates any provision of Articles 7 through 10, 16 through 19, or 30 through 32, which is unfavorable to consumers, shall be void(Article 52).

(3) Exclusive Jurisdiction

The District Court having jurisdiction over a consumer's domicile at the time the consumer files a lawsuit in relation to extraordinary sales

shall have exclusive jurisdiction over the case, while the District Court have jurisdiction over such consumer's residence shall have exclusive jurisdiction over the case, if such consumer has no domicile: Relevant provisions of the Civil Procedure Act shall apply mutatis mutandis where a consumer's domicile or residence is not clearly identifiable at the time when a lawsuit is filed(Article 53).

2. Contract for Indemnity Insurance against Consumer Damage, etc. and Mutual Aid Association

(1) Contract for Indemnity Insurance against Consumer Damage, etc.

A person who intends to register him/herself as a multi-level marketing business operator or door-to-door sales business operator under sponsorship under this Act shall execute a contract that falls under any of the following (hereinafter referred to as "contract for indemnity insurance against consumer damage, etc."): insurance contract for indemnity against consumer damage; performance guarantee to secure the payment of indemnity against consumer damage; or contract for mutual aid with a mutual aid association. The Fair Trade Commission may recommend business operators to execute a contract for indemnity insurance against consumer damage, etc. in order to protect consumers from door-to-door sales, telemarketing, or recurring transactions or transactions for soliciting business. The coverage of a contract for indemnity insurance against consumer damage, etc. shall be appropriate for compensating consumers for damage sustained by violations of this Act. If an event that requires payment of damages to a consumer occurs, the person obligated to pay the damages to the consumer in accordance with a contract for indemnity insurance against consumer

damage, etc. shall pay the damages immediately, and if such person delays paying the damages, shall pay the late payment penalty. When a multi-level marketing business operator or door-to-door sales business operator under sponsorship who executes or maintains a contract for indemnity insurance against consumer damage, etc, submits sales data, it shall not make a false representation in such data. A person who executes a contract for indemnity insurance against consumer damage, etc. may use a mark indicating the existence of such contract. No person who has not contracted for indemnity insurance against consumer damage, etc. shall use a mark or produce or use any similar mark(Article 37).

(2) Establishment of and Supervision over Mutual Aid Association

1) Establishment of Mutual Aid Association

Door-to-door business operators, telemarketing business operators, multi-level marketing business operators, and door-to-door business operators under sponsorship may establish a mutual aid association with authorization from the Fair Trade Commission (hereinafter referred to as “mutual aid association”) in order to operate an insurance program liable for compensation for consumer damage. A mutual aid association shall be a corporation and shall be duly formed upon registration for establishment with the registry office having jurisdiction over its principal place of business. A person who joins a mutual aid association shall pay contributions, etc. required for the implementation of mutual aid programs to the association. Basic assets of a mutual aid association shall consist of contributions, etc. paid by its members, but matters regarding the operation of basic assets of a mutual aid association shall be subject to

authorization of the Fair Trade Commission: The Government may grant contributions or subsidies within budgetary limits. Prerequisites for membership of a mutual aid association, matters regarding executive officers, and matters regarding guidelines for allocation of contributions shall be stipulated by its articles of incorporation. When a mutual aid association intends to implement a mutual aid program, it shall establish regulations on the mutual aid program and shall obtain authorization therefor from the Fair Trade Commission. The same procedure shall also apply when it is intended to amend the regulations on a mutual aid program. Except for matters provided for in this Act, provisions regarding incorporated associations in the Korean Civil Act shall apply *mutatis mutandis* to mutual aid associations. Business activities of a mutual aid association under this Act shall not be governed by the Insurance Business Act (Article 38).

2) Business Activities of Mutual Aid Association

A mutual aid association shall carry out the following business activities: mutual aid programs for relief of consumer damage and public services for the protection of rights and interests of consumers; publication and education for the prevention of consumer damage and advertising therefor; autonomous purification program for a sound development of the market; projects entrusted by the Fair Trade Commission; and other business activities specified in its articles of incorporation(Article 40).

3) Supervision over Mutual Aid Associations

If deemed necessary, the Fair Trade Commission may order a mutual aid association to submit a report on the mutual aid association's business or accounting or to take other necessary measures, or may

authorize the Fair Trade Commission's public officials to examine the current status of business or accounting of a mutual aid association or to inspect the mutual aid association's account books or other documents. If the operation or execution of business affairs of a mutual aid association breaches a statute, or its articles of incorporation, the Fair Trade Commission may order it to rectify such breach and may request it to take other appropriate measures, if such measures are necessary in relation to relieve consumer damage. If an executive officer or employee of a mutual aid association falls under any of the following, the Fair Trade Commission may request it to punish or dismiss such executive officer or employee or may order it to rectify such violation: if an executive officer or employee violates any regulation on the mutual aid program in carrying out a business affair; if an executive officer or employee fails to comply with an order issued to rectify or measures taken(Article 39).

3. System for Registration of Intention to Reject Telemarketing Calls, etc.

(1) Purpose

The purpose of a system for registration of intention to reject calls is that it allows consumers to manifest and register their intention to reject call(Article 42 (1)).

(2) Telemarketers'duty of ascertainment and prohibition

When a telemarketer intends to make a telemarketing call to a consumer, he/she shall ascertain whether the consumer's intention to reject such call has been registered in the registration system, and shall not make a

telemarketing call to any consumer whose intention to reject telemarketing calls has been registered therein: The foregoing shall not apply where a telemarketing business operator obtains consent individually from a consumer(Article 42 (2)).

(3) Entrustment of Operation

The Fair Trade Commission may entrust the operation of the registration system to an institution or organization that falls under any of the following subparagraphs and may fully or partially subsidize such institution or organization for expenses incurred in efficient operation of the system: an institution established under the Framework Act on Consumers or a consumer organization registered under the aforesaid Act; an organization of business operators registered or an institution or organization established for the protection of consumers under any other Act(Article 42 (3)).

If a person was selected as an entrusted business operator by fraud or other wrongful means or If a person uses the registration system for any purpose other than that or allows a third person to use the system, the Fair Trade Commission shall revoke the selection. If a person fails to meet the criteria for selection or if it is found impracticable as a result of an inspection to achieve the original purpose of selection, the Fair Trade Commission may revoke the selection.

Section 6. Investigation and Supervision

1. Conducting Fact-finding Surveys and Training

(1) The Fair Trade Commission's Investigation of the Actual Conditions and Training

The Fair Trade Commission may investigate the actual conditions of, and conduct a training in, extraordinary sales in order to establish a sound trade order and protect consumers in extraordinary sales(Article 43-2 (1)).

(2) Methods and Scope of Conducting Fact-finding Surveys

The scope of fact-finding surveys conducted by the Fair Trade Commission shall be as follows: matters concerning consumer damage caused by extraordinary sales; matters concerning the current status of the extraordinary sales market, including turnover of business operators engaging in extraordinary sales; matters concerning the distribution structure of the extraordinary sales market; and other matters necessary for the formulation and implementation of policies for the establishment of the sound trade order in the extraordinary sales market and protection of consumers.

When the Fair Trade Commission conducts a fact-finding survey, it shall inform persons subject to such survey of a relevant survey plan, including purposes, period, and details of such survey. The Fair Trade Commission may entrust a fact-finding survey to any of the following: a mutual aid association; an institution or organization under any of the subparagraphs of Article 42 (3) of the Act; a government-funded research institution established under Article 2 of the Act on the Establishment, Operation, and Fostering of Government-Funded Research Institutions,

Etc.; an organization or association comprised of business operators engaged in the relevant industries, the establishment of which is permitted by the heads of central administrative agencies in charge of the relevant industries in which goods, etc. traded through extraordinary sales.

2. Investigation into Violations, etc.

(1) Report

If a person suspects a violation of this Act, he/she may report such fact to an administrative authority: A violation of a regulation regarding multi-level marketing or door-to-door sales under sponsorship may be reported to the Fair Trade Commission or a Mayor/Do Governor(Article 43 (7)).

(2) Investigator

If a violation of this Act is seen to have been violated, the Fair Trade Commission, a Mayor/Do Governor or the head of a Si/Gun/Gu (hereinafter referred to as “administrative authority”) may conduct investigations ex officio as necessary: A violation of a regulation regarding multi-level marketing or door-to-door sales under sponsorship may be investigated by the Fair Trade Commission or a Mayor/Do Governor(Article 43 (1)).

(3) Prevention of Repetitiveness of Investigation

When a Mayor/Do Governor or the head of a Si/Gun/Gu intends to conduct an investigation, he/she shall notify the Fair Trade Commission thereof, and the Fair Trade Commission may request a Mayor/Do Governor or the head of a Si/Gun/Gu to discontinue an investigation, if

investigations are likely to overlap. Upon receipt of a request in such cases, a Mayor/Do Governor or the head of a Si/Gun/Gu shall discontinue the investigation, unless he/she has a reasonable ground to reject the request(Article 43 (2)).

(4) Organization of Investigation Team

The Fair Trade Commission may organize an investigation team jointly with the Korea Consumer Agency under Article 33 of the Framework Act on Consumers (hereinafter in this Article referred to as the “Korea Consumer Agency”) for an investigation(Article 43 (4)). Executive officers and employees of the Korea Consumer Agency, who take charge of works specified in paragraph (4), shall be deemed public officials for the purposes of the penalty provisions under Articles 127 and 129 through 132 of the Criminal Act(Article 43 (6)).

(5) Exception of Investigation

The Fair Trade Commission shall not issue an order under Article 49 to rectify a violation or impose a penalty surcharge under Article 51 for a violation, if five years have passed since the date on which the violation ceased: The foregoing shall not apply where an order to rectify a violation or a disposition to impose a penalty surcharge was revoked in accordance with a court judgment and a new disposition is made in accordance with reasoning of the judgment(Article 43 (8)).

(6) Notification of Investigation Results

When an administrative authority completes an investigation, it shall notify parties to the relevant case of the outcomes thereof in writing

(where it intends to issue a disposition, such as an order for corrective action according to the outcomes of the investigation, the details of such disposition shall be notified)(Article 43 (3)).

(7) Payment of Rewards

The Fair Trade Commission may pay a reward within budgetary limits to a person who reports or informs of a violation that falls under any of the following subparagraphs and submits evidentiary materials proving such violation: establishing, managing, or operating an organization for multi-level marketing or door-to-door sales under sponsorship without registration in violation of Article 13 (1) or 29 (3); a violation of Article 24(Article 44).

(8) Disclosure of Information about Unfair Practices

If it is necessary to establish order for fair trade in extraordinary sales and prevent consumer damage, the Fair Trade Commission may disclose the results of investigations into extraordinary sales business operators' violations of this Act and information about unfair practices(Article 45).

Section 7. Rectifications and Imposition of Penalty Surcharges

1. Recommendation to Rectify Violations

(1) Target and Principal agent of Recommendation of Correction

If a business operator violates this Act or fails to perform his/her obligation under this Act, the competent administrative authority may

determine a scheme for rectification, according to which the business operator shall cease such violation, perform such obligation under this Act, or take other measures necessary to prevent and relieve consumer damage, and may recommend the business operator to comply with the scheme before taking measures for rectification. The administrative authority shall also notify the business operator that it shall be deemed that measures for rectification are taken, if a business operator accepts such recommendation(Article 48 (1)).

When a Mayor/Do Governor or the head of a Si/Gun/Gu makes a recommendation to rectify a violation, he/she shall report thereon to the Fair Trade Commission. If the Fair Trade Commission deems it necessary for the efficient enforcement of this Act, it may request a Mayor/Do Governor or the head of a Si/Gun/Gu to conduct an investigation or verification, to submit data, or to take other measures necessary for rectification. In such cases, a Mayor/Do Governor or the head of a Si/Gun/Gu shall comply with such request, unless he/she has justifiable cause not to comply(Article 47).

(2) Acceptance of a recommendation for rectification and its Effect

A business operator shall notify the administrative authority recommending rectification of whether he/she accepts the recommendation within ten days from the date on which he/she is notified thereof(Article 48 (2)). It shall be deemed that measures for rectification under Article 49 are taken when a business operator accepts such recommendation upon recommendation to rectify a violation(Article 48 (3)).

2. Measures for Rectification, etc.

(1) Target and Principal agent of Measures for Rectification

If a business operator commits an act that falls under any of the following or fails to perform his/her obligation under this Act, the Fair Trade Commission may order the business operator to take measures to rectify such violation or non-performance: a violation of any provision of Articles 5 (1) through (3), 6, 7 (1) through (3) and (5), 8 (5), 9, 10 (1), 12 (1), 13 (1) through (3) and (5), 14 through 24, 26 (1) and (2), 28, 29 (1) and (2), 30, 32 (1) through (3), 33, 35 (2), 37 (1), (4), (5) and (7), 42 (2), 46 (1) and (2), and 55; an act prohibited by any subparagraph of Article 11 (1), 23 (1), 24 (1), or 34 (1); and where an extraordinary sales business operator who shall preserve records of transactions in accordance with the latter part of Article 36 (2) fails to preserve such records, as prescribed by Presidential Decree, with regard to subject matters and scope of records of transactions, the period of preservation, and the method of inspection(Article 49 (1)).

(2) Contents of Measures for Rectification

Measures for rectification shall include measures falling under any of the following: cessation of the violation at issue; performance of the relevant obligation provided for in this Act; public announcement of the fact that measures have been taken for rectification; measures necessary for preventing of and redressing for, consumer damage; and other measures necessary for rectification(Article 49 (2)).

(3) Suspension of Business Operation

If a business operator falls under any of the following, the Fair Trade Commission may order the business operator to suspend operation of business completely or partially for a specified period not exceeding one year: if identical violations recur twice or more during the latest three years, notwithstanding the measures taken for rectification (violations shall be counted from the date on which such measures are taken); if a business operator fails to perform measures for rectification; and if it is found impracticable to prevent consumer damage only by measures for rectification or impossible to compensate consumers for their loss(Article 49 (4)).

(4) Revocation of Registration

If a business operator registers business under Article 13 (1) by fraud or other wrongful means, the Fair Trade Commission or the competent Mayor/Do Governor shall revoke the registration of the business operator. The Fair Trade Commission or the competent Mayor/Do Governor may revoke such registration, if a business operator falls under the following cases: if a business operator falls under a ground for disqualification under any subparagraph of Article 14; if a contract for indemnity insurance against consumer damage or a similar contract is terminated; or if a business operator continues business during a period of business suspension (Article 49 (5)).

(5) Exemption of Measures for Rectification

If an administrative authority receives a petition from a consumer for redressing his/her loss in connection with a violation of this Act, the

administrative authority may request an organization for mediation of disputes over consumer damage to mediate such disputes, among institutions or organizations that carry out affairs related to protection of consumers in extraordinary sales, before making a recommendation of rectification or taking measures for rectification. If parties accept and perform a proposal for the mediation requested, the administrative authority shall notify the parties concerned that no measures for rectification will be taken. If parties to mediation accept and perform a proposal for the mediation requested, the Fair Trade Commission shall not take measures for rectification. When the Fair Trade Commission requests to mediate a dispute, it may subsidize the mediator for expenses incurred in mediation of the case, within budgetary limits(Article 50).

3. Penalty Surcharges

(1) Target of Penalty Surcharges

The Fair Trade Commission may impose a penalty surcharge upon a business operator within the limit not exceeding the sales related to the relevant violation in lieu of business suspension. In such cases, if no related sales have been made or it is impossible to determine related sales, a penalty surcharge may be imposed within the limit not exceeding 50 million won(Article 51 (1)).

(2) Consideration Factors in Imposing Penalty Surcharge

The Fair Trade Commission shall take the following factors into consideration in imposing a penalty surcharge: the degree of loss inflicted upon the consumer by the violation; the degree of efforts that the

business operator has made to make up for the consumer's loss; the amount of benefits acquired by the violation; and details, the period, and frequency of violations. For the purpose of imposing and collecting a penalty surcharge, if a company as business operator who violated this Act is merged with another company, the company surviving the merger or the company newly established in the course of the merger shall be deemed to have committed the violation so that the Fair Trade Commission may impose a penalty surcharge on such company and collect such penalty surcharge therefrom(Article 51).

Section 8. Penalty

1. Penalty Provisions

- (1) Imprisonment with prison labor for not more than seven years or a fine not exceeding 200 million won

Any person who falls under any of the following subparagraphs (including cases to which any of the following subparagraphs shall apply mutatis mutandis pursuant to Article 29 (3)) shall be punished by imprisonment with prison labor for not more than seven years or by a fine not exceeding 200 million won. If an amount equivalent to three times the total amount of proceeds for a sale or transaction that is made by a person falling under any of the following subparagraphs, in connection with a violation of this Act, exceeds 200 million won, such person shall be punished by imprisonment with prison labor for not more than seven years or by a fine not exceeding three times the total amount of proceeds for the sale or transaction(Article 58):

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- ① A person who establishes and manages or operates a multi-level marketing organization or door-to-door sales organization under sponsorship without registration under Article 13 (1) (including where registration is revoked under Article 49 (5));
- ② A person who establishes and manages, or operates a multi-level marketing organization or door-to-door sales organization under sponsorship with registration completed under Article 13 (1) by fraud or other wrongful means;
- ③ A person who commits an offense prescribed in Article 23 (1) 8;
- ④ A person who commits an offense prescribed in Article 24 (1) or (2).

Imprisonment with labor and a fine under paragraph (1) may be imposed concurrently.

- (2) Imprisonment with prison labor for not more than five years or a fine not exceeding 150 million won

Any person who falls under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than five years or by a fine not exceeding 150 million won: Any person to whom any of the following subparagraphs shall apply *mutatis mutandis* pursuant to Article 29 (3) shall be punished by imprisonment with prison labor for not more than three years or by a fine not exceeding 100 million won(Article 59):

- ① A person who violates Article 22 (2);
- ② A person who commits an offense prescribed in Article 23 (1) 1 or 2;
- ③ A person who commits an offense prescribed in Article 29 (1).

Imprisonment with labor and a fine under paragraph (1) may be imposed concurrently.

- (3) Imprisonment with prison labor for not more than three years or a fine not exceeding 100 million won

Any person who falls under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than three years or by a fine not exceeding 100 million won: Any person to whom any of the following subparagraphs shall apply *mutatis mutandis* pursuant to Article 29 (3) shall be punished by imprisonment with prison labor for not more than two years or by a fine not exceeding 50 million won(Article 60):

- ① A person who files a false report in violation of Article 13 (2) or (3);
- ② A person who makes a false statement in pocketbooks for multi-level marketing salespersons under Article 15 (5);
- ③ A person who fails to refund a price for goods or services in violation of Article 18 (2);
- ④ A person who violates Article 20 (3) or (5);
- ⑤ A person who violates Article 21 (1) or (3);
- ⑥ A person who violates Article 22 (1) or (4);
- ⑦ A person who commits an offense prescribed in Article 23 (1) 3, 5, 7, or 11;
- ⑧ A business operator who submits false data about execution or maintenance of an insurance for indemnity insurance against consumer damage, etc. in violation of Article 37 (5);
- ⑨ A person who uses a mark provided for in Article 37 (6) or produces or uses any similar mark in violation of Article 37 (7);
- ⑩ A person who fails to comply with an order issued under Article 49 (1) to take measures for rectification;

① A person who continues operation of business in violation of an order issued under Article 49 (4) to suspend operation of business. Imprisonment with labor and a fine under paragraph (1) may be imposed concurrently.

(4) Imprisonment with prison labor for not more than two years or a fine not exceeding 50 million won

Any person who falls under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than two years or by a fine not exceeding 50 million won(Article 61):

- ① A person who commits an offense prescribed in Article 11 (1) 1, 2, or 5;
- ② A person who commits an offense prescribed in Article 34 (1) 1, 2, or 5.

Imprisonment and a fine under paragraph (1) may be imposed concurrently.

(5) Imprisonment with labor for not more than one year or a fine not exceeding 30 million won

Any of the following persons (including where any of the following subparagraphs shall apply mutatis mutandis pursuant to Article 29 (3)) shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding 30 million won(Article 62):

- ① A person who fails to file a report in violation of Article 5 (1) or files a false report;
- ② A person who commits an offense prescribed in Article 11 (1) 3;
- ③ A person who ceases to perform business affairs that shall be

continued during a period of voluntary or involuntary business suspension in violation of Article 12 (1) or 26 (1);

- ④ A person who fails to submit data in violation of Article 13 (5) or submits false data;
- ⑤ A person who actually works as a multi-level marketing salesperson without registering under Article 15 (1);
- ⑥ A person registered as a multi-level marketing salesperson, despite having been disqualified for registration as a multi-level marketing salesperson under the provisions of Article 15 (2) 1 or 3 through 5;
- ⑦ A multi-level marketer who admits a minor as a multi-level marketing salesperson in violation of Article 15 (2) 2;
- ⑧ A person who states false information in a certificate of registration of a multi-level marketing salesperson under Article 15 (3);
- ⑨ A person who enters a false statement in a register of multi-level marketing salespersons in violation of Article 15 (4);
- ⑩ A person who commits an offense prescribed in Article 23 (1) 9;
- ⑪ A person who enters a false statement in records of transactions of goods or services under Article 33.

(6) Fine not exceeding 10 million won

Any person who falls under any of the following subparagraphs (including where any of the following subparagraphs shall apply *mutatis mutandis* pursuant to Article 29 (3)) shall be punished by a fine not exceeding ten million won(Article 63):

- ① A person who make a false representation in stating his/her name, etc. in violation of Article 6 (3);

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- ② A person who issues a contract with a false statement written therein when issuing a contract under Article 7 (2), 16, or 30 (2);
- ③ A person who commits an offense prescribed in Article 11 (1) 4 or 7;
- ④ A person who commits an offense prescribed in Article 34 (1) 3, 4, or 7.

(7) Imprisonment with prison labor for not more than two years or a fine not exceeding two million won

Any person who violates Article 62 of the Monopoly Regulation and Fair Trade Act, which shall apply mutatis mutandis pursuant to Article 57 (4), shall be punished by imprisonment with prison labor for not more than two years or by a fine not exceeding two million won(Article 64).

(8) Joint Penalty Provisions

If the representative of a corporation, or an agent, employee, or servant who works for a corporation or individual violates any provision of Articles 58 through 63 in the course of affairs of the corporation or individual, not only shall such violator be punished accordingly, but also the corporation or individual shall be punished by a fine prescribed in the relevant article: The foregoing shall not apply where the corporation or individual has not been negligent in giving due care and supervision to prevent such violation, with regard to the relevant affairs. If a person who violated any provision of Articles 58 through 63 or a person who shall be punished by a fine under paragraph (1) has already been punished by the Fair Trade Commission or a Mayor/Do Governor or has compensated the relevant consumer for damage, punishment that shall be

imposed otherwise under any provision of Articles 58 through 63 may be mitigated or discharged(Article 65).

2. Administrative Fines

(1) Administrative Fine not Exceeding 10 Million Won

Any person who falls under any of the following subparagraphs (including where any of the following subparagraphs shall apply mutatis mutandis pursuant to Article 29 (3)) shall be punished by an administrative fine not exceeding ten million won(Article 66 (1)):

- ① A person who fails to refund the price for goods or services in violation of Article 9 or who fails to take measures necessary for refunding;
- ② A person who commits an offense prescribed in Article 11 (1) 6, 23 (1) 4, or 34 (1) 6;
- ③ A person who commits an offense prescribed in Article 11 (1) 8, 23 (1) 6, or 34 (1) 8;
- ④ A person who fails to file a report in violation of Article 13 (2) or (3);
- ⑤ A person who fails to issue a certificate of registration to a multi-level marketing salesperson in accordance with Article 15 (3) or a pocketbook to a multi-level marketing salesperson in accordance with Article 15 (5);
- ⑥ A person who fails to keep a registrar of multi-level marketing salespersons, in violation of Article 15 (4) or who fails to allow a consumer to verify the identity of a multi-level marketing salesperson;
- ⑦ A person who commits an offense prescribed in Article 23 (1) 10;

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- ⑧ A person who bills an excessive amount for penalty or refuses to refund proceeds in violation of Article 32;
- ⑨ A person who makes a telemarketing call to a consumer, in violation of Article 42 (2);
- ⑩ A person who violates this Act and fails to comply with orders issued under Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act, which shall apply mutatis mutandis pursuant to Article 57 (2), to make an appearance twice or more without justifiable cause;
- ⑪ A person who fails to submit a report or necessary data or things in accordance with Article 50 (1) 3 or (3) of the Monopoly Regulation and Fair Trade Act, which shall apply mutatis mutandis pursuant to Article 57 (2), or who makes a false representation in submitting such report, data, or things;
- ⑫ A person who refuses, interferes with, or evades an investigation conducted under Article 50 (2) of the Monopoly Regulation and Fair Trade Act, which shall apply mutatis mutandis pursuant to Article 57 (2).

(2) Administrative Fine not Exceeding Five Million Won

Any person who falls under any of the following subparagraphs (including where any of the following subparagraphs shall apply mutatis mutandis pursuant to Article 29 (3)) shall be punished by a fine not exceeding five million won(Article 66(2)):

- ① A person who fails to file a report in accordance with Article 5 (2) or (3) or files a false report;
- ② A person who fails to keep a list of salespersons engaging in door-to-door sales or telemarketing in violation of Article 6 (1), a

person who fails to allow a consumer to verify the identity of a door-to-door salesperson in violation of Article 6 (2), or a person who fails to state his/her name, etc. in violation of Article 6 (3);

- ③ A person who fails to issue a contract in accordance with Article 7 (2), 16, or 30 (2);
- ④ A person who amends the guidelines for calculation and payment of bonuses in violation of Article 20 (2);
- ⑤ A person who fails to allow a multi-level marketing salesperson to inspect details of calculation and payment of bonuses in violation of Article 20 (4);
- ⑥ A person who fails to notify a consumer of the expiry date of a contract in violation of Article 30 (3);
- ⑦ A person who fails to allow a consumer to inspect records of transactions of goods or services under Article 33.

Chapter III. Act on the Consumer Protection in Electronic Commerce, etc.

Section 1. Electronic Commerce, Mail Order, and Consumer Protection

1. Necessity of Consumer Protection in Electronic Commerce and Mail Order

Mail order or electronic commerce transaction is a way for consumers to conclude a contract through means of communication without a face-to-face meeting with business entities. Consumers have an advantage of being able to conclude a contract whenever and wherever they want to. However, in this case, consumers enter into a contract without receiving enough information because they do not sit down with the business operators when they conclude a contract. Also, consumers may impulsively conclude a contract based on information provided by the business entity without checking the goods beforehand. Therefore, it is necessary to help consumers conclude a contract in a rational manner and to cancel a contract that has been concluded impulsively. Furthermore, consumers pay in advance given the characteristics of non-face-to-face transactions. As a result, consumer frauds, disguised as electronic commerce transactions, frequently occur, causing consumer damage. Therefore, a measure to prevent consumer damage is in order. In order to protect consumers in mail orders or electronic commerce transactions, Act on the Consumer Protection in Electronic Commerce, Etc. was enacted in 2002.

2. History of Act on the Consumer Protection in Electronic Commerce, Etc. and Major Contents

(1) Enactment of Act on the Consumer Protection in Electronic Commerce, Etc.(2002)

- Duty to Prepare Procedures Necessary for Preventing Mistakes in Consumers Orders
- Duty of Mail Order Distributor to Provide Information
- Consumers' Rights to Cancel Orders
- Duty to Conclude Contracts, etc. on Consumer Damage Compensation Insurance
- Corrective Measures, etc of the Fair Trade Committee to Prevent Consumer Damage

(2) Revision of Act on the Consumer Protection in Electronic Commerce, Etc.(2005)

- Introduction of Escrow System
- Introduction of System for Registration of Intention to Reject Commercial Advertisements

(3) Revision of Act on the Consumer Protection in Electronic Commerce, Etc.(2012)

- Cancellation of Orders Via Electronic Documents
- Procedures to Confirm Consumers' Intent in Electronic Payment
- Hosting Service Providers' Duty to Cooperate for Settlement of Disputes
- Mail Order Brokers' Responsibility and Exemption from Responsibility

(4) Revision of Act on the Consumer Protection in Electronic Commerce, Etc.(2016)

- Duty of Electronic Message Board Service Providers to Cooperate for Settlement of Disputes
- Extension of the Record Date in the Period of Cancellation of Orders (Interfering with Cancellation of Orders)
- Adjustment of Provisions of Mail Order Brokerage
- Introduction of Temporary Suspension Order

3. Definitions

(1) Electronic Commerce Transaction

The term “electronic commerce transaction” means conducting commercial activities by means of electronic commerce(Article 2). Electronic commerce means any transaction of which the whole or part of goods or service is made through electronic documents in transacting goods or service (Framework Act on Electronic Documents and Transactions§2).

(2) Mail Order and Mail Order Brokerage

The term “mail order” means providing information on and engage, upon receiving offer of the consumer, in the sale of goods or services (including the right to use a specific facility or to be provided with services; hereinafter the same shall apply) by means of mail, tele-communications, advertisement, advertising facility, leaflet, broadcasting, newspaper and magazine, or postal money order, postal transfer, giro and account transfer while not contacting with the sellers: Sale by telemarketing

as defined in subparagraph 3 of Article 2 of the Act on Door-to-Door Sales, Etc. shall be excluded from the scope of mail order.

The term “mail order distributor” means a person who conducts sales by mail order as a business, or other person who is engaged in the mail order business in accordance with a contract with the former. The term “mail order brokerage” means the act of intermediating mail order between both parties to a transaction by means of performing part of mail order, such as providing information on mail order or receiving offer, by allowing the use of a cybermall (referring to a virtual shopping mall established to transact goods, etc. by using computers, etc. and information communications facilities), or by providing means of advertising for mail order in his/her name, or by showing his/her name in the advertising means(Article 2).

(3) Consumers and Business Operators

The term “consumer” means any of the following persons: a person who consumes (including using; hereinafter the same shall apply) goods, etc. supplied by the business operators for everyday consumption; an end user or consumer of goods, etc.: A person who consumes goods, etc. as raw material (including intermediate material) or capital goods is excluded; a business operator who as a consumer buys goods under the same terms of transaction as other consumers (limited to the relationship with a person who sold relevant goods, etc.); and a person who has bought goods, etc. for agriculture (including livestock farming) and fishery(A person who operates the deep-sea fishery with permission from the Minister of Oceans and Fisheries pursuant to Article 6 (1) of the Distant Water Fisheries Development Act shall be excluded.).

The term “business operator” means a person who manufactures (including processing or packaging; hereinafter the same shall apply), imports, or sells goods or provides services (§2).

4. Exclusion of Application

(1) Commercial Activities

The provisions of this Act shall not apply to any transaction in which a business operator (excluding a multi-level salesman as defined in subparagraph 6 of Article 2 of the Act on Door-to-Door Sales, Etc.) buys for the purpose of commercial activity: This shall not apply where the transaction is actually conducted under the same terms of transaction as other consumers in the capacity of consumer despite being a business operator (Article 3 (1)).

(2) Exemption and Alteration of Duty to Deliver a Contract

The provisions relating to the duty to deliver documents (including electronic documents; hereinafter the same shall apply) on the contents of the contract pursuant to Article 13 (2) shall not apply to the following transactions: transactions that the consumers conduct at any time in accordance with the already familiar terms and conditions or transactions of which the contents can hardly be documented in the form of a written contract, as in cases using telephone information service with wired/wireless phone etc.; and transactions covered by other Acts (excluding the Korean Civil Act and the Act on Door-to-Door Sales, Etc.) stipulating

that the duty, etc. to deliver a contract document shall be fulfilled by a method different from the ones provided for in this Act. In the case where consumers are already familiar with the terms and conditions of the transaction or in transactions of which the contents can hardly be documented in the form of a written contract, as in cases using telephone information service with wired/wireless phone etc., the contents or the methods of delivery of the documents on the contents of contract may be made different(Article 3 (2)).

(3) Exclusion of Application to Mail Order Distributors

Articles 13 through 15 and 17 through 19 shall not apply to a mail order distributor conducting the mail order brokerage between persons, other than mail order distributors(Article 3 (3)).

(4) Exclusion of Application to Financial Products

Articles 12 through 15, 17 through 20, and 20-2 shall not apply to the transactions of securities by investment traders and investment brokers under the Financial Investment Services and Capital Markets Act, transactions of financial instruments by financial companies, etc. and transactions for sale of daily necessities, food, beverage, etc. in the neighborhood(Article 3 (4)).

Section 2. Electronic Commerce Transactions and Mail Orders

1. Utilization of Electronic Documents

(1) Restriction on Effect of Electronic Documents

Notwithstanding Article 6 (2) 2 of the Framework Act on Electronic Documents and Transactions, where a business operator fails to send an electronic document (referring to the electronic message as defined in subparagraph 1 of Article 2 of the Framework Act on Electronic Documents and Transactions; hereinafter the same shall apply) to the address (referring to the data processing system as defined in subparagraph 2 of Article 2 of the Framework Act on Electronic Documents and Transactions) designated beforehand in the agreement to make a transaction by means of electronic document), the business operator shall not assert his/her right out of such electronic document: This shall not apply to any of the following cases; where transactions to a specific e-mail address have been made with a consumer on at least two occasions and electronic documents have been transmitted to the e-mail address; where the consumer has printed the electronic documents; where they are not contrary to the consumer's interest and the relevant consumer does not deny the validity of such electronic documents; and where an urgent need to contact arises and no other means than e-mails are available.

(2) Use of Electronic Document with Digital Signature

Where a business operator intends to use an electronic document with an electronic signature (referring to the electronic signature as defined in subparagraph 2 of Article 2 of the Electronic Signature Act; hereinafter the same shall apply), he/she shall notify the consumer of the validity, procedures and methods necessary for receipt, etc. of the relevant electronic document. Every business operator shall include the following matters in the main part of the e-mail which contains the electronic document with a digital signature, or notify the consumer in advance: validity of an electronic document with a digital signature; method to print an electronic document with a digital signature(Article 5 (2)).

In using electronic documents, a business operator shall neither compel (including de facto compulsion of any specific digital signature due to employment of special standards, etc.) the consumer to use a specific method of digital signature, and nor unreasonably limit the use of a certain method of digital signature chosen by the consumer(Article 5 (3)).

(3) Withdrawal of Membership via Electronic Document, etc.

Where a business operator who conducts electronic commerce transactions makes it possible for a consumer to join a membership, to subscribe for a contract, or to provide information related to the consumer, etc. through an electronic document, he/she shall also make it possible to withdraw a membership, cancel an order, terminate, revoke or change a contract, or withdraw consent to the provision and use of information, etc. through an electronic document(Article 5 (4)). When a business operator who conducts electronic commerce transactions fulfills the obligations, business operators

who are related to the establishment and operation of the relevant cybermall shall cooperate with him/her by taking measures for fulfilling such obligations or other necessary measures therefor(Article 5 (7)).

(4) Provision of Confirmation concerning Transaction

If a business operator who conducts electronic commerce transactions is requested by a consumer to provide confirmation or certification concerning the transaction of goods, etc. through an electronic document, he/she shall comply with such request(Article 5 (5)). When a business operator who conducts electronic commerce transactions fulfills the obligations, business operators who are related to the establishment and operation of the relevant cybermall shall cooperate with him/her by taking measures for fulfilling such obligations or other necessary measures therefor(Article 5 (7)).

2. Preservation of Transaction Records

(1) Duty to Preserve Transaction Records

A business operator shall preserve the records on transactions, such as marks, advertisements in the electronic commerce transactions and mail orders, contents of contracts and execution thereof, for a substantial period of time. In such cases, an easy way of perusal and maintenance for consumers shall be provided. Notwithstanding the provisions of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. and other Acts related to the protection of personal information, a business operator may preserve the transaction records that he/she is liable to preserve, and personal information (limited

to the information to identify the subject of a transaction, such as name, address and resident registration number) relating thereto, even if the consumer withdraws consent to the use of personal information(Article 6).

(2) Methods and Period of Preservation of Transaction Records according to Type of Transaction

1) Period of Transaction Records to be Preserved

Business Operators shall preserve the following: records related to indication and advertisement: Six months; records related to contracts and cancellation, etc. of orders: five years; records related to payment and supply of goods, etc.: five years; records related to settlement of consumer complaints or disputes: three years.

2) Methods of Perusal and Maintenance of Transaction Records

First, business operators shall allow the consumer who is a party to a transaction to peruse and confirm the transaction records at the relevant cybermall where the transaction has been concluded, and store it in the data processing system, etc. in the form of electronic document. Second, business operators shall allow the consumer who is a party to a transaction to peruse or copy the transaction records with him/her at the request of the consumer by means of visit, telephone, facsimile, e-mail, etc.: Where the works falling under any of Articles 4 through 6 (excluding works which can be copied under the Copyright Act) exist in the transaction records, copying thereof may be refused. Third, where the business operator keeps the transaction records and the personal information of the consumer who withdraws his/her consent to the use of his/her personal information, the business operator shall keep the transaction records and personal

information of other consumers who do not withdraw their consent to the use of their personal information separately from the personal information of the consumer who does.

(3) Utilization, etc. of Information on Consumers

When a business operator collects or utilizes information (including provision of such information to a third party; hereinafter the same shall apply) on consumers for an electronic commerce transaction or mail order, he/she shall fairly collect or utilize it pursuant to the relevant provisions, such as the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. Where property damage occurs to consumers or any special grounds exist for the possibility of occurrence of such damage due to fraudulent use of information on consumers in the transaction of goods, etc., the relevant business operator shall take necessary measures, such as verification of the person himself/herself or recovery from damage(Article 11).

3. Securing Confidence in Electronic Payment

(1) Information Security

Where a business operator uses an electronic means in the payment of transaction amount (hereinafter referred to as “electronic payment”), the persons related with the electronic payment, such as the business operator, the issuers of the relevant electronic means of settlement, providers of electronic settlement service, or persons who assist in or mediate the provision of electronic settlement service (hereinafter referred to as

“electronic settlement business operators, etc.”) shall take measures necessary for maintaining security of the relevant information(Article 8 (1)).

(2) Procedures for Consumers to Confirm

Where an electronic payment is made, the business operator, electronic settlement business operator, etc. shall clearly notify the following matters to confirm whether the consumer’s intent of offer is the declaration of his/her true will and shall provide consumers with a window for electronic settlement prepared by an electronic settlement business operator, through which a consumer can choose whether or not to consent to the matters: contents and kind of goods, etc.; prices of goods, etc.; and service period. In such cases, the business operator, electronic settlement business operator, etc. shall not proceed with the confirmation procedure by way of providing in advance the indication of consent before the consumer himself/herself chooses whether to consent thereto(Article 8 (2)).

(3) Notification to Consumer about Electronic Payment

Where an electronic payment is made, the business operator, electronic payment business operator, etc. shall give notification to consumer about electronic payment immediately through telephone, fax, cellular phone etc, and to mark the transaction details, utilization charge, contact number (telephone number, e-mail address etc.)of the business operator offering goods etc., when notification on the utilization charge is made on the monthly set date. Where consent of consumer is made in advance, the notification or mark can be omitted. Also, the business operator, electronic payment business operator, etc. shall make the consumer’s perusal of data on the electronic payment available at any time(Article 8 (3)).

(4) Electronic Payment Means

An issuer of the means of settlement for making advance payment of the price for the purchase or use of goods, etc. as a means of electronic payment used in a cybermall shall notify each item below to a consumer: name of representative, address of main office, telephone number, e-mail address, volume of capital and conditions of owner's equity etc.; whether insurance contract of compensation to consumers' damage etc. was concluded and the contents of the contract(including the amount of debt guaranteed) and matters necessary to confirm the contract; cash-refund of remaining amount and matters related; disposal standard of return and matters related to encashment; current condition of the cyber mall that is able to use the relevant payment method; limitations on and cautions for the use of relevant payment method; other matters that may cause damage to a consumer who use relevant payment method where mark or notification are not given to a consumer(Article 8 (4)).

(5) Cooperation in Settlement of Dispute

Where a dispute between a business operator and a consumer arises regarding the electronic settlement, the electronic settlement business operator, etc. shall cooperate with the settlement of such dispute by allowing perusal and copy of the information (including the information on the authentication of customer) regarding the payment of price, which caused the dispute; perusal and copy of the information related to the measures for maintaining confidentiality taken by the electronic settlement business operator, etc. regarding the payment, which caused the dispute.

However, the disclosure of information, which is likely to cause hindrance to confidentiality, may be denied(Article 8 (5)).

4. Cooperation of Delivery Business Operators, etc.

(1) Cooperation in Settlement of Dispute

A business operator who conducts delivery (including electronic transmission through the information communications network (hereinafter referred to as “information communications network”) pursuant to Article 2 (1) 1 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.) of goods, etc. consequent upon electronic commerce transaction or mail order, shall cooperate in the settlement of dispute, if a dispute arises out of an accident or obstruction, etc. of delivery. Where a consumer requests any cooperation explaining the occurrence of a dispute, the business operator conducting the delivery of goods, etc. shall, without delay, cooperate in the following matters within the extent necessary for the settlement of dispute: perusal or provision of the records related to delivery; perusal of records to confirm the facts related to accident or hindrance(Article 9 (1)).

(2) Hosting Business Operator’s Measures to Confirm Personal Identity

Where a person who provides hosting services (referring to the services for the establishment of cybermalls, management of servers, etc. for business operators to conduct electronic commerce transactions) concludes a contract for the use of hosting services with a business operator, he/she shall take measures for confirming the personal identity of the business operator(Article 9 (2)).

(3) Provision of Data

Where any dispute arises between a business operator and a consumer, a person who provides hosting services shall, upon request of any of the following persons, shall cooperate for the settlement of such disputes by providing name and resident registration number of the business operator (if requested by a consumer, referring to the date of birth); trade name (in the case of a corporation, including the name and resident registration number of the representative (if requested by a consumer, including the date of birth)), address and telephone number: the consumer who is a party to the dispute (the case is limited to a situation where the consumer has filed a lawsuit); the Fair Trade Commission; any of the Special Metropolitan City Mayor, Metropolitan City Mayors, Do Governors or the Governor of a Special Self-Governing Province (hereinafter referred to as “Mayor/Do Governor”) or the head of a Si/Gun or Gu (referring to the head of an autonomous Gu; hereinafter the same shall apply); an investigation agency; the Korea Consumer Agency; the Consumer Dispute Mediation Commission; the Electronic Document and E-Commerce Mediation Committee; and the Content Dispute Resolution Committee (Article 9 (3)).

5. Responsibilities of Electronic Message Board Service Providers

(1) Electronic Board Service Providers

The term “electronic message board service provider” means a provider of information and communication service under Act on Promotion of Information and Communications Network Utilization and Information

Protection, etc. Article 2 (1) 3(Article 9-2 (1)), who runs the message board within the meaning of Article 2 (1) 9.

(2) Duty of Electronic Message Board Service Providers

Where a mail order or mail order brokerage is conducted in a message board, the electronic message board service provider shall introduce and recommend to those who conduct sales by mail order or broker mail order via message board as a business (hereinafter referred to as “mail order distributor using message board”) the duty of them under this Act to help them observe it in order to prevent consumer damage. Where a dispute arises between a mail order distributor using message board and a consumer, the electronic message board service provider shall establish and operate an agency to apply for a damage relief on behalf of consumers and execute other necessary matters to prevent consumer damage, at the request of consumers(Article 9-2 (1)).

(3) Measures to Check Identification and Cooperation for Dispute Resolution

Electronic message board service providers shall take measures to check a mail order distributor’s identification under Article 13 (1) 1 and Article 13 (1) 2(Article 9-2 (2)). If a dispute arises between a consumer and a mail order distributor using message board, the electronic message board service provider shall help resolve the dispute by providing dispute arbitration organization on the consumer damage, the Fair Trade Commission, Mayor/Do Governor, and the head of a Si/Gun or Gu, the identification information of the mail order distributor using message board acquired from identification confirmation procedure, at the request of them(Article 9-2 (3)).

Section 3. Consumer Protection in Electronic Commerce and Mail Order

1. Operation of Cybermalls

(1) Duty of Indication

The operator of a cybermall conducting the electronic commerce transaction shall indicate the following matters, so that consumers can easily identify the business operator's identity, etc.: trade name and name of the representative; address of the location of the business place (including the address where consumer's complaint can be settled); telephone number and e-mail address; business registration number; terms and conditions of service of the cybermall; and other matters necessary for consumer protection(Article 10 (1)).

(2) Duty to Cooperate in Corrective Measures

The operator of a cybermall shall cooperate in the measures necessary for correction in the part where the operator should take measures, if any violation of this Act is committed in the cybermall(Article 10 (1)).

2. Reporting, etc. by Mail Order Business

(1) Report of Business

A mail order distributor shall file a report on each of the following matters to the Fair Trade Commission, a Special Metropolitan City Mayor, or the head of a Si/Gun/Gu,: trade name (including the name and

resident registration number of the representative in the case of a corporation), address, and telephone number; E-mail address, Internet domain name, and location of host server computers; and other matters necessary for the verification of identity of the business operator. This shall not apply where the frequency, scale, etc. of mail order transactions falls below the criteria determined by the Fair Trade Commission for a public notification(Article 12 (1)).

(2) Report of Modification, etc.

Where a mail order distributor intends to modify the matters reported, he/she shall report thereon(Article 12 (2)). When a mail order distributor who has filed a report suspends or closes his/her business, or resumes his/her business after suspension, he/she shall report thereon(Article 12 (3)).

3. Provision of Information and Issuance of Contracts

(1) Provision of Information in Placing Advertisements

In placing indications or advertisements to take orders for transaction of goods, etc., a mail order distributor shall include therein each of the following matters: trade name and name of the representative; address, telephone number and e-mail address; matters by which the fact of reporting can be verified, such as the number of a report filed with the Fair Trade Commission, a Special Metropolitan City Mayor, or the head of a Si/Gun/Gu and the name of the agency which has accepted such report(Article 13 (1)).

(2) Duty to Provide Information

A mail order distributor shall indicate, advertise, or notify the following matters in an appropriate manner so that the consumers can understand the terms of transaction of goods, etc. accurately before concluding a contract and make such a deal without any error or discrepancy: trade names of the supplier and seller of the goods, and names, addresses, telephone numbers, etc. of representatives thereof; name, kind and contents of the goods, etc.; matters concerning the information on the goods, etc. In such cases, the description marked on the product may substitute the written description on the contents of contract; price (where the price is not decided, detailed method of decision thereof) of the goods, etc., method of payment and time to make payment; method and date of supply of the goods, etc.; matters regarding the time limit, method of exercise, and effect, of cancellation of an order or revocation of a contract (hereinafter referred to as “cancellation, etc. of an order”) (including forms necessary for exercising the right to withdraw an order, etc.); exchange, return and guarantee of the goods, etc., terms and procedures of refund thereof, and the payment of the compensation for delay of the refund; technical matters necessary for the electrical transmission, installation, etc. of the goods, etc. which can be supplied by means of electronic medium; matters concerning handling of compensation to consumers’ damage, settlement of complaint on the goods, etc. and settlement of dispute between consumers and business operators; terms and conditions of the transaction (including the ways to verify the details of such terms and conditions); fact that the consumer may choose to deposit funds for settling the price of goods, etc. with a third party until he/she is supplied

with the goods, etc. (hereinafter referred to as “escrow system”) or to require the mail order distributor to conclude a contract, etc. of consumer damage compensation insurance under Article 24 (1) for the purpose of securing the safety of purchase (limited only to the prepaid mail order under Article 15 (1) and excluding a transaction falling under any subparagraph of Article 24 (3)); details and amount where consumers should pay for in addition to the price of goods, etc., expenses for exchange or return, etc.; details of limits to the terms of sale, such as date, area, quantity of sales, and place of delivery, if any(Article 13 (2)).

When a mail order distributor concludes a contract on the transaction of goods, etc. with a minor, he/she shall inform the minor of the fact that if his/her legal representative does not agree to the contract, the minor himself/herself or his/her legal representative can cancel the contract (Article 13 (3)).

The Fair Trade Commission may determine and publicly notify the matters concerning the trade name, etc. of mail order distributors, the matters concerning the information on goods, etc. and contents and methods of indication, advertisement and announcement of the terms of transaction. In such cases, methods of indication, advertisement and announcement may be determined differently in consideration of the method of transaction or the characteristics of the goods, etc(Article 13 (4)).

(3) Issuance of Contracts

If a contract is concluded, a mail order distributor shall issue documents stating the matters above regarding the contents of such contract to the other party of the contract before supplying the goods, etc.: The documents may be issued to a person who receives the goods, etc. in lieu of the

other party to the contract to the extent that does not infringe upon the rights of the latter(Article 13 (2)).

4. Measures to Prevent Discrepancies

(1) Prevention of Errors in Manipulation, etc.

A business operator shall prepare procedures necessary for the confirmation and correction of contents, before the time of imposition of transaction amount or the placement of an order by a consumer, in order to prevent damage caused by discrepancies, etc. in the declaration of will due to consumer's error in manipulation, etc. in the electronic commerce transaction (Article 7).

(2) Confirmation of Orders

A mail order distributor shall promptly notify the consumer of the information regarding the confirmation of receipt of the declaration of will of order, and possibility of sale, if he/she takes an order from a consumer regarding the transaction of goods, etc. A mail order distributor shall have the adequate procedures that enable consumers to confirm, correct or cancel the contents of order before concluding a contract (Article 14).

5. Supply of Goods, etc.

(1) Supply

A mail order distributor shall take measures necessary for the supply of goods, etc. within seven days from the day the consumer orders, and,

in the case of a mail order for which the consumer pays all or part of the price of such goods, etc. before being supplied with them (hereinafter referred to as “prepaid mail order”), he/she shall take measures necessary for the supply of the goods, etc. within three business days from the day the consumer pays all or part of the price: This shall not apply where there is a separate agreement upon the supply timing of goods, etc. between the consumer and the mail order distributor(Article 15 (1)). A mail order distributor shall take adequate measures so that consumers can confirm the supply procedure of goods, etc. and the processing status. In such cases, the Fair Trade Commission may determine and publicly notify matters necessary for such measures(Article 15 (3)).

(2) Refund of Payment in Case of Failure of Supply

When finding difficulties in the supply of ordered goods, etc., a mail order distributor shall inform the consumer of the reason without delay, and, in the case of a prepaid mail order, refund the price or take the measures necessary for refund within three business days from the day the consumer pays all or part of the price(Article 15 (2)). Article 18 (1) through (5) shall apply mutatis mutandis to refunding or taking necessary measures for refund in the prepaid mail order(Article 15 (4)).

6. Withdrawal of Offer

(1) Exercise Period

A consumer who has concluded a contract with a mail order distributor on the purchase of goods, etc. may withdraw the offer relating to the relevant contract within the following period: seven days from the day a

document on the contents of the contract was received; seven days from the day the goods, etc. have been supplied, or the supply of the goods, etc. has begun where the supply of the goods, etc. has been performed later than the delivery of document; seven days from the day he/she knew or he/she could have known the address, where a document on the contents of a contract has not been handed over, a document not stating the address, etc. of the mail order distributor has been received, or the withdrawal of offer cannot be made within seven days due to the change of address of the mail order distributor or other reasons, seven days from the day he/she knew or he/she could have known the address; seven days(referring to the period agreed by the parties to a transaction, if it exceeds the period prescribed above) from the day of the end of interfering with withdrawal of offer, where there is acts of interfering with withdrawal of offer(Article 17 (1)).

Where the contents of the goods, etc. are different from the contents of indication or advertisement, or have been performed contrary to the contents of the contract, the consumer may withdraw an offer, etc. within three months from the day the goods, etc. have been supplied, or within 30 days from the day he/she knew or could have known the fact(Article 17 (3)).

(2) Causes of Exclusion and Exclusionary Measures

In any of the following cases, no consumer is entitled to withdraw an offer: where the goods, etc. have been destroyed or damaged due to a cause attributable to the consumer(This shall not apply where the package, etc. has been damaged to confirm the contents of the goods, etc.); where the value of the goods, etc. has substantially decreased due

to a cause attributable to the consumer; where the value of the goods, etc. has substantially decreased as to cause difficulty in resale due to the elapse of time; where the package of the reproducible goods, etc. has been destroyed; where services or digital contents under the Framework Act on the Promotion of Cultural Industries Article 2 (5) have already started to be provided(This shall not apply to undelivered parts of the services or contents, where the services or the contents are composed of a number of identical divisible parts in the contract); and where granting of withdrawal of offer for goods, etc. is expected to bring a serious unrecoverable loss to the mail order distributor, as in the goods, etc. produced separately on consumer's order or other goods, etc. similar thereto, and where such fact has been notified separately in advance with respect to the relevant transaction and the consumer's consent has been obtained in writing(including electronic documents). When the mail order distributor fails to take exclusionary measures, the consumer may withdraw an offer even in cases falling under the second case through the fifth case(Article 17 (2)).

In the case of the goods, etc. for which it is impossible to withdraw an offer, a mail order distributor shall employ the methods, such as writing expressly the fact on the package of the goods, etc. or a place where the consumer can easily recognize, or supplying test goods, or other methods, and take necessary measures not to encumber the exercise of right to withdraw an offer: In the case of digital contents for which it is impossible to withdraw an offer, a mail order distributor shall indicate the impossibility of the cancellation of the order and take necessary measures, such as supplying test contents, not to encumber the exercise of right to withdraw an offer(Article 17 (6)).

If a dispute arises as to whether the consumer is responsible for the damage to the goods, etc., whether and when the contract on the purchase of the goods, etc. was signed, and whether and when the goods, etc. were supplied, the mail order distributor shall have the burden of proving the fact(Article 17 (5)).

(3) Effect of withdrawal of offer

1) Effective Date

Where the withdrawal of offer is made in writing, the declaration of will shall come into force on the day the document bearing the declaration of will is sent(Article 17 (4)).

2) Return of Goods

Where a consumer has performed the withdrawal of offer, he/she shall return goods, etc. already supplied to him/her: (This shall not apply to services or digital contents that have already been supplied)(Article 18 (1)). Where goods, etc. have already been partially used or consumed, a mail order distributor may request a consumer to pay the amount within the extent prescribed by Presidential Decree equivalent to the profit the consumer gained by use or consumption of part of the goods, etc., or equivalent to the expense incurred in the supply of the goods, etc(Article 18 (8)). In general cases of withdrawal of offer, the expense incurred in returning supplied goods, etc. shall be borne by a consumer and a mail order distributor shall not request the consumer either the penalty for breach of contract, or compensation for damage(Article 18 (9)). In cases of withdrawal of offer due to nonperformance of obligation of the business

operator, the expense incurred in returning goods, etc. shall be borne by a mail order distributor(Article 18 (10)).

3) Refund of Payment

A mail order distributor(including a person who has been paid the price of goods, etc., or a person who has concluded a contract on mail order with a consumer) shall refund the price of goods, etc., which was already paid, within three business days from the date he/she has received the returned goods, etc, within three business days from the date of the withdrawal of offer where the mail order distributor has already supplied services or digital contents or where the mail order distributor has not supplied goods, etc. In such cases, if the mail order distributor delays the refund of the price of the goods, etc. to the consumer, the mail order distributor shall pay interest on delay(hereinafter referred to as “compensation for delay”)(Article 18 (2)). In refunding the price of goods, etc., when a consumer has paid the price of goods, etc. with a credit card as defined in subparagraph 3 of Article 2 of the Specialized Credit Finance Business Act, a mail order distributor shall promptly request a business operator who has supplied the relevant means of settlement (hereinafter referred to as “settlement business operator”) to stop or cancel the request for the price of the goods, etc.: If the mail order distributor has already received the price of the goods, etc. from the settlement business operator, he/she shall promptly refund it to the settlement business operator, and notify the consumer of this fact(Article 18 (3)). A settlement business operator who has received the refund of the price of goods, etc. shall promptly refund it to a relevant consumer or take measures necessary to refund(Article 18 (4)). A mail order

distributor who had a consumer pay a price due to a delayed refund, shall pay compensation for delay for the delayed period to the consumer (Article 18 (5)). Where a mail order distributor fails to refund a price to a settlement business operator without any justifiable ground, a consumer may request the settlement business operator to offset the amount to be refunded by other debt he/she owes to the relevant mail order distributor. In such cases, the settlement business operator may offset by other debt that he/she owes to the relevant mail order distributor (Article 18 (6)). Where a settlement business operator delays an offset without any justifiable ground, the consumer may refuse to settle the price to the settlement business operator. In such cases, neither mail order distributor nor the settlement business operator shall do any act that gives disadvantage to the consumer, such as dealing the relevant consumer as a person who fails to fulfill his/her obligation within an agreed period because of the refusal of such settlement (Article 18 (7)). Where a mail order distributor, a person who has been paid the price of goods, etc., or a person who has concluded a contract on a mail order with a consumer is not the same person, each one shall be liable jointly and severally to the fulfillment of obligation relating to the refund of the price of the goods, etc. consequent upon the withdrawal of offer (Article 18 (11)).

7. Restriction on Amount of Compensation for Damage

(1) Calculation of Amount of Compensation for Damage

Where a contract on the sale of goods, etc. is cancelled due to a cause attributable to the consumer, the compensation for damage the mail order distributor claims against the consumer shall not exceed the amount

computed by adding the compensation for delay following the nonpayment of price to the amount classified in the following: first, where a contract on the sale of goods, etc. is cancelled due to a cause attributable to the consumer, the compensation for damage the mail order distributor claims against the consumer shall not exceed the amount computed by adding the compensation for delay following the nonpayment of price to the amount classified in the following: whichever is larger between the usual rental fee of the returned goods, etc. or the amount equivalent to the usual benefit from the use of them and the amount computed by subtracting the price of the returned goods, etc. at the time of return from the selling price of the goods, etc.; second, where the supplied goods, etc. are not returned: The amount equivalent to the selling price of the goods, etc.(Article 19 (1)).

(2) Notification of Standards to Calculate Compensation Amount for Damage

In order to smoothly resolve disputes following the claim on the compensation for damage between mail order distributors and consumers, the Fair Trade Commission may, if necessary, determine and publicly notify the standards to calculate the compensation amount for damage(Article 19 (2)).

8. Mail Order Brokerage

(1) Duty and Responsibilities of Mail Order Brokers

Those who broker mail orders (hereinafter referred to as “mail order broker”) shall announce beforehand the fact that they are not a party to

the mail order, in the manner for consumers to easily recognize it. If a person who has requested the mail order brokerage (hereinafter referred to as “requester of mail order brokerage”) is a business operator, a mail order broker, who does mail order brokerage as a business (hereinafter referred to as “mail order broker”) shall confirm the name (where the business operator is a corporation, the name thereof and the name of its representative), address, telephone number and other matters, and provide them to consumers before concluding an order, and if a requester of mail order brokerage is not a business operator, he/she shall confirm the name, telephone number and other matters and provide each party to the transaction with the method to inspect the information on the other party. In order to resolve complaints or disputes occurring from the use of cybermalls, etc., a mail order broker shall find out the cause thereof, comprehend damage and take other necessary measures promptly (Article 20).

(2) Responsibility of Mail Order Brokers and Requesters of Mail Order Brokerage

Where a mail order broker fails to make an announcement that he/she is not a party to the mail order, he/she shall be jointly responsible with the requester of mail order brokerage for the compensation for the damage caused intentionally or negligently by the latter to the consumer's property. A mail order broker shall be jointly responsible with the requester of mail order brokerage for the compensation for the damage caused to the consumer's property by failing to provide information or a method to inspect information, or by providing untruthful information: This shall not apply where he/she has paid due attention to preventing any damage to the consumers.

Notwithstanding an announcement of a mail order broker that he/she is not a party to the mail order, no mail order broker who is a mail order distributor shall be exempted from the responsibilities of a mail order distributor provided for in Articles 12 through 15, 17 and 18: In conducting mail order brokerage at the mail order distributor's request, the requester shall be responsible for the part agreed and announced to the consumer that the requester shall take the responsibility for such part. No requester of mail order brokerage (limited to business operators) shall be exempted from the damage caused intentionally or negligently by a mail order broker to the consumer's property on the ground that the act has been done by the latter: This shall not apply where he/she has paid due attention to preventing any damage to the consumers(Article 20-2).

(3) Responsibilities of Mail Order Brokers Performing part of Crucial Work in Mail Order

In the process of transactions of mail order, a mail order broker performing the following work shall perform the obligation on behalf of the mail order distributor when the mail order distributor fails to perform the obligation: first, where a mail order broker has received the order, he/she shall provide the information under Article 13 (2) 5, check the order according to Article 14 (1), and perform other necessary matters to prevent consumer damage, on behalf of the mail order distributor; second, where a mail order broker has received the payment of goods, etc., he/she shall perform the following on behalf of the mail order distributor: prevention of errors in manipulation, etc.; securement of trust of electronic payment; and other matters necessary to prevent consumer damage(Article 20-3).

9. Prohibited Activities, Preferential Compulsory Provisions, and Exclusive Jurisdiction

(1) Prohibited Activities

Neither a business operator who conducts electronic commerce transactions nor a mail order distributor shall do any of the following acts: inducing or making a deal with consumers or interfering with cancellation, etc. of orders or termination of contracts by telling falsehood or exaggerated fact or using deceptive methods; changing or closing the address, telephone number, Internet domain name, etc. with the purpose of interfering with cancellation, etc. of orders; neglecting deficiency of human resources needed to resolve disputes or complaints, or lack of facilities as it stands for a considerable time, thereby inflicting damage on consumers; unilaterally supplying the goods, etc. without the consumer's order and requesting the price thereof, or requesting only the price of the goods, etc. without supplying the goods, etc.; enforcing the consumer to buy goods or to receive services through telephone, facsimile, computer communications, electronic mail, etc. even though the consumer made clear that he/she had no intention to buy the goods or receive the services; using the information on a consumer without obtaining consent from the relevant person, or beyond the extent of such consent(Any of the following cases shall be excluded: cases prescribed by Presidential Decree as inevitable for the execution of the contract with the consumer, such as delivery of the goods, etc.; cases where such act is necessary for the settlement of accounts following the transaction of the goods, etc.; cases where the confirmation of the person himself/herself is necessary to prevent any illegal use; and cases where any inevitable causes provided for in the

provisions of the Act or in any Act exist.); and making computer programs, etc. installed without the consumer's consent or without explanation and announcement to the consumers in an easy and distinctive way (Article 21).

(2) Preferential Compulsory Provision

A contract that violates Articles 17 through 19 and is disadvantageous to consumers shall become void(Article 35).

(3) Exclusive Jurisdiction

A lawsuit related to a transaction with a mail order distributor shall exclusively be governed by the district court having jurisdiction over the consumer's address at the time of filing the lawsuit, but, in cases of nonexistence of address, the district court having jurisdiction over the consumer's residence shall have the exclusive jurisdiction: This shall not apply where the address or residence of the consumer at the time of filing the lawsuit is not evident(Article 36).

Section 4. Protection of Consumers' Rights and Interests

1. Contracts, etc. of Consumer Damage Compensation Insurance

(1) Duty to Conclude Contracts, etc. of Consumer Damage Compensation Insurance

The Fair Trade Commission may encourage the related business operators to conclude any of the following contracts (hereinafter referred to as

“contract, etc. of consumer damage compensation insurance”) for the purpose of consumer protection in the electronic commerce transaction or mail order: an insurance contract under the Insurance Business Act; a contract of guarantee for payment against debt with the institution under Article 38 of the Act on the Establishment, etc. of Financial Services Commission to secure payment of consumer damage compensation; and a mutual aid contract with the mutual aid association. The issuer of the means of electronic settlement shall conclude a contract, etc. of consumer damage compensation insurance(Article 24 (1)).

Where a consumer chooses to use the escrow system or requires the mail order distributor to conclude a contract, etc. of consumer damage compensation insurance with respect to a prepaid mail order, the mail order distributor shall allow the consumer to use such system or conclude the contract, etc. of consumer damage compensation insurance(Article 24 (2)). This shall not apply where a consumer performs any of the following transactions: a transaction of paying the price of goods, etc. by using a credit card as defined in subparagraph 3 of Article 2 of the Specialized Credit Finance Business Act. In such cases, if a consumer fails to receive the goods, etc., the credit card company as defined in subparagraph 2-2 of Article 2 of the Specialized Credit Finance Business Act shall cooperate for the prevention and recovery of damage to the consumer, such as cancellation of the settlement of purchase price; a transaction of buying goods, etc. which are sent through information and communications networks or the forwarding of which is not confirmable by a third party; a transaction of buying goods, etc. supplied by installments for a certain period of time; a transaction where the safety of purchase is firmly secured by any other Act or other transactions determined and publicly

notified by the Fair Trade Commission as not requiring the escrow system or the conclusion of a contract, etc. of consumer damage compensation insurance or as having difficulty in the utilization of such escrow system or the conclusion of such contract (Article 24 (3)).

A business operator who intends to conclude a contract, etc. of consumer damage compensation insurance shall not submit false data in submitting data on sales amount, etc. to conclude a contract, etc. of consumer damage compensation insurance(Article 24 (7)). A business operator who has concluded a contract, etc. of consumer damage compensation insurance may use a mark indicating the fact, but the business operator who has not concluded such contract, etc. shall not use a mark as provided for in the former part, or make or use any other similar mark(Article 24 (8)).

(2) Establishment of Mutual Aid Association

Business operators who conduct the electronic commerce transaction or the mail order distributors may establish a mutual aid association to protect consumers. In such cases, Article 38 of the Act on Door-to-Door Sales, Etc. shall apply mutatis mutandis to the establishment and operation of the mutual aid association on condition that, in (1) of the said Act, “business operators who have filed the report under Article 5 (1) or had each of their business registered under Article 13 (1) or Article 29 (3) shall be construed as ”business operators who conduct the electronic commerce transaction or the mail order distributors“ and ”Article 37 (1) 3 shall be construed as “Article 24 (1) 3 of the Act on the Consumer Protection in the Electronic Commerce Transactions, etc.”, and “the Act” in (9) and (10) of the same Article shall be construed as “the Act on

the Consumer Protection in the Electronic Commerce Transactions, etc.”, respectively.

(3) Contents of Contracts, etc. of Consumer Damage Compensation Insurance and Payment

1) Contents of Contracts, etc. of Consumer Damage Compensation Insurance

A contract, etc. of consumer damage compensation insurance shall reach an adequate level for the compensation of damage to consumers following any violation of this Act, or for securing the confidence of issuer of the means of electronic settlement(Article 24 (5)).

2) Payment of Consumer Damage Compensation

A person who is responsible to pay the consumer damage compensation pursuant to the contract, etc. of consumer damage compensation insurance shall pay it without delay when a cause of payment arises, and, if he/she delays the payment, he/she shall pay the compensation for delay(Article 24 (6)).

2. Matters to be Observed, etc. When Advertising for Solicitation

(1) Matters to be Observed

When a business operator or a mail order distributor does an act to solicit for the purchase of goods or being provided with services by means of telephone, facsimile, electronic mail, etc. (hereinafter referred to as “spam messages”), he/she shall comply with this Act and the provisions of related Acts, such as the Act on Promotion of Information

and Communications Network Utilization and Information Protection, etc(Article 24-2 (1)).

(2) Request for the Identification Information of the Violator

In order to take corrective measures against a business operator conducting electronic commerce transactions or a mail order distributor who has sent spam messages in violation of matters observed, the Fair Trade Commission may request the Korea Communications Commission or other related agency to provide the identification information of the violator. In such cases, the request for identification information shall be allowed only where it is difficult for the Fair Trade Commission to secure the identification information of the violator, and the Korea Communications Commission or other related agency may provide the identification information of the violator to the Fair Trade Commission, notwithstanding Article 64-2 (1) of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc(Article 24-2 (2)).

Section 5. Inspection and Supervision

1. Inspection, etc. of Violations

(1) Inspection, etc. of Violations

When the Fair Trade Commission, a Mayor/Do Governor or the head of a Si/Gun/Gu acknowledges the fact that a violation of this Act exists, it or he/she may conduct necessary inspections ex officio(Article 26 (1)). Anyone who finds a violation of the provisions of this Act may report

such violation to the Fair Trade Commission, a Mayor/Do Governor or the head of a Si/Gun/Gu(Article 26 (4)).

(2) Organizing Inspection Team

The Fair Trade Commission may organize an inspection team jointly with the Korea Consumer Agency(Article 26 (6)). The Fair Trade Commission may pay allowances or travel expenses within budgetary limits to the executives and employees of the Korea Consumer Agency who participates in an inspection conducted(Article 26 (7)).

(3) Prevention of Overlapped Inspection

Where a Mayor/Do Governor or the head of a Si/Gun/Gu intends to conduct an inspection , in the case of the Mayor/Do Governor, such intention shall be notified to the Fair Trade Commission, and in the case of the head of a Si/Gun/Gu, such intention shall be notified to the Fair Trade Commission and the relevant Mayor/Do Governor in advance of such intention, and where the inspection, etc. is likely to be overlapped, the Fair Trade Commission may request the Mayor/Do Governor or the head of a Si/Gun/Gu to stop such inspection. In such cases, the Mayor/Do Governor or the head of a Si/Gun/Gu who is requested to stop the inspection shall stop it unless any reasonable ground exists (Article 26 (2)).

(4) Notification of Inspection Results

Where the Fair Trade Commission, a Mayor/Do Governor or the head of a Si/Gun/Gu has conducted an inspection, it or he/she shall notify the

parties to the relevant case of the result (including the contents of disposition, where a disposition, such as an order, etc. for corrective measures is intended as a result of the inspection) in writing(Article 26 (3)).

(5) Exemption of Corrective Measures

Where five years have elapsed since the completion of a violation of this Act, the Fair Trade Commission shall neither order the corrective measures, nor impose penalty surcharge, etc. to such violation: This shall not apply where the parties concerned have accepted but failed to execute the recommendation or arbitration of the dispute arbitration organization on the consumer damage(Article 26 (5)).

2. Search of Open Information and Disclosure of Information on Violations, etc.

(1) Search of Open Information

If necessary for securing fair trade order and preventing damage to the consumers in the electronic commerce transaction or mail order, the Fair Trade Commission may, through the use of electronic means, search and collect the open information made public via the information communications network by the business operators or organizations relating to consumer protection in the electronic commerce transaction or mail order. No business operators or related organizations shall refuse or interfere with the search and collection of information by the Fair Trade Commission conducted without any justifiable ground. If necessary for the efficient collection and use of information with respect to damage to consumers, the Fair

Trade Commission may request agencies or organizations performing the businesses relating to consumer protection in the electronic commerce transaction or mail order to submit or share the relevant data. Agencies or organizations requested for data by the Fair Trade Commission shall not refuse to submit or share the data unless any justifiable ground exists(Article 27)

(2) Disclosure of Information on Violations, etc.

In order to secure fair trade order and prevent damage to consumers in the electronic commerce transaction and mail order, the Fair Trade Commission may disclose violations of this Act by business operators and other relevant information necessary for the prevention of damage to consumers among the information searched(Article 28).

Section 6. Corrective Measures and Imposition of Penalty Surcharges

1. Recommendation to Correct Violations

(1) Recommendation to Correct Violations and its Effect

Where a business operator commits a violation of this Act or fails to fulfill his/her duty under this Act, the Fair Trade Commission, a Mayor/Do Governor, or the head of a Si/Gun/Gu may, before issuing an order to take corrective measures under Article 32, formulate a correction plan to stop such violation, or to fulfill the duty prescribed in this Act or take necessary corrective measures under Article 32, and recommend the business operator to comply with it. In such cases, the purport that

accepting such recommendation shall be construed as issuing an order to take corrective measures shall also be notified. A business operator in receipt of a recommendation for correction shall notify the administration agency which has issued it whether he/she accepts it or not within ten days from the day such recommendation is received. If a business operator in receipt of a recommendation of correction accepts such recommendation, it shall be deemed that the corrective measures under Article 32 are ordered(Article 31).

(2) Reporting and Supervision

Where a Mayor/Do Governor or the head of a Si/Gun/Gu recommends a correction, in the case of the Mayor/Do Governor, the results thereof shall be reported to the Fair Trade Commission, and in the case of the head of a Si/Gun/Gu, the results thereof shall be reported to the Fair Trade Commission and the relevant Mayor/Do Governor. When deemed necessary for the effective enforcement of this Act, the Fair Trade Commission may request a Mayor/Do Governor or the head of a Si/Gun/Gu to conduct an inspection or confirmation, or to submit data or take other measures necessary for correction with respect to the matters under its jurisdiction. In such cases, the relevant Mayor/Do Governor or the head of the relevant Si/Gun/Gu shall comply with the request unless any special circumstance arises(Article 30).

2. Corrective Measures

(1) Targets of Corrective Measures

Where a business operator does any of the following acts or fails to fulfill a duty under this Act, the Fair Trade Commission may order

him/her to take corrective measures(Article 32 (1)):

- ① A violation of Articles 5 (2) through (5), 6 (1), 7, 8, 9, 9 (2), 10, 11, 12 (1) through (3), 13 (1) through (3) and (5), 14, 15, 18, 19 (1), 20, 20-2, 20-3, 22 (1), 23 (2), 24 (1), (2) and (5) through (9), 27 (2), 29 (1) and (2), 32-2 (2);
- ② Any prohibited act falling under any subparagraph of Article 21 (1).

(2) Types of Corrective Measures

The corrective measures mean any of the following measures: discontinuance of the relevant violation; fulfillment of the duty stipulated in this Act; public announcement of the fact that the corrective measures are imposed; measures necessary for the prevention and relief of damage to consumers; and other measures necessary for the correction of the violation(Article 32 (2)).

(3) Business Suspension

In any of the following cases, the Fair Trade Commission may order to suspend all or part of the business for a fixed period not exceeding one year: where a violation is repeated despite an order to take corrective measures issued; where an order to take corrective measures is not complied with; and where corrective measures alone are deemed significantly impractical to prevent damage to consumers(Article 32 (4)).

3. Temporary Suspension Order

(1) Targets of Temporary Suspension Order

Where a mail order or electronic commerce transaction evidently falls under Article 21 (1) 1, and it is deemed necessary to take urgent

measures because it has already caused damage to the property of consumers, and it is deemed that an unrecoverable loss is likely to spread to multiple consumers, the Fair Trade Commission may impose a temporary suspension order on the person who has conducted the electronic commerce transaction or mail order in order to prevent the damage (Article 32-3 (1)).

(2) Requests of Consumer Organizations, etc.

Where consumer organizations registered under Article 33 of the Framework Act on Consumers, and other agencies and organizations deem a person who has conducted the electronic commerce transaction or mail order to be the targets of a temporary suspension order, they may request the Fair Trade Commission to impose a temporary suspension order on part of or the entire relevant electronic transaction or mail order in writing (including electronic documents)(Article 32-2 (3)).

(3) Cooperation of Hosting Business Operators, etc.

The Fair Trade Commission may request the provider of hosting service, mail order distributor, provider of electronic message board service, etc. to take measures, such as a suspension of the relevant affair, etc., where it is deemed necessary to temporarily stop part or whole of the electronic transaction or mail order. Business operators who have received the request shall follow it unless any justifiable ground exists(Article 32-2 (2)).

(4) Objection to Temporary Suspension Order

A person, who is dissatisfied with a temporary suspension order may raise an objection within seven days from the date when he/she receives

the order(Article 32-2 (4)). If a person who has been given a temporary suspension order raises an objection, the Fair Trade Commission shall report the fact to Seoul High Court, and the court shall conduct a trial pursuant to the Non-Contentious Case Procedure Act without delay(Article 32-2 (5)).

4. Penalty Surcharges

(1) Requirements for Penalty Surcharges

Where business suspension is deemed likely to cause serious inconvenience to consumers, etc., the Fair Trade Commission may, in lieu of the suspension of all or part of the business, impose upon the relevant business operator a penalty surcharge within the extent not exceeding the sales amount related to the violation. In such cases, if the relevant sales amount is nonexistent or impossible to calculate, etc., a penalty surcharge within the extent not exceeding 50 million won may be imposed(Article 34 (1)). Where a company which is the business operator who has violated this Act merges with another company, the Fair Trade Commission may impose a penalty surcharge on, and collect it from, the company surviving the merger or newly established in the course of the merger, deeming the relevant violation has been committed by such company (Article 34 (1)).

(2) Matters that shall be Considered in Calculating Penalty Surcharges

In imposing penalty surcharges, the Fair Trade Commission shall deliberate on the following matters: degree of damage to consumers incurred by the relevant violation; degree of effort made by the business

operator to compensate for the damage to consumers; scale of profit obtained on account of the relevant violation; and details, period, frequency, etc. of the relevant violation(Article 34 (3)).

5. Requests for Arbitration of Consumer Damage Disputes

(1) Requests for Arbitration of Disputes

Where a request for relief relating to a violation of this Act in an electronic commerce transaction or mail order is filed by a consumer, the Fair Trade Commission, Mayor/Do Governor, or the head of a Si/Gun/Gu may, before making a recommendation for correction or taking corrective measures, request a dispute arbitration organization on consumer damage, such as the agencies or organizations which perform the business relating to consumer protection in the electronic commerce transaction or mail order, to arbitrate the request(Article 33 (1)). Where the parties concerned accept and fulfill the recommendation or arbitration prepared by a dispute arbitration organization on the consumer damage, the Fair Trade Commission, Mayor/Do Governor, or the head of a Si/Gun/Gu shall notify the parties concerned of the purport that the corrective measures shall not be taken (Article 33 (2)).

(2) Establishment and Non-establishment of Arbitration

Where the parties concerned accept and fulfill the recommendation or arbitration of a dispute arbitration organization on the consumer damage, the corrective measures shall not be taken(Article 32 (3)). Where an agreement is reached in an arbitration of dispute, the dispute arbitration organization on the consumer damage shall report the result thereof, or

where no agreement is reached therein, it shall report the process of arbitration, to the Fair Trade Commission, Mayor/Do Governor, or the head of a Si/Gun/Gu without delay(Article 33 (5)).

Section 7. Penal Provisions

1. Punishment

- (1) Imprisonment for not more than Three Years or by a Fine not exceeding 100 Million Won

Any of the following persons shall be punished by imprisonment for not more than three years or by a fine not exceeding 100 million won (Article 40):

- ① A person who refuses, interferes with or evades an investigation under Article 26 (1) through verbal abuse, assault, deliberate blocking or delay of entering the site;
- ② A person who fails to comply with an order to take corrective measures issued under Article 32 (1);
- ③ A person who carries on business in violation of a business suspension order issued under Article 32 (4).

- (2) Fine not Exceeding 30 Million Won

Any of the following persons shall be punished by a fine not exceeding 30 million won(Article 42):

- ① A person who fails to file a report or files a false report, in violation of Article 12 (1);
- ② A person who uses a mark indicating the fact of having concluded a contract, etc. of consumer damage compensation insurance or of

being allowed to use the escrow system, or makes or uses other similar marks, in violation of Article 24 (8) and (9).

(3) Fine not Exceeding Ten Million Won

Any of the following persons shall be punished by a fine not exceeding ten million won(Article 43):

- ① A person who provides false information on the identification information of a business operator prescribed in Article 13 (1);
- ② A person who provides false information regarding the terms of transaction prescribed in Article 13 (2).

(4) Joint Penalty Provision

If a representative of a corporation or an agent, employee, or other servant of a corporation or an individual commits a violation under Articles 40 through 43 in connection with the business of the corporation or the individual, in addition to punishment of the violator, the corporation or individual shall be punished by a fine under each relevant Article: This shall not apply where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such violation(Article 44).

2. Administrative Fine

(1) Fine not exceeding 100 Million Won

A person who continues to operate, in violation of Article 32 (2) 1 shall be punished by a fine for negligence not exceeding 100 million won(Article 45 (1)).

(2) Fine not exceeding Ten Million Won

Any of the following persons shall be punished by a fine for negligence not exceeding ten million won(Article 45 (2)):

- ① A person who fails to perform acts to prevent consumer damage in violation of Article 9 (2) 1;
- ② A person who commits any violation falling under Article 21 (1) 1 through 5;
- ③ A person who, as an issuer of the settlement means under Article 8 (4), fails to conclude a contract, etc. of consumer damage compensation insurance, in violation of the proviso to Article 24 (1);
- ④ A person who, as a mail order distributor carrying out the prepaid mail order under Article 15 (1), violates Article 24 (2);
- ⑤ A person who, as an issuer of the settlement means under Article 8 (4), submits false data and concludes a contract, etc. of consumer damage compensation insurance, in violation of Article 24 (7);
- ⑥ A person who, as a mail order distributor carrying out the prepaid mail order under Article 15 (1), submits false data and concludes a contract, etc. of consumer damage compensation insurance, in violation of Article 24 (7);
- ⑦ A person who fails to comply with requests of the Fair Trade Commission, in violation of Article 32 (2) 2;
- ⑧ A person who fails to appear on at least two occasions without any justifiable ground and violates this Act, among the parties to whom a summon is issued under Article 50 (1) 1 of the Monopoly Regulation and Fair Trade Act, which is applied mutatis mutandis under Article 39 (2);

- ⑨ A person who fails to submit a report, necessary data or things prescribed in Article 50 (1) 3 or (3) of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 39 (2) or submits false report thereof;
- ⑩ A person who refuses, interferes with, or evades an inspection prescribed in Article 50 (2) of the Monopoly Regulation and Fair Trade Act which is applied mutatis mutandis under Article 39 (2).

(3) Fine not exceeding Five Million Won

Any of the following persons shall be punished by a fine for negligence not exceeding five million won(Article 45 (3)):

- ① A person who fails to preserve the transaction records, or fails to provide the consumers with the methods of inspection and preservation of transaction records, in violation of Article 6;
- ② A person who fails to indicate the information on the identity of the business operator prescribed in Article 10 (1) or 13 (1);
- ③ A person who fails to report under Article 12 (2) and (3);
- ④ A person who fails to indicate, advertise, or notify the stipulated matters or fails to hand over documents regarding the contents of contract, in violation of Article 13 (2);
- ⑤ A person who fails to inform the other party to a transaction who is a minor of the fact that a contract on the transaction of goods, etc. can be cancelled, in violation of Article 13 (3);
- ⑥ A person who fails to provide information prescribed in Article 13 (2) 5, in violation of Article 20 (3) 1(A).

Part V . Prevention and Relief of Consumer Damage

Chapter I . Consumer Class Action

Section 1. Meaning and Necessity

1. Definition

Consumer class action means litigation instituted by consumer organizations that meet certain requisite in order to request prohibition or suspension of unlawful acts of business operators and prevent consumer damage or prevent it from spreading.

2. Necessity

Where a business operator conducts an unlawful act, the damage is not limited to a consumer or a few consumers. Therefore, in order to prevent consumer damage, it is necessary to prohibit or suspend unlawful acts of business operators. However, there was no way for other consumers, who were not victims, to prohibit unlawful acts of business operators. Besides, even after consumer organizations recognized unlawful acts of business operators in the process of consumer consulting or damage relief, they had no choice but to sit on the sidelines, because there was not way for them to prohibit the unlawful acts. The necessity of giving consumer organizations, etc a right to bring a lawsuit to prohibit or suspend unlawful acts of business operators arose in order to prevent further

consumer damage. As a result, consumer class action was introduced when Framework Act on Consumers was revised in 2006.

Section 2. Requirements for Class Action

1. Person Entitled to Institute a Litigation

(1) Consumer Organizations

A consumer organization which may file a class action shall meet all the requirements provided for in the following items: first, an organization for which three years have passed since it was registered with the Fair Trade Commission pursuant to Article 29; second, an organization which is aimed mainly at the promotion of consumers' rights and interests pursuant to its articles of association; and third, an organization the number of whose regular members is not less than one thousand(Article 70).

(2) Korea Consumer Agency

Korea Consumer Agency was established pursuant to the Framework Act on Consumers Article 33. It was not entitled to file a class action under the former act, but it is now pursuant to the revision in March, 2016.

(3) Economic Organizations

The Korea Chamber of Commerce and Industry under the Chambers of Commerce and Industry Act, the federation of small and medium enterprise cooperatives under the Small and Medium Enterprise Cooperatives Act, the incorporated association established pursuant to the Korean Civil Act, whose members are composed of business operators, etc. and which carries

out the business relating to the rationalization of corporate management or the development of sound corporate culture in accordance with its articles of association, as determined and published by the Fair Trade Commission, the incorporated association established pursuant to the Korean Civil Act, whose members are composed of business operators, etc. and which carries out the business of promoting foreign trade in accordance with its articles of association, as determined and published by the Fair Trade Commission.

(4) Non-profit and Non-government Organization

A non-profit and non-governmental organization under Article 2 of the Assistance for Non-profit, Non-governmental Organizations Act which meets all the requirements provided for in the following: first, an organization which is requested by fifty or more consumers who suffered legally or factually identical damages to institute a class action; second, an organization which has the actual results of activities for the last three or more years according to the purpose of promoting the rights and interests of consumers specified in its articles of association; third, an organization the number of whose regular members is not less than five thousand; and lastly, an organization which is registered with a central administrative agency.

2. Illegal Acts of Business Operators

(1) Currentness of Illegal Acts

Consumer class action is a litigation to prohibit or suspend illegal acts of business operators. Therefore, illegal acts of business operators shall

exist and continue. If illegal acts of business operators existed in the past but they do not exist in the present, consumer class action shall not be filed. The other requirement is that illegal acts of business operators directly infringe the right and interest of consumers' life, body, or property and the infringement shall continue. If an illegal act of a business operator does not lead to consumer damage, consumer class action may not be filed.

(2) Types of Illegal Acts

Consumer organizations, etc may file a consumer class action against not all types of illegal acts of business operators. Illegal acts against which consumer organizations may file a consumer class action fall under the following category: first, where a business operator manufactures, imports, sells or provides any goods, etc. that are in contravention of the criteria determined by the State pursuant to Article 8 (1); second, where a business operator violates the criteria for indication determined by the State pursuant to Article 10; third, where a business operator violates the criteria for advertisement determined by the State pursuant to Article 11; fourth, where a business operator commits any such act as designated and notified publicly by the State pursuant to Article 12 (2); and lastly, where a business operator violates the criteria for protection of personal information determined by the State pursuant to Article 15 (2)(Article 70).

3. Contents of Claim

(1) Prohibition or Suspension of Illegal Acts

Consumer organizations, etc. may request to prohibit or suspend illegal acts of business operators through consumer class action. For example, if

a business operator places unfair labeling, consumer organizations, etc. may request through consumer class action to suspend the unfair labeling or advertising of the business operator(Article 70).

(2) Exclusion of Claim for Compensation

Consumer class action is an institution to prohibit or suspend illegal acts of business operators. It shall not be used to claim for a compensation for damage caused by the illegal acts.

4. Exclusive Jurisdiction

(1) Meaning of Exclusive Jurisdiction

Decision of jurisdiction means to decide which court may settle the relevant dispute. The Korean Civil Procedure Act regulates this. Provided, in terms of cases set as having jurisdiction, the only relevant court has jurisdiction over them. If a party files a lawsuit in a court without jurisdiction, the court shall transfer the case to the court with jurisdiction.⁶⁾

(2) Jurisdiction over Consumer Class Action

A class action lawsuit shall be under the exclusive jurisdiction of the collegiate panel of a district court having jurisdiction over the place where the defendant's principal office or business place is located, and if the defendant has no principal office and business place, the domicile of the person principally in charge of the defendant's duties is located. In

6) Civil Procedure Act Article 31 (Exclusion by Exclusive Jurisdiction) The provisions of Articles 2, 7 through 25, 29 and 30 shall not apply to the lawsuits for which an exclusive jurisdiction has been determined.

case where the business operator is a foreign business operator, the forum shall be determined pursuant to his/her principal office or business place, or the domicile of the person principally in charge of his/her duties, which is located in the Republic of Korea(Article 71).

5. Attorney

(1) Attorney under the Korean Civil Procedure Act

Except for representatives entitled to conduct the judiciary acts pursuant to Civil Procedure Act, no person may become an attorney, other than attorneys-at-law (Korean Civil Procedure Act Article 87). In the cases for which the value of a lawsuit's object falls short of a specific amount, from among the cases to be examined and tried by a single judge, Article 87 shall not be applicable to the time when such persons have obtained a permit from the court, as those who keep a close living relation with the party and are in a kinship within a specific scope, or those who are in a specific relationship under an employment contract, etc. with the party, such as the handling of, or assistance in, the regular affairs concerning such cases (Korean Civil Procedure Act § 88).

(2) Attorney in Consumer Class Action

The plaintiff in a class action shall appoint a lawyer as his/her attorney (Article 72). Therefore, consumer organizations shall appoint a lawyer as their attorney when they file a class action.

6. Permission of Action

(1) Application for Permission of Action

An organization which seeks to institute a class action shall submit to a court an application for the permission of the action specifying the matters provided for in the following, along with a written complaint: the plaintiff and his/her attorney; the defendant; and the scope of the infringement of consumers' rights and interests by the business operator concerned, which requires the prohibition or suspension. An application for the permission of the class action shall be accompanied by the materials referred to in the following: materials proving that the organization which institutes the class action meets the requirements provided for in any subparagraph of Article 70; and documents requested by the organization which institutes the class action pursuant to Article 74 (1) 3 and the written opinion thereon presented by the business operator concerned: Provided, That if the business operator gives no response within a period fixed under the said sub paragraph, the business operator's written opinion may be omitted(Article 73).

(2) Requirements for Permission of Action

A court shall permit a class action, by its ruling, only in cases where all requirements as referred to in the following are met: that there is any public need for permitting such class action in the light of the protection of consumers' rights and interests and the prevention of any damage to them, because the goods, etc. concerned cause or might cause any danger or injury to consumers' lives, bodies or property; that there is no defect

in the matters entered in the application for the permission of action under Article 73; and that fourteen days have passed since the organization instituting the action asked the business operator concerned, in writing, to prohibit and suspend the infringement of consumers' rights and interests. An immediate appeal may be raised against the ruling to permit or not to permit the class action(Article 74).

Section 3. Effect of Judgement and Application Mutatis Mutandis of the Korean Civil Procedure Act

1. Effect of Judgement

(1) Acceptance of Claim

Where a court accepts a claim of a consumer organization and rules that the illegal act of the business operator shall be prohibited or suspended, the business operator shall not conduct the relevant act.

(2) Dismissal of Claim

1) Principle of Prohibition against Double Jeopardy

When a judgment to reject a request made by a plaintiff became final and conclusive, any such other organization as referred to in Article 70 may not a class action with regard to the same matter(Article 75).

2) Exception

Even though a claim of a consumer organization is dismissed, other organizations may file another consumer class action when a new research

result or evidence is found by an institution, which is established by the State or a local government, with respect to the rejected case after the judgment became final and conclusive and when the judgment of rejection is found to have been caused by any intentional act of the plaintiff(Article 75).

2. Application Mutatis Mutandis of the Korean Civil Procedure Act

Except as otherwise prescribed in this Act, the class actions shall be governed by the provisions of the Korean Civil Procedure Act. When a decision to permit a class action is made, the preservative measures provided for in Part IV of the Korean Civil Execution Act may be taken(Article 76).

Chapter II. Consumer Dispute Mediation

Section 1. Meaning and Necessity of Mediation

1. Meaning of Mediation

Mediation is one of the alternative dispute resolution systems(ADR) that help parties settle resolve disputes without a trial. ADR includes not only mediation, but also intercession and arbitration. Intercession means an act where a third party help a party resolve a dispute but the third party's opinion is not binding on the party. Arbitration is an act where a solution of a third party to resolve a dispute has the same binding force as a trial. Arbitration is different from mediation in that there shall an agreement between parties in order to apply for arbitration. Even if there is no agreement between parties, a party may apply for mediation. Mediation does not offer a draft mediation no binding force on parties.

2. Necessity of Mediation

When a dispute arises between a consumer and a business operator, the typical way to resolve it is a trial. However, a trial is costly in terms of time and litigation expenses. Therefore, a trial is not effective for consumer disputes because in general, multiple consumers have small scale of consumer damage. Also, a trial is a way to resolve a dispute based on acts. However, it takes not only acts but also professional working knowledge to resolve consumer disputes. Therefore, a trial is not effective for resolving a consumer dispute. A consumer dispute mediation

system was needed to effectively resolve consumer disputes that are usually small by taping into professional working knowledge. Therefore, in order to effectively relieve consumer damage, consumer dispute mediation system was introduced and has become the principle solution in resolving consumer disputes.

Section 2. Consumer Dispute Mediation Commission

1. Establishment and Composition of Consumer Dispute Mediation Commission

(1) Establishment of Consumer Dispute Mediation Commission

In order to mediate disputes raised between consumers and business operator, a Consumer Dispute Mediation Commission (hereinafter referred to as the “Mediation Commission”) shall be established in the Korea Consumers Agency. The Mediation Commission shall deliberate and decide the following matters: mediation decisions on consumer disputes; establishment, revision and repeal of the rules on proceedings of the Mediation Commission; and other matters referred to it by the president for discussion(Article 60).

(2) Composition of Consumer Dispute Mediation Commission

The Mediation Commission shall be composed of fifty or less members, including a chairperson, of whom two members including the chairperson shall work full-time, and the others, part-time. Members shall be appointed or commissioned by the Chairperson of the Fair Trade Commission upon the proposition of the president, from among the below enumerated

persons: those who are or were in a position equivalent to or higher than associate professor in a college, university or authorized research institution, and have majored in a field related to consumers' rights and interests; those who are or were in a position of public official of Grade IV or higher or the equivalent position in a public institution, and have experience of practice in any business relating to consumers' rights and interests; those who are qualified as judge, public prosecutor or attorney-at-law; those who are or were in a position of officer at a consumer organization; those who are or were in a position of officer at a business operator or business operator organization; and other those who have extensive learning and experience in any business relating to consumers' rights and interests. The chairperson shall be appointed by the Chairperson of the Fair Trade Commission from among full-time members. The terms of office of members shall be three years, and they may be renewable. When the chairperson is unable to perform his/her duties for any unavoidable reason, a full-time member who is not the chairperson shall act for the chairperson, and when such full-time member is unable to perform his/her duties on behalf of the chairperson for any unavoidable reason, a member designated by the Chairperson of the Fair Trade Commission shall act for the chairperson. In order to carry out efficiently activities of the Mediation Commission, the expert committees classified by field of activities may be established in the Mediation Commission (Article 61).

(3) Guarantee of Members' Status

No member of the Mediation Commission shall be removed from office against his/her will, except falling under any of the following: when

he/she is sentenced to the punishment of qualification suspension or a severer one; when he/she is unable to perform his/her duties owing to a physical or mental incompetence or other grounds(Article 62).

(4) Meetings of Mediation Commission

A meeting of the Mediation Commission shall be classified as a meeting for dispute mediation and a department for mediation. Meeting for dispute mediation shall be comprised of the chairperson, full-time member, and not less than five but not more than nine members designated by the chairperson at the time of each meeting. Department for mediation shall be comprised of the chairperson or full-time member, and not less than two but not more than four members designated by the chairperson at the time of each meeting. Meeting for dispute mediation shall be presided by the chair person, and department for mediation shall be presided by the chairperson or full-time member. A meeting of the Mediation Commission shall pass resolutions with the attendance of a majority of the total members and with a concurrent vote of a majority of those present. In such cases, members who represent consumers and business operators, equally not less than one, respectively, shall be included in a meeting of the Mediation Commission(Article 63).

2. Meetings for Dispute Mediation and Evasion of Members

(1) Details in Charge of Meetings for Dispute Mediation and Department for Mediation

A meeting for dispute mediation shall deliberate on and resolve the following: mediation with respect to consumers' dispute of not less than

the amount determined by Presidential Decree among consumers' dispute under Article 60 (2) 1; the establishment, amendment or abolition of the regulations with respect to proceedings of the Mediation Commission under Article 60 (2) 2; mediation of dispute requested or applied to the Mediation Commission under Article 68 (1); and matters which have been decided to deal with in a meeting for dispute mediation by the department for mediation. The department for mediation shall deliberate on or resolve matters, other than those referred above(Article 63-2).

(2) Exclusion, Challenge and Evasion of Members

Any member of the Mediation Commission shall be excluded from a deliberation and decision on the dispute mediation case brought before the Mediation Commission pursuant to Article 58 or 65 (1) in case falling under any one of the following: where he/she or his/her spouse or ex-spouse becomes a party to the case, or has a relation to the case as a person having a joint right or obligation; where he/she is or was in kinship with a party of the case; where he/she has given testimony or expert opinion on the case; and where he/she takes or took part in the case as a representative of a party. If there exist circumstances under which it is difficult to expect an impartial deliberation and decision from a member, the party may apply for a challenge to the president. In this case, the president shall decide on the application for challenge without a decision from the Mediation Commission. If a member falls under any cause as referred above, he/she may voluntarily refrain from the deliberation and decision of the case(Article 64).

Section 3. Targets and Establishment of Mediation of Disputes

1. Targets of Mediation of Disputes

(1) Disputes between Consumer and business operator

If a dispute raised between a consumer and a business operator is not settled in an organ established pursuant to Article 16 (1) or no agreement is reached between them complying with the recommendation of agreement as prescribed in Article 28 (1) 5, the parties or the head of the organ or organization concerned may apply for mediation of the dispute to the Mediation Commission.

(2) Exclusion of Mediation of Disputes

If a dispute mediation application falls any of the following category, dispute mediation procedures shall not be conducted: first, application for dispute mediation for damages caused by goods, etc. supplied by the State or local governments(Article 35 (2)); second, in case that a dispute mediation body has already been established under the provisions of other Acts, the remedy for damages which is claimed to or is of the same contents as those which have already gone through the procedures in the dispute mediation body or the remedy for damage filed with a dispute mediation body after it has been filed by the relevant consumer with the Korea Consumer Agency(Article 35 (2)); third, if one of the parties brings a lawsuit to a competent court during a procedure for settlement of remedy for damages(Article 59).

2. Procedures of Mediation of Disputes

(1) Recommendation of Agreement and Advice of Expert Committee

The chairperson of the Mediation Commission may, upon receipt of an application for the mediation of a dispute, recommend the parties to the dispute to agree on the method of compensation, with fixing a period not exceeding ten days, for the purpose of an effective mediation of the dispute. If it is required for the dispute mediation, the Mediation Commission may seek any advice of the expert committee concerned. The Mediation Commission may hear the opinions of the interested persons, consumer organizations or agencies concerned, prior to the dispute mediation procedure(Article 65).

(2) Term of Dispute Mediation

When the Mediation Commission receives an application for dispute mediation, it shall complete the dispute mediation within thirty days from the date when the application is received. In case where it is impossible to complete the dispute mediation within thirty days due to inevitable circumstances, the Mediation Commission may extend the period. In this case, it shall inform the parties and their representatives thereof specifying the reasons therefor and the period(Article 66).

3. Establishment and Effect of Mediation

(1) Establishment and Non-establishment of Mediation

When a dispute mediation is completed under Article 66, the chair person of the Mediation Commission shall promptly notify the parties of

the contents thereof(Article 67 (1)). The parties shall, upon receipt of a notification, inform the Mediation Commission of the acceptance or refusal of the contents of the dispute mediation within fifteen days after receiving such notification. In this case, if they fail to express their intention within the fifteen days, they shall be considered to have accepted the dispute mediation(Article 67 (2)). If the parties accept or are considered to have accepted the contents of the dispute mediation, the Mediation Commission shall prepare a mediation protocol on which the chairperson of the Mediation Commission and the parties shall write and put their names and signatures: Provided, That if the parties are considered to have accepted the contents of the dispute mediation, it shall not be required to write and put their names and signatures(Article 67 (3)).

(2) Effect of Establishment of Mediation

If the parties accept or are considered to have accepted the contents of the dispute mediation, the contents of the dispute mediation shall have the same effect as a judicial compromise(Article 67 (4)).

(3) Suspension of Extinctive Prescription

Application for dispute mediation has the effect of suspension of extinctive prescription. Provided, That this shall not apply in a case where the dispute mediation procedure is finalized except that where the parties accept or are considered to have accepted the contents of the dispute mediation or a party or both parties refuse to accept the contents of the dispute mediation, unless a lawsuit is filed within a month from the day when the dispute mediation procedure is finalized. Suspended time limitation

is renewed from the day when a mediation is established or a lawsuit is filed(Article 68-3).

Chapter III. Collective Dispute Mediation

Section 1. Meaning and Necessity of Collective Dispute Mediation

1. Meaning of Collective Dispute Mediation

Collective dispute mediation is a mediation system that resolve common disputes of multiple consumers.

2. Necessity of Collective Dispute Mediation

One of the characteristics of consumer damage is that multiple consumers suffer the common damage. However, damage relief is conducted individually. Therefore, it is necessary to conduct collective dispute mediation in order to relieve the damage of the entire consumers who suffer the damage. In that sense, the inefficiency of dispute resolution and differences in the proposal of mediation were pointed out. In other words, separate dispute mediation procedures are conducted over the same situation because separate consumers suffer it, consuming more money and time. Besides, the cases over the same situation is dealt with in different mediation commissions, so the proposal of mediation may be different, which may cause dispute parties to lose trust in the dispute mediation system. Therefore, collective dispute mediation was called for in order to improve effectiveness and secure trust of the system by resolving multiple consumer disputes with the same cause en bloc. In 2006, when the Framework Act on Consumers was revised, collective dispute mediation was introduced.

Section 2. Targets of Collective Dispute and Person Entitled to Apply for Collective Dispute Mediation

1. Targets of Collective Dispute Mediation

Cases that are targets of collective dispute mediation shall meet all requirements of the following. First, the number of consumers, excluding those provided for in the following items, who suffered the same or similar type of damages due to goods, etc., shall not be less than fifty: consumers who have reached an agreement with business operators on the settlement of disputes or compensation for damages through the autonomous dispute mediation, recommendation made by the president of the Korea Consumer Agency , or any other ways; consumers who are proceeding with dispute mediation at the dispute mediation organizations; consumers who have filed lawsuits in a court with respect to damages caused by the relevant goods, etc. Second, major issues in the cases shall be factually or legally common(Article 68 (1)). If some of the consumers who are parties to the collective dispute mediation file a lawsuit with a court, the Mediation Commission shall not discontinue its procedures but shall exclude them from the procedures concerned(Article 68 (6)).

2. Person Entitled to Apply for Collective Dispute Mediation

The State, a local government, the Korea Consumer Agency, a consumer organization or a business operator may make a request or application to

the Mediation Commission to mediate the disputes collectively(Article 68 (1)). The former version of the Framework Act on Consumers did not include consumers, a party, as a person entitled to apply for collective dispute mediation. However, criticism was raised over the former Framework Act on Consumers for not including consumers, a party, as a person entitled to apply for collective dispute mediation. Therefore, the current Framework Act on Consumers includes consumers as a person with the right.

Section 3. Collective Dispute Mediation Procedures

1. Resolution of Mediation Commission

The Mediation Commission may, upon receipt of a request or application for the collective dispute mediation, commence by its resolution the procedures for the collective dispute mediation(Article 68 (2)). In other words, unlike general dispute mediation, it is necessary for the mediation commission to resolve commencement of procedures. Therefore, collective dispute mediation is different in that only with a request or application for the collective dispute mediation, its procedure does not start.

2. Commencement of Procedures and Application

(1) Commencement of Procedures for Collective Dispute Mediation

If the Mediation Commission commence the procedures for the collective dispute mediation, the Mediation Commission shall publicly announce the commencement of the procedures for fourteen or more days(Article 68 (2)). The public announcement on commencement of the procedures for

collective dispute mediation shall be made in such a way as being carried in the Korea Consumer Agency's home page on the Internet and a daily newspaper with nationwide circulation.

(2) Application for Intervention in Procedures for Collective Dispute Mediation

When any consumer or business operator other than the parties to the collective dispute mediation intends to be additionally included in the parties to the collective dispute mediation, he/she shall file a written application for intervention within the period of public announcement(Article 68 (3)). The Mediation Commission shall, upon receipt of an application for party intervention in the collective dispute mediation notify in writing the acceptance or refusal of such intervention within ten days from the date when the period of application for intervention.

3. Period of Collective Dispute Mediation

Collective dispute mediation shall be finalized within 30 days from the day following the end of public announcement: Provided, That if the dispute mediation cannot be finalized within the competent period due to inevitable grounds, it is possible to extend the period twice within the limit of 30 days for one, respectively. In such cases, the Mediation Commission shall provide details of the grounds and period and notify the party and its agency thereof(Article 68 (7)).

Section 4. Establishment of Collective Dispute Mediation

1. Establishment and Effect of Collective Dispute Mediation

(1) Establishment and Non-establishment of Collective Dispute Mediation

When a dispute mediation is completed under Article 66, the chair person of the Mediation Commission shall promptly notify the parties of the contents thereof(Article 67 (1)). The parties shall, upon receipt of a notification, inform the Mediation Commission of the acceptance or refusal of the contents of the dispute mediation within fifteen days after receiving such notification. In this case, if they fail to express their intention within the fifteen days, they shall be considered to have accepted the dispute mediation(Article 67 (2)). If the parties accept or are considered to have accepted the contents of the dispute mediation, the Mediation Commission shall prepare a mediation protocol on which the chairperson of the Mediation Commission and the parties shall write and put their names and signatures: Provided, That if the parties are considered to have accepted the contents of the dispute mediation, it shall not be required to write and put their names and signatures(Article 67 (3)).

(2) Effect of Establishment of Dispute Mediation

If the parties accept or are considered to have accepted the contents of the dispute mediation, the contents of the dispute mediation shall have the same effect as a judicial compromise(Article 67 (4)).

2. Compensation Plan and Suspension of Extinctive Prescription

(1) Preparation of Compensation Plan

If a business operator accepts the terms of collective dispute mediation presented by the Mediation Commission, the Mediation Commission may recommend him/her to prepare a compensation plan for consumers who are not parties to the collective dispute mediation but suffered damage and to submit it to the Mediation Commission(Article 68 (5)).

(2) Suspension of Extinctive Prescription

Application for Consumer class action has the effect of interruption of prescription. Provided, That this shall not apply to a case unless a lawsuit is filed with a month from the date of the end of collective dispute mediation procedure where the parties accept or are considered to have accepted the terms of collective dispute mediation, where the collective dispute mediation procedure ends but a party or both parties fail to accept the terms of collective dispute mediation. Suspended prescription shall be renewed at the time of the establishment of mediation or when a lawsuit is filed(Article 68-3).