

Implementing Measures on Management of Automobile Brand Marketing

Chapter I General Provisions

Article 1

For the purposes of regulating the behavior of automobile brand marketing, promoting the healthy development of automobile market, protecting consumer's legitimate rights and interests, these measures are formulated in accordance with relevant national laws and administrative regulations.

Article 2

These measures apply to the activities in the automobile brand marketing within the territory of the People's Republic of China.

Article 3

Automobile brand marketing in term of these measures means the activities that the automobile supplier or its authorized automobile brand distributor use uniform shop name, identification, trade mark to be engaged in automobile business.

Automobile supplier refers to the enterprises that supply automobile resources to automobile brand distributors, including automobile production enterprises, general automobile distributors.

Automobile brand distributor means the enterprises that are authorized by the automobile supplier and engaged in automobile sales and service in form of automobile brand marketing.

General automobile distributor means the enterprises that are authorized by domestic or external automobile production enterprises, have its own network for automobile brand marketing and service and engaged in distributing of automobiles.

Article 4

The domestic or external automobile production enterprises that sell the automobiles produced by their own should establish perfect automobile brand marketing and service system in order to improve their marketing and service level.

Article 5

Automobile supplier should make network plans on automobile brand marketing and service (hereinafter referred to as "network plan"). Network plan includes: business prediction, site overall arrangement plan, the progress rate of network development and the standard of shop building, software and hardware, after-sale service and etc..

Article 6

The network plan of the same automobile brand is generally made and implemented by a domestic enterprise. Domestic automobile production enterprises may either make and implement network plan directly or authorize domestic general distributor to make and implement the network plan. If an external automobile production enterprise sells automobiles in the territory of China, it should authorize a domestic enterprise to do it or establish an enterprise in accordance with relevant national rules as its general automobile distributor to make and implement network plan.

Article 7

The competent commercial administration of the State Council is responsible for the management of automobile brand marketing all over the country. The industrial and commercial administration of the State Council is responsible for the supervision and management of automobile marketing within the range of its duty.

The competent commercial administrations of the provinces, autonomous regions, the municipalities directly under the Central Government, cities specifically designated in the state plan (hereinafter referred to as "provincial competent commercial administrations), local industrial and commercial administrations are responsible for the supervision and management of automobile marketing under their jurisdiction within the scope of their own official duty.

Chapter II Establishment of Automobile General Distributor and Brand Distributor

Article 8

General automobile distributor should meet with following requirements:

1. Have the qualification of enterprise's legal personality;
 2. Have obtained the written authorization of automobile production enterprises, have the right to distribute specific brand automobile independently;
 3. Have the ability of specialized automobile marketing, mainly including market survey, marketing plan, advertisement promotion, network development and guidance, products service and technical training and consultation, fitting supply and logistics management.
- Besides above requirements, if foreign businessmen invest general automobile distributor, they should also accord with relevant rules of investment management of foreign businessmen.

Article 9

Automobile brand distributor should meet with following requirements:

1. Have the qualification of enterprise's legal personality;
 2. Have obtained the rights of selling automobile brand of automobile supplier;
 3. The used name, identification and trade mark should be as the same as the ones authorized by automobile supplier;
 4. Have the places, facilities and professionals that correspond with business scope and scale;
 5. Newly opened shop should accord with relevant regulations of the development of the city where it is and the commercial development of the city.
- Besides above requirements, if foreign businessmen invest in general automobile distributor, they should also accord with relevant provisions of investment management of foreign businessmen.

Article 10

The application for setting up general automobile distributor and brand distributor should be handled in accordance with following procedures:

1. The applicant for general automobile distributor should submit relevant materials that accord with the provisions of Article 8 to the industrial and commercial administration of the State Council for the record;

2.

Automobile supplier should submit relevant materials of the applicant for automobile brand distributor that meet with the requirements of Article 9 to industrial and commercial administration of the State Council for record;

3.

The applicant for establishing general automobile distributor or brand distributor invested by foreign businessmen should submit relevant materials that accord separately with article 8 or 9 and related regulations of foreign investment management to the provincial competent commercial administration where the general automobile distributor or brand distributor plan to establish. The provincial competent commercial administration should submit all the materials after preliminary examination to the competent commercial administration of the State Council within one month at the receipt of them. If the Chinese part of the joint venture has the groups specifically designated in the state plan, it may submit the application materials directly to the competent commercial administration of the State Council. The competent commercial administration should make a decision together with industrial and commercial administration of the State Council whether the application is approved or not within three months at the receipt of it. To the application that has been approved, the Approval Certificate of Foreign-Investment Enterprise should be issued or changed for the applicant. Otherwise, reasons should be given.

If any foreign businessman merges general automobile distributor, brand distributor and the established foreign-investment enterprise broadens the business scope of automobile brand marketing, it should handle it in accordance with the preceding paragraph.

Article 11

The competent commercial administration or industrial and commercial administration of the State Council may entrust Automobile Trade Association to organize the Expert Committee to assess qualifications of the applicant that apply for establishing general automobile distributor or brand distributor. The comments of the assessment should serve as the reference for the approval and the putting on record.

Article 12

The industrial and commercial administration of the State Council should put relevant proofs on record after receipt and examination of them if they accord with the requirements.

Article 13

The applicant for general automobile distributor or brand distributor should go to the local industrial and commercial administration to go through registration formalities by the record documents or Approval Certificate of Foreign Invested Enterprise. The industrial and commercial administration should check and ratify the business scope of the general automobile distributor or brand distributor as "brand automobile marketing".

Article 14

General automobile distributor or brand distributor involving in brand changes should go through the change registration formalities according to the procedures of Article 10 or 13.

Article 15

Automobile brand distributor should obtain the authorization entrusted by automobile supplier for linkage business and handle it in accordance with the procedures of Article 13.

General automobile distributor and brand distributor who establish non legal person's branch that is engaged in automobile brand marketing should go through registration formalities in local industrial and commercial administration by the written materials that the automobile supplies agree it to establish the branch.

A foreign invested general automobile distributor or brand distributor that will establish non legal person's branch should go through the formalities in accordance with the procedures of Article 10.

Article 16

If the same external investor is engaged in the automobile brand marketing within the territory of China and opens shops more than 30 accumulatively before December 11, 2006, the proportion of investment can't exceed 49%.

Chapter III Automobile supplier's Code of Conduct

Article 17

Automobile supplier should provide authorized automobile brand distributor with automobile resources and automobile enterprise's own service mark, and implement network plan.

Article 18

The automobile supplier should strengthen the management of brand sales and service network, regulate sale and after-sale service, and announce to the society in time the name list of authorized and cancelled automobile brand marketing and service enterprises. It should not provide automobile resources to the enterprise that has not been authorized by automobile distributor or does not meet with the requirements of the business.

Article 19

The automobile supplier should provide quality assurance and make the service promise to the consumers, publish in time to the society the types that stop production, and take positive measures to ensure the supply of the fittings within proper time limit.

The automobile supplier should not supply and sell the automobile that does not accord with national technical standard of automobile safety and is not listed in the Announcement of Production Enterprises and the Products of Road Automobile.

Article 20

Automobile supplier should make reasonable overall arrangement of automobile brand sales and service sites. The distance between the site of automobile brand marketing and the site of the supply of its complete set of the fittings and after-sale service network should not exceed 150 kilometers.

Article 21

Automobile supplier should sign the authorization business contract with automobile brand distributors. Authorization business contract should be fair, just and should not have discriminative provisions to automobile brand distributor.

Article 22

Automobile supplier should not sell automobiles directly to the consumers within the sale area authorized by automobile brand distributor unless there are other agreements in the authorization contract.

Article 23

The automobile supplier should offer corresponding business training of marketing, propaganda, after-sale service, technical service and necessary technical support according to the service functions of automobile brand distributor.

Article 24

The automobile supplier should not intervene automobile brand distributor's construction, equipment purchase and business activities beyond the authorization contract, should not stipulate distributing quantity and brand package sale by force.

Chapter IV Automobile Brand Distributor's Code of Conduct

Article 25

Automobile brand distributor should be engaged in the activities of automobile brand sale, after-sale service, fitting supplying etc. within the scope authorized by automobile supplier.

Article 26

Automobile brand distributor should strictly observe the authorization management contract with the automobile supplier, use the service mark of automobile production enterprise provided by automobile supplier, safeguard the images of the enterprise and brand of automobile supplier, improve marketing and service level relating to the automobiles brand.

Article 27

Automobile brand distributor must place the shop's name, identification and trade mark authorized by automobile supplier on a conspicuous position, and must not do the business about un-authorized automobile brand in any form.

Article 28

Automobile brand distributor should not sell the authorized brand automobile directly to the final consumers unless the authorized automobile supplier allows it to do so;

Article 29

Automobile brand distributor should show clearly to the consumers the quality assurance of the automobile and after sale service in its business place, provide corresponding after-sale service in accordance with the agreement and the requirements of the service standard of business contract authorized by automobile supplier.

Article 30

Automobile brand distributor should show clearly the price and the standard of collecting fees of the brand automobile it deals with in the business place, observe the laws and regulations of the price and mark the price clearly.

Article 31

Automobile brand distributor must not sell the automobile that does not accord with national safety technical standard of motor vehicle, the automobile that is not listed in the Announcement of the Production Enterprises and the Products of the Road Automobile.

Article 32

The automobile brand distributor should set up information management system of marketing and files of the consumers, reflecting in time the marketing trends, user's demand and other relevant information in this area

Chapter V Supervision Management

Article 33

A domestic automobile production enterprise that transfers the rights and interests of selling link to other bodies of legal persons should report to the Ministry of Commerce

for approval in accordance with the provisions, and it should also report to the original project approval authority for the examination and approval.

Article 34

File on record rules of general automobile distributor or brand distributor shall be established. The general automobile distributor that meet with the requirements of the establishment and has obtained business license should be put on record to the competent commercial administration of the State Council within 2 months from the day of obtaining business license. The automobile brand distributor that meet with the requirement of the establishment and has obtained business license should be put on record to the provincial competent commercial administration where it locates within 2 months from the day of obtaining business license. The provincial competent commercial administration should report the record information of automobile brand regularly to the competent commercial department of the State Council.

Article 35

Automobile supplier should report the shop's name, identification and trade mark used by authorized automobile brand distributor to the competent commercial administration and industrial and commercial administration of the State Council for the record. The name in Chinese used by import automobile brand should accord with the one that is put on record by national quality and technical supervision administration.

Article 36

Before October 1, 2005, automobile supplier should make confirmation to the automobile marketing enterprises established before the implementation of these measures, and report the name list of confirmed general automobile distributors, brand distributors and brand authorization, enterprise registration and etc. to the competent commercial administration and industrial and commercial administration of the State Council for record. The confirmed general automobile distributor and brand distributor should go through change formalities in local industrial and commercial administration. The industrial and commercial administration should verify their business scope as "brand automobile marketing".

Unconfirmed automobile marketing enterprises that apply for automobile brand marketing should go through the formalities in accordance with the procedures of Article 10 and 13 of these Measures.

Article 37

Whoever violates the provisions of Article 18 and 28 should be instructed by industrial and commercial administration to correct and stop the verification of brand marketing sites newly established by automobile supplier.

To those violating other provisions of these measures, the industrial and commercial administration should check and deal with it in accordance with relevant laws and regulations

Article 38

The industrial and commercial administration of the State Council should handle and publish to the society in time the name list of general automobile distributors and brand distributors in accordance with the provisions of Article 10, 13 and 36 of these measures.

Article 39

The competent commercial administration and industrial and commercial administration should take effective measures, strengthen the supervision management of automobile

marketing and automobile market within the scope of their own functions and responsibilities, investigate and deal with illegal business activities in accordance with laws, safeguarding the order of the market, protect the lawful rights and interests of the consumers, automobile suppliers and brand distributors.

Article 40

The industrial and commercial administration of the State Council should establish credit files of automobile suppliers and brand distributors and publish in time the name list of the enterprises that violate the regulations together with the competent commercial administration.

Article 41

The Automobile Trade Association should make trade norm, strengthen the guidance and supervision, and do well in trade self discipline.

Article 42

The competent commercial administration of the State Council should strengthen the supervision and management of the assessment of the expert committee organized by Automobile Trade Association, investigate and deal with the illegal activities in the assessment of the expert committee.

Chapter VI Supplementary Provisions

Article 43

These measures apply to passenger cars as of the implementation of them and apply to all automobiles except for special-purpose vehicles as of December 1, 2006.

Article 44

The "automobile", "passenger car" and "special-purpose vehicle" in term of these measures" refer to the automobiles defined in Technical Terms and Definition of the Types of Automobiles and Trailers (GB/T 3730.1-2001) of national standard of the People's Republic of China.

Article 45

The composition of the expert committee organized by Automobile Trade Association and the implementation measures of qualification assessment of general automobile distributor and brand distributor are made by automobile trade association and come into effect after the approval of the competent commercial administration of the State Council.

Article 46

These measures will go into effect on April 1, 2005.