

## China Insight



# China Passed Revised Anti-Unfair Competition Law

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On 27 June 2025, the 16<sup>th</sup> session of the Standing Committee of the 14<sup>th</sup> National People's Congress passed the revised *Anti-Unfair Competition Law of the People's Republic of China* ("AUCL"). It will come into effect on 15 October 2025.

## 1. Background

The AUCL has been in effect since 1993 with two revisions in 2017 and 2019 respectively. One of the primary motivations behind this third revision is the rapid development of China's economy, which has created an urgent need to address new forms of unfair competition acts. For instance, certain platform operators have exploited algorithms and platform rules to engage in online unfair competition.

Notably, the revision places emphasis on the legislative objective of preventing unfair competition, rather than merely punishing it after it has occurred. This shift indicates that future legal practice will not only focus on combating unfair competition acts but also prioritize preventive measures to safeguard a fair and equitable market environment. Below we summarize the key revisions.

## 2. Expansion of specific types of anti-unfair competition acts

### a) Acts of confusion

Article 7 of the AUCL stipulates more forms of acts of confusion, such as the unauthorized use of another party's online name, social media account name, App name, or icon with certain influence. Additionally, Article 7 refers to the related provision in the *Interpretation of the Supreme People's Court on Several Issues Concerning the Application of the Anti-Unfair Competition Law of the People's Republic of China*, explicitly listing that the act of improperly using another party's registered trademark or well-known unregistered trademark as an enterprise's trade name is an act of confusion.

Article 7 also aims to address the current disputes arising from the use of search keywords. Using another party's product name, enterprise name (including abbreviations, trade names, etc.), registered trademark, unregistered well-known trademark, etc., as a search keyword, and the search result misleads consumers into believing that the goods are related with or belong to another party, constitutes an act of confusion.

Article 7 also clarifies that an operator shall not assist others in committing acts of confusion.

## **b) False advertising**

Compared with the current law, Article 9 of the AUCL expands the scope of individuals who may be misled by false advertising from “consumers” to “consumers and other operators”. This means that false advertising provision will also apply to the business to business scenario.

In addition, the new provision introduces a new type of unfair behavior, i.e. false reviews. Regarding the specific scenarios of false reviews, it can be referred to Article 9 of the *Interim Provisions on Anti-Unfair Competition in the Internet Sector*, which came into effect on 1 September 2024. They list the following three types of conduct:

- Fabricating user reviews
- Concealing negative reviews, putting positive reviews first and negative reviews last, failing to clearly distinguish the reviews of different commodities, or adopting other misleading display measures
- Inducing users to conduct interactive behaviors such as leaving positive reviews as specified, giving likes, and casting targeted votes by offering cash, red envelopes, coupons or by other means

## **c) Commercial defamation**

Article 12 of the AUCL broadens the scope of commercial defamation by adding the scenario of inciting others to fabricate or disseminate false or misleading information. Besides, it expands the target of commercial defamation by changing “competitors” to “other operators”. The above revision aims to address the growing trend where commercial defamation cases are not limited to disputes between competitors in the same industry. For example, some business operators may engage “water armies” to discredit other operators. In such circumstances, the party who incites others will bear equal legal liability with the party being incited.

## **d) Unfair competition acts by using networks**

Article 13 of the AUCL explicitly prohibits improper data scraping. Business operators shall not use data, algorithms, technology, platform rules, or similar means to influence user choices or disrupt the normal operation of network products or services provided by other business operators. If the data collected is non-publicly available, the act may also violate Article 10 of the AUCL, which prohibits obtaining another operator’s trade secrets through unauthorized electronic intrusion.

In addition, Article 13 also clearly prohibits malicious exploitation of platform rules, including directly engaging in, or instructing others to carry out, false transactions, false reviews, or malicious returns. These types of unfair practices have emerged due to practices in current e-commerce platform rules. For example, frequent bulk purchases followed by returns can negatively impact sellers by reducing transaction opportunities and damaging business reputation.

It is worth noting that Article 21 of the AUCL stipulates that platform operators shall also bear legal obligations to promote and ensure fair transactions. This includes clearly setting up rules for fair competition within platform service agreements and transaction policies, establishing mechanisms for reporting and resolving unfair competition complaints and disputes, and proactively reporting any identified unfair competitive practices by in-platform operators to the competent authorities. This means that infringed companies can also settle the disputes through the platform.

**e) Other acts**

The AUCL also addresses several other types of unfair competition acts, including penalties for both offering commercial bribes and acceptance of bribes, prohibitions on platform operators forcing in-platform operators to sell goods below cost, and restrictions on large enterprises delaying payments to small and medium-sized enterprises, etc.

**3. Improving regulatory measures and legal liabilities**

**a) Adding regulatory interview**

Article 18 of the AUCL stipulates that where a business operator is suspected of violating the AUCL, the supervisory and inspection authority may summon its relevant person in charge for a regulatory interview, requiring them to provide explanations and propose corrective measures. This provision reflects the legislative intent of the AUCL to prevent unfair competition.

**b) Enhancing administrative penalties**

The AUCL, in response to frequently occurred unfair competition through false advertising, has abolished the previous minimum fine of RMB 200,000. It now only retains a maximum fine of RMB 1 million. For cases with serious circumstances, the upper limit is set at RMB 2 million. This change aims to ensure the flexibility of law enforcement, enabling it to more effectively combat minor false advertising activities.

Further, the AUCL has generally increased administrative penalties in other scenarios. For instance, for serious violations of trade secrets, the statutory minimum fine has been raised from RMB 500,000 to RMB 1 million. Similarly, penalties for commercial defamation and online unfair competition acts have also been increased. The maximum fine for general violations has been raised from RMB 500,000 to RMB 1 million, while the maximum fine for serious violations has raised from RMB 3 million to RMB 5 million. These revisions significantly raise the cost of non-compliance, thereby strengthening the AUCL's deterrent effect.

**c) Strengthening confidentiality obligations towards authorities**

Article 19 requires supervisory authorities and their staff to keep confidential any trade secrets, personal privacy, and personal information obtained during investigations, expanding the scope of confidentiality obligations beyond the current law. It is the first-time that the AUCL incorporates the consideration of personal privacy into its legal framework.

**d) Establishing extraterritorial jurisdiction**

Article 40 of the AUCL formally introduces provisions on extraterritorial jurisdiction. It aims to regulate unfair competitive practices occurring abroad that may affect operators within China. Multinational companies should pay greater attention to the compliance of their competitive behaviors worldwide, so as to avoid adverse impacts on domestic operators in China caused by activities in other jurisdictions.

**4. Conclusion**

The AUCL aims at improving fair market competition and addresses new forms of unfair competition, particularly by setting clear regulations for prominent issues in the digital economy. Companies should strengthen their understanding of the new provisions of the AUCL, promptly adjust business strategies, and enhance adaptability in the digital economy to remain competitive and compliant.

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In case you have questions or for further information, please contact the authors of this newsletter:

	<b>Panpan Tang</b> Senior Associate CMS, China  T + 86 21 6289 6363 E Panpan.Tang@cmslegal.cn		<b>Daisy Lv</b> Junior Associate CMS, China  T + 86 21 6289 6363 E Daisy.Lv@cmslegal.cn
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CMS Hasche Sigle Shanghai  
Representative Office (Germany)  
3108 Plaza 66, Tower 2  
1266 Nanjing Road West  
Shanghai 200040, China

CMS Cameron McKenna LLP Beijing  
Representative Office (UK)  
Room 1405, West Tower, World Financial Centre  
No.1 Middle East Third Ring Road  
Beijing 100020, China