

**FAIR FRANCHISE
TRANSACTIONS ACT**

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Enacted on May 13, 2002 Law No. 6704

Revised on Jan. 20, 2004 Law No. 7109

Chapter 1 General Provision

Article 1 (Purpose) The purpose of this Act is to promote the welfare of consumers and further develop the national economy in a sound manner by instituting a fair and rational transaction system for franchises and ensuring mutually complementary and balanced development of the franchiser/franchisee relationship on an equal footing.

Article 2 (Definition) For the purposes of this Act, the terms used herein are defined as follows:

1. "Franchise" means a continuous business relationship in which Franchiser allows Franchisee to sell goods (hereinafter to include raw and auxiliary materials) or services under certain quality standards using its trademarks, service marks, trade name, signs and other business marks ("Business Marks"), and supports, educates and controls Franchisee as regards relevant management and operating activities, and in which Franchisee pays Franchise Fees to Franchiser in return for the use of Business Marks and the support and education concerning the management and operating activities.
2. "Franchiser" means a business entity that grants Franchise Management Rights to Franchisee in connection with a Franchise.
3. "Franchisee" means a business entity to whom Franchise Management Rights are granted by Franchiser in connection with a Franchise.
4. "Prospective Franchisee" means an applicant who requests a specific Franchiser, in writing, to provide information contained in an Information

Disclosure Statement as defined in Subparagraph 10 hereof including the liabilities of the Franchisee and the conditions of its operating activities, for the purpose of running a franchisee business in the future.

5. "Franchise Management Rights" mean the rights that Franchiser grants to Franchisee to operate a Franchise under a Franchise Agreement.
6. "Franchise Fees" means any of the following monetary consideration prescribed by Presidential Decree, notwithstanding the appellation or payment form thereof:
 - a. Money that Franchisee pays to Franchiser at the time of the granting of Franchise Management Rights in consideration of the permission to use Business Marks and the support and education for its operating activities;
 - b. Money that Franchisee pays to Franchiser as a deposit in order to guarantee its payment of obligations regarding proceeds from sale of goods or compensation for damages; and
 - c. Money that Franchisee pays to Franchiser on a regular basis in consideration of the use of Business Marks permitted under its agreement with Franchiser and the support and education for its operating activities.
7. "Master Franchisee" means a business entity that vicariously performs a part or all of the duties of Franchiser under its agreement with Franchiser including, but not limited to, solicitation of Franchisees within a certain area, maintenance of the quality of goods or services, and the support, education and control of Franchisees regarding their management and operating activities.

8. "Franchise Broker" means a person that is commissioned to solicit Franchisees, or prepare or conclude Franchise Agreements, by Franchiser or Master Franchisee.
9. "Franchise Agreement" means a document that sets forth the rights and obligations of Franchiser and/or Franchisee ("Franchising Parties") in respect of the specific details and conditions of a Franchise.
10. "Information Disclosure Statement" means a document in the form of a booklet that contains the business status of Franchiser, career background of its officers, liabilities of Franchisee, conditions of its operating activities, the education, training, guidance and control of the Franchisee, the termination, cancellation and renewal of the Franchise Agreement, and other matters prescribed by Presidential Decree with regard to the Franchise concerned.

Article 3 (Exclusion of Application) This Act shall not apply to any of the following cases, with the exception of the provisions of Articles 9 and 10 hereof:

1. If the total Franchise Fees paid by Franchisee to Franchiser for the six-month period beginning from the date of initial payment of Franchise Fees do not exceed an amount prescribed by Presidential Decree; and
2. If the annual sales of Franchiser is less than a certain amount as prescribed by Presidential Decree.

Chapter 2 Basic Principles of Franchise Transactions

Article 4 (Principle of Good Faith) In engaging in an operation of a Franchise, the Franchising Parties shall perform their respective duties in good faith.

Article 5 (Compliance of a Franchiser) Franchiser shall comply with each of the following:

1. Planning of business for the success of the Franchise;
2. Continuing efforts toward quality control of goods or services and development of sales techniques;
3. Installation of shop facilities, and supply of goods or services, for Franchisee at reasonable prices;
4. Education and training of Franchisee and its employees;
5. Continuing advice and support for the management and operating activities of Franchisee;
6. Prohibition of the opening of a directly-managed shop of Franchiser or a franchise business engaging in a similar line of business to that of Franchisee within the business area of Franchisee during the period of the Franchise Agreement; and
7. Efforts to resolve disputes through dialogue and negotiations with Franchisee.

Article 6 (Compliance of a Franchisee) Franchisee shall comply with each of the following:

1. Efforts to maintain the unity of the Franchise and the good repute of Franchiser;
2. Maintenance of inventory and display of goods in an appropriate manner in accordance with Franchiser's supply plan and consumer demand;

3. Compliance with adequate quality standards as presented by Franchiser with regard to goods or services;
4. Use of goods and services as provided by Franchiser in the event of failure to stock goods or services meeting the quality standards as provided in the foregoing Subparagraph 3;
5. Compliance with appropriate standards as presented by Franchiser with regard to the facilities and exterior of the place of business as well as the means of transport;
6. Consultation with Franchiser prior to effectuating any changes in the goods or services in which it deals or in its operating activities;
7. Maintenance and provision of data necessary for unified business management and sales strategy formulation by Franchiser including, but not limited to, accounting books on the purchase and sale of goods and services;
8. Provision to the officers, employees or agents of Franchiser of access to its place of business for the checking and recording of its business status and the data as set out in the foregoing Subparagraph 7;
9. Prohibition of any change in the location of its place of business or any transfer of Franchise Management Rights without the consent of Franchiser;
10. Prohibition of any act to engage in the same line of business as that of Franchiser during the period of the Franchise Agreement;
11. Prohibition of disclosure of sales techniques or trade secrets belonging to Franchiser; and

12. Notification of any infringement on Business Marks by a third party to Franchiser if it gains knowledge thereof, and appropriate cooperation with Franchiser to take necessary measures to prohibit such infringement.

Chapter 3 Fair Franchise Transactions

Article 7 (Obligation to Provide Information Disclosure Statement)

(1) Franchiser (hereinafter to include a Master Franchisee or Franchise Broker in the event such party solicits Franchisees) shall provide Prospective Franchisee with an Information Disclosure Statement as prescribed by Presidential Decree at the time which is the earlier among the following:

1. Five (5) days prior to the date of the Prospective Franchisee's initial payment of Franchise Fees;
2. Five (5) days prior to the date of the Prospective Franchisee's signing of a Franchise Agreement.

(2) The Fair Trade Commission may produce a standard form of Information Disclosure Statements and recommend its use to Franchiser or a business organization comprised of Franchisers, as prescribed by Presidential Decree.

Article 8 (Updating and Modification of Information Disclosure Statement)

- (1) Within ninety (90) days from the date on which each fiscal year ends, Franchiser shall update its Information Disclosure Statement.
- (2) In the event of any change in the material items of the Information Disclosure Statement including, but not limited to, the liabilities of Franchisee or the conditions of its operating activities, as prescribed by

Presidential Decree, Franchiser shall modify the Information Disclosure Statement within ninety (90) days from the date of such change

Article 9 (Prohibition of Provision of False or Exaggerated Information)

- (1) Franchiser shall not provide false or exaggerated information, nor omit any material items as provided in Paragraph 2, Article 8 hereof in producing, updating or modifying the Information Disclosure Statement or in presenting, advertising or explaining any information to Prospective Franchisee (hereinafter to include presentation of video materials).
- (2) In providing historical or estimated profit/loss information about its Franchisees including sales, revenues, gross margin and net income, Franchiser shall have data, as prescribed by Presidential Decree, available in its office including an audit report produced by a certified public accountant.
- (3) Franchiser shall comply with request from any Prospective Franchisee or Franchisee to provide data provided in the foregoing Paragraph 2.

Article 10 (Refund of Franchise Fees)

- (1) In any of the following cases, Franchiser shall refund Franchise Fees, as provided in Subparagraphs 6A and 6B of the foregoing Article 2, to Prospective Franchisee or Franchisee within one (1) month from the date of a request from such Prospective Franchisee or Franchisee:
 1. When the Prospective Franchisee requests a refund of Franchise Fees prior to conclusion of a Franchise Agreement since it has been acknowledged that the Franchiser has provided false or exaggerated information as provided in Paragraph 1, Article 9 hereof or omitted material items as provided in Paragraph 2, Article 8 hereof;

2. When the Franchisee requests a refund of Franchise Fees within two (2) months from the date of conclusion of a Franchise Agreement since it has been acknowledged that false or exaggerated information as provided in Paragraph 1, Article 9 hereof or omission of material items as provided in Paragraph 2, Article 8 hereof materially influenced the conclusion of the Franchise Agreement; and
 3. When the Franchiser unilaterally discontinues its Franchise without any justifiable reason and the Franchisee requests a refund of Franchise Fees within two (2) months from the date of the discontinuance of the Franchise, as prescribed by Presidential Decree. In such case, the Franchise Fees to be refunded shall be limited to the amount paid within the period of the relevant Franchise Agreement.
- (2) In determining the amount of Franchise Fees to be refunded pursuant to the foregoing Paragraph 1, the circumstances of conclusion of a Franchise Agreement, nature of the money paid, period of the Franchise Agreement, period of performance of the Franchise Agreement, degree of accountability of the Franchising Parties and so forth shall be taken into consideration.

Article 11 (Delivery of Franchise Agreement)

- (1) Franchiser shall deliver a Franchise Agreement (hereinafter to include a document stating the rights and obligations of the Franchiser and its Franchisee including the matters of special note and special conditions of transactions) to Prospective Franchisee prior to the date of its initial receipt of Franchise Fees.
- (2) A Franchise Agreement shall include each of the following:
 1. Matters related to granting of the rights to use Business Marks;

2. Matters related to the conditions of the operating activities of Franchisee;
 3. Matters related to the education/training and management guidance for Franchisee;
 4. Matters related to the details of payments of money including Franchise Fees;
 5. Matters related to the establishment of a business area;
 6. Matters related to the period of a Franchise Agreement;
 7. Matters related to business transfer;
 8. Matters related to causes for termination of a Franchise Agreement; and
 9. Matters related to the rights and obligations of the Franchising Parties as prescribed by Presidential Decree.
- (3) Franchiser shall keep a Franchise Agreement for three (3) years from the date of the completion of the relevant Franchise transactions.
- (4) The Fair Trade Commission may recommend Franchiser to produce and use a Franchise Agreement, which serves as a standard for certain Franchise transactions, in order to establish the sound order of Franchise transactions and prevent any unfair Franchise Agreement from being used commonly in the market.

Article 12 (Prohibition of Unfair Transactions)

- (1) Franchiser shall not engage in, nor cause another business entity to engage in, any of the following acts that may hinder fair Franchise transactions:

1. Any act to unfairly discontinue or refuse the supply of goods or services to, or the support for operating activities of, Franchisee, or to significantly restrict the contents thereof;
 2. Any act to unfairly restrict or limit the price of goods or services dealt with by Franchisee, its counter-parties, area of transactions, or business activities;
 3. Any act to unfairly cause any disadvantage to Franchisee by bargaining the position of the Franchiser in transactions; and
 4. Any act not falling under any of the foregoing Subparagraphs 1 through 3 which might possibly hamper fair Franchise transactions including an act to unfairly entice a Franchisee of a competing Franchiser to deal with oneself.
- (2) The types and standards of the acts as provided in each subparagraph of the foregoing Paragraph 1 shall be prescribed by Presidential Decree.

Article 13 (Notification of the Expiration of Franchise Agreement)

- (1) In the event Franchiser does not intend to renew or extend its Franchise Agreement, it shall give written notice thereof to Franchisee at least ninety (90) days prior to the date of expiration of the Franchise Agreement.
- (2) If Franchiser fails to give such notice as provided in the foregoing Paragraph 1, the Franchise Agreement shall be deemed newly concluded under the same terms and conditions as the Franchise Agreement existing prior to the expiration thereof; provided, however, that this provision shall not apply if Franchisee raises any objections prior to sixty (60) days from the date of the expiration of the Franchise Agreement or in the event of any unavoidable reason

as prescribed by Presidential Decree including the occurrence of an Act of God to the Franchiser or Franchisee.

Article 14 (Restrictions on Termination of Franchise Agreement)

- (1) If Franchiser intends to terminate a Franchise Agreement due to occurrence of any reason for termination thereof as provided in the Franchise Agreement, the Franchiser shall request the relevant Franchisee to remedy such situation by sending a document stating such reason for termination not less than three (3) times under a grace period of not less than two (2) months from the date of termination thereof; provided, however, that the foregoing provision shall not apply in cases where it is difficult to maintain Franchise transactions as prescribed by Presidential Decree.
- (2) Termination of any Franchise Agreement which has not undergone the procedures provided in the foregoing Paragraph 1 shall be invalid.

Article 15 (Autonomous Covenant)

- (1) Franchiser or a business organization consisting of Franchisers may formulate an autonomous covenant in order to maintain orderly and equitable Franchise transactions.
- (2) If any Franchiser or a business organization consisting of Franchisers intends to formulate an autonomous covenant pursuant to the foregoing Paragraph 1, it may request the Fair Trade Commission to deliberate whether such covenant violates Paragraph 1, Article 12 hereof.
- (3) When requested to deliberate an autonomous covenant in accordance with the foregoing Paragraph 2, the Fair Trade Commission shall notify the relevant applicant of its deliberation results within sixty (60) days from the date of the receipt of such request.

Chapter 4 Dispute Conciliation

Article 16 (Establishment of the Franchise Transaction Dispute Conciliation Council)

- (1) The Franchise Transaction Dispute Conciliation Council (“Council”) shall be established in such business organization as prescribed by Presidential Decree for autonomous resolution of disputes among Franchising Parties.
- (2) Such business organization as provided in the foregoing Paragraph 1 shall be limited to an incorporated association which has relevance to the business affairs provided herein comprising a certain number of business entities directly involved in the activities thereof with the capabilities to perform the duties of dispute conciliation.

Article 17 (Composition of the Council)

- (1) The Council shall be comprised of nine (9) members including one (1) chairman.
- (2) The members of the Council shall represent the interests of the public, Franchisers and Franchisees, and the number of members representing such different interests, respectively, shall be the same.
- (3) Members of the Council shall be appointed or commissioned by the Fair Trade Commission among those recommended by the head of the business organization provided in Paragraph 1 of Article 16 hereof and those who fall under any of the following criteria:
 1. Persons who majored in jurisprudence, economics or business administration in college and is serving or served as an associate professor or in a higher position at a university under the Higher Education Act or an accredited research institute or in an equivalent position for not less than ten (10) years;

2. Persons who is serving or served as a judge, prosecutor or attorney-at-law for not less than ten (10) years; and
3. Persons who is serving or served as a public official of grade three (3) or higher with experience in monopoly regulation and fair trade.
- (4) Chairman of the Council shall be commissioned by the Fair Trade Commission among the members representing the public interest.
- (5) Members of the Council shall serve a tenure of three (3) years and may be reappointed.
- (6) In the event of any vacancy in the Council, a member to fill in for such vacancy shall be commissioned according to the foregoing Paragraph 3, and the tenure of such member shall be the remaining term of office of his/her predecessor.

Article 18 (Restrictions on Commissioning Members Representing Public Interest)

- (1) No officer or employee of Franchiser or Franchisee as of the date of commissioning shall be commissioned to serve as a member of the Council representing the public interest.
- (2) The Fair Trade Commission shall immediately revoke its commissioning of any member representing the public interest, if such member becomes an officer or an employee of Franchiser or Franchisee.

Article 19 (Meetings of the Council)

- (1) Chairman of the Council shall convene and preside over the meetings thereof.

- (2) The Council shall open with a quorum of a majority of the members thereof and its decisions shall be binding with the consent of a majority of the members present.
- (3) If the chairman of the Council is incapacitated from performing his/her duties, a member nominated by the Fair Trade Commission among the members representing the public interest shall serve as the acting chairman.
- (4) The Franchising Parties, who are the parties to a dispute subject to conciliation efforts ("Parties in Dispute") may present their opinions or submit relevant data by attending meetings of the Council.

Article 20 (Exclusion, Challenge and Avoidance of a Council Member)

- (1) If a member of the Council falls under any of the following circumstance, such member shall not be involved in the intercession of the relevant matter:
 1. If a member of the Council, his/her spouse or ex-spouse becomes a Party in Dispute subject to conciliation or a joint holder of rights or liabilities;
 2. If a member of the Council has or had a relationship by blood or marriage to the Parties in Dispute subject to conciliation;
 3. If a member of the Council or a corporation to which a member of the Council belongs serves as an advisor or a consultant with respect to the legal affairs, business administration and so forth of the Parties in Dispute; and
 4. If a member of the Council or a corporation to which a member of the Council belongs is or was involved in the matter of the dispute as a representative of the Parties in Dispute, and/or gives testimony or appraisal in relation thereto.

(2) The Parties in Dispute may submit to the Council a challenge to a member thereof if there exist circumstances that makes it possible that such member may face a conflict of interest in the process of dispute conciliation by the Council.

(3) If a member of the Council is deemed to fall into one of the categories under the foregoing Paragraphs 1 and 2, such member may not voluntarily involve himself/herself in mediation of the relevant matter.

Article 21 (Matters of Conciliation by the Council)

The Council shall mediate disputes over Franchise transactions as requested by the Fair Trade Commission or the Parties in Dispute.

Article 22 (Application for Dispute Conciliation, etc.)

(1) The Parties in Dispute may file for dispute conciliation to the Council under Article 21 hereof by submitting a document stating the matters prescribed by Presidential Decree.

(2) The Fair Trade Commission may request the Council to mediate cases concerning disputes over Franchise transactions.

(3) If requested to engage in dispute conciliation according to the foregoing Paragraph 1, the Council shall promptly give notice of its mediation results to the Parties in Dispute and make a report thereof to the Fair Trade Commission.

Article 23 (Conciliation, etc.)

(1) The Council may recommend the Parties in Dispute to settle the matters between themselves, or may produce and present a dispute mediation proposal to the Parties in Dispute.

(2) In any of the following cases, the Council may refuse or discontinue its role of mediation:

1. If either of the Parties in Dispute refuses mediation;
2. If a legal action in court has already been instituted, or a legal action is instituted in court after filing for mediation; and
3. If any event, as prescribed by Presidential Decree, in which it is of no practical benefit to perform mediation, arises including those cases where the details of a filing are evidently acknowledged under related laws or objective data.

(3) In any of the following circumstances, the Council shall terminate its mediation procedures:

1. If a mediation is effectuated, with the Parties in Dispute accepting a recommendation or a mediation proposal by the Council or deciding to settle the dispute for themselves;
2. If a mediation is not effectuated upon the lapse of sixty (60) days from the date of receipt of a filing or a request for mediation; and
3. If it is of no practical benefit to proceed with mediation procedures in cases where a mediation is discontinued according to the foregoing Paragraph 2.

(4) In cases where the Council refuses or discontinues a mediation pursuant to the foregoing Paragraph 2 or ends mediation procedures under the foregoing Paragraph 3, it shall promptly make a report, in writing, of the circumstances of the mediation and the reasons for refusal, discontinuance or cessation of mediation to the Fair Trade

Commission, together with submission of related documents, as prescribed by Presidential Decree, and give notice thereof to the Parties in Dispute.

- (5) The Council may conduct an investigation or request the Parties in Dispute to submit relevant data or to appear, if necessary, to confirm the facts concerning the matters of mediation.
- (6) The Fair Trade Commission shall not recommend, nor order, any corrective measures to the Parties in Dispute until mediation procedures as regards the matters of mediation are completed; provided, however, that the foregoing provision shall not apply in respect to the cases which are already under investigation by the Fair Trade Commission pursuant to Article 32 hereof.

Article 24 (Production of Mediation Protocols and Their Effect)

- (1) If a mediation is effectuated, the Council shall produce a mediation protocol signed and sealed by the members thereof involved in such mediation and the Parties in Dispute. In such case, an agreement with the same effect as the mediation protocol shall be deemed to have been concluded between the Parties in Dispute.
- (2) The Council may produce a mediation protocol if the Parties in Dispute settle, by themselves, a matter under mediation prior to the commencement of mediation procedures by the Council and request production of such mediation protocol.

Article 25 (Provisions on the Organization of the Council, etc.) In addition to the provisions of the foregoing Articles 16 through 24, other necessary matters in respect of the organization, operation and mediation procedures of the Council shall be prescribed by Presidential Decree.

Article 26 (Subsidies) The Fair Trade Commission may provide a subsidy to the business organization, in which the Council is set up under Article 16 hereof, covering all or a part of the expenses necessary for operation of the Council.

Article 27 (Franchise Transaction Counselor)

(1) Any person who passes an examination of qualification as a Franchise Transaction Counselor (“Counselor”) conducted by the Fair Trade Commission and subsequently completes an internship as prescribed by Presidential Decree shall be qualified as a Counselor.

(2) Any of the following persons shall not be qualified as a Counselor:

1. Any minor, incompetent or quasi-incompetent;
2. Any person declared bankrupt and not reinstated yet;
3. Any person sentenced to imprisonment without labor or a heavier punishment, of which execution has been completed (including those cases where execution thereof is deemed completed), or any person regarding whom two (2) years have not yet elapsed after it was finally determined not to execute such punishment;
4. Any person who is under suspension of the execution of punishment not lighter than imprisonment without labor; and
5. Any person regarding whom two (2) years have not yet elapsed from the date of the cancellation of Counselor registration according to Article 31 hereof.

(3) Necessary matters with regard to the qualification examination and internship of a Counselor including, but not limited to, the subjects

and methods of such examination and the period of internship shall be prescribed by Presidential Decree.

Article 28 (Duties of Counselors) Counselors shall conduct counseling as regards each of the following:

1. Matters related with the feasibility study of a Franchise;
2. Matters related with production and modification of an Information Disclosure Statement and a Franchise Agreement;
3. Matters related with the liabilities of Franchisee, conditions of the operating activities of a Franchise, and so forth; and
4. Matters related with education and guidance of the Franchising Parties.

Article 29 (Registration of Counselors)

- (1) If a person qualified as a Counselor intends to begin performing duties as a Counselor as provided in Article 28 hereof, such person shall register with the Fair Trade Commission as prescribed by Presidential Decree.
- (2) A Counselor who has registered pursuant to the foregoing Paragraph 1 shall update such registration every five (5) years as determined by the Fair Trade Commission.
- (3) Any person other than a Counselor who has registered pursuant to the foregoing Paragraph 1 shall not represent himself/herself as a Counselor provided in Article 27 hereof, nor use any similar terminology.

Article 30 (Responsibilities of Counselors)

- (1) Counselors shall perform their duties in good faith, and maintain their dignity.

- (2) In performing their duties, Counselors shall not deliberately conceal the truth, nor make any false report.

Article 31 (Cancellation of Registration and Suspension of Qualification)

- (1) If any Counselor who has registered pursuant to Article 29 hereof falls under any of the following, the Fair Trade Commission may revoke the registration of such Counselor; provided, however, that the Fair Trade Commission shall revoke such registration in the case of Subparagraphs 1 and 2:

1. If a Counselor has made or updated a registration by fraud or other illegal means;
2. If a Counselor comes to fall under any of the reasons for disqualification set forth in Paragraph 2, Article 27 hereof;
3. If a Counselor divulges to a third party any secret of which the Counselor gains knowledge in connection with counseling;
4. If a Counselor rents a certificate of registration as a Counselor to a third party; and
5. If a Counselor, deliberately or by a material negligence, incurs material damages to a third party in connection with counseling.

- (2) Any Counselor who fails to update registration pursuant to Paragraph 2, Article 29 hereof shall be subject to suspension of qualification. In such case, the Counselor shall recover his/her qualification from the time when such Counselor receives supplementary education and updates his/her registration as prescribed by the Fair Trade Commission in a public notice.

**Chapter 5 Fair Trade Commission's Procedures of Handling Cases,
etc.**

Article 32 (Restrictions on Acts Subject to Investigation) Franchise transactions, which may be subject to investigation by the Fair Trade Commission hereunder, shall be limited to those transactions regarding which three (3) years have not elapsed yet from the date of the completion thereof; provided, however, that the foregoing provision shall not apply to Franchise transactions reported within three (3) years from the date of completion thereof.

Article 33 (Corrective Measures)

- (1) The Fair Trade Commission may order any Franchiser, who violates Paragraph 1 of Article 7, Article 8, Article 9, Paragraph 1 of Article 10, Paragraphs 1 through 3 of Article 11 and Paragraph 1 of Article 12 hereof, to provide or modify an Information Disclosure Statement, refund Franchise Fees, discontinue the violative act, report a plan or an action for rectification of such violation, and take other measures required to remedy such violation.
- (2) If mediation by the Council is effectuated pursuant to Article 24 hereof, the Fair Trade Commission shall not order corrective measures as provided in the foregoing Paragraph 1, nor recommend correction as prescribed in Paragraph 1, Article 34 hereof, unless there exist special circumstances.
- (3) If the Fair Trade Commission issues a corrective order as provided in the foregoing Paragraph 1, the Fair Trade Commission may order the relevant Franchiser to make public that it has received a corrective order or to give notice thereof to its counter-party in the transaction.

Article 34 (Recommendation of Correction)

- (1) If there is insufficient time to order corrective measures under Article 33 hereof against any Franchiser violating a provision hereof, the Fair Trade Commission may formulate a plan to redress such situation and recommend such Franchiser to comply with such plan, as prescribed by Presidential Decree. In such case, the Fair Trade Commission shall concurrently notify the Franchiser that if the Franchiser accepts such recommendation, corrective measures shall be deemed to have been taken.
- (2) Any Franchiser, who receives such recommendation as provided in the foregoing Paragraph 1, shall notify the Fair Trade Commission whether it accepts the recommendation within ten (10) days from the date of receipt of such recommendation.
- (3) If any Franchiser, who receives such recommendation as provided in the foregoing Paragraph 1, accepts the recommendation, such Franchiser shall be deemed to be subject to corrective measures pursuant to Article 33 hereof.

Article 35 (Surcharges) The Fair Trade Commission may impose penalty surcharges against any Franchiser, who violates Paragraph 1 of Article 7, Article 8, Article 9, Paragraph 1 of Article 10, Paragraphs 1 through 3 of Article 11 and Paragraph 1 of Article 12 hereof, within the scope of not exceeding an amount equivalent to its sales, as prescribed by Presidential Decree, multiplied by two hundredths (2/100).

Article 36 (Cooperation by the Heads of the Administrative Authorities Concerned) The Fair Trade Commission may avail itself of the opinions of the heads of the administrative authorities concerned or request such heads to provide personnel or other support required for an investigation, if deemed necessary in its reasonable discretion, for enforcement hereof.

Article 37 (Application *Mutatis Mutandis* of the Monopoly Regulation and Fair Trade Act)

- (1) In respect to an investigation, deliberation, decision-making and recommendation of correction by the Fair Trade Commission hereunder, the provisions of Article 42 (Proceedings of Meetings and Decision Quorum) through Article 45 (Commissioner's Signature and Sealing), Paragraphs 1 through 3 of Article 49 (Identification and Reporting of Violations), Paragraphs 1 through 4 of Article 50 (Investigation of Violations), Article 52 (Opportunity to State Opinions) through Article 53-2 (Suspension of Execution of Corrective Orders) and Article 55-2 (Procedures for Processing Cases) of the Monopoly Regulation and Fair Trade Act shall apply *mutatis mutandis*.
- (2) As regards the imposition and collection of penalty surcharges hereunder, the provisions of Article 55-3 (Imposition of Penalty Surcharges) through Article 55-6 (Interest Payment on Refunded Penalty Surcharges) of the Monopoly Regulation and Fair Trade Act shall apply *mutatis mutandis*.
- (3) With respect to the exclusive jurisdiction and compensation for damage concerning a filing for objection, institution of a legal action and an action for appeal hereunder, Article 53 (Appeal) through Article 55 (Exclusive Jurisdiction over Actions for Appeal), and Article 56 (Liability for Damages) through Article 57 (Judicial Limitations on Claims for Damages) of the Monopoly Regulation and Fair Trade Act shall apply *mutatis mutandis*; provided, however, that Article 56 (Liability for Damages), Article 56-2 (Forwarding of Documents) and Article 57 (Judicial Limitations on Claims for Damages) of the Monopoly Regulation and Fair Trade Act shall not apply *mutatis mutandis* in such cases as prescribed by Presidential Decree including, but not limited to, those cases where a violation perpetrated by a business entity or an organization of business entities is insignificant or where it is of no practical benefit to take

corrective measures since such business entity or organization has already rectified such violation on its own.

(4) As regards commissioners of the Fair Trade Commission and public officials who are engaging or has engaged in duties hereunder or members of the Council who are taking or has taken charge of mediation of disputes over Franchise transactions, Article 62 (Obligation to Preserve Confidentiality) of the Monopoly Regulation and Fair Trade Act shall apply *mutatis mutandis*.

(5) With respect to the procedures regarding imposition and collection of fines for negligence hereunder, Paragraphs 3 through 6, Article 69-2 (Fine for Negligence) of the Monopoly Regulation and Fair Trade Act shall apply *mutatis mutandis*.

Article 38 (Relations with the Monopoly Regulation and Fair Trade Act)

With regard to matters concerning Franchise transactions which are subject to this Act, Subparagraph 1 (limited to acts to unfairly refuse transactions), Subparagraph 3 (limited to acts to unfairly entice customers of competitor to engage in transactions), Subparagraph 4 and Subparagraph 5 (limited to the acts to make transactions on the condition of unfairly restricting the business activities of a transaction counter-party) of Paragraph 1, Article 23 of the Monopoly Regulation and Fair Trade Act and Paragraph 1, Article 29 thereof shall not apply.

Article 39 (Delegation and Commissioning of Authority)

(1) The authority of the Fair Trade Commission hereunder may be partially delegated to the heads of the institutions concerned, or the mayor of special metropolitan city or metropolitan cities, or *Do* (province) chiefs, or commissioned to the heads of other administrative authorities, as prescribed by Presidential Decree.

(2) The Fair Trade Commission may commission a relevant corporation or group to perform execution and management of the qualification

examination and internship of Counselors pursuant to Paragraph 1, Article 27 hereof, as prescribed by Presidential Decree.

Article 40 (Report) The Fair Trade Commission may cause a person, who is delegated or commissioned to perform duties as provided in Article 39 hereof, to make necessary reports as regards such delegated or commissioned duties.

Chapter 6 Penalties

Article 41 (Penalties)

- (1) Any person who provides false or exaggerated information or omits material items in violation of Paragraph 1, Article 9 hereof shall be punished by an imprisonment of not more than five (5) years or a fine of not more than 150 million Won (one hundred fifty million).
- (2) Any person who falls under any of the following shall be punished by an imprisonment of not more than three (3) years or a fine of not more than 100 million Won (one hundred million):
 1. Any person who does not comply with an order for corrective measures under Paragraph 1, Article 33 hereof; and
 2. Any person who violates Article 62 of the Monopoly Regulation and Fair Trade Act which applies *mutatis mutandis* under Paragraph 4, Article 37 hereof.
- (3) Any person who falls under any of the following shall be punished by an imprisonment of not more than two (2) years or a fine of not more than 50 million Won (fifty million):
 1. Any person who fails to provide an Information Disclosure Statement in violation of Paragraph 1, Article 7 hereof; and

2. Any person who fails to update and modify an Information Disclosure Statement in violation of Article 8 hereof.

Article 42 (Fine for Negligence)

- (1) If any Franchiser falls under the provisions of the following Subparagraph 2 or 3, it shall be subject to a fine for negligence of not more than 100 million Won(one hundred million). If it falls under the provision of Subparagraph 1, it shall be subject to a fine for negligence of not more than 50 million Won(fifty million):

1. Any person that does not make an appearance twice or more without any justifiable reason in violation of Subparagraph 1, Paragraph 1, Article 50 of the Monopoly Regulation and Fair Trade Act which applies *mutatis mutandis* according to Paragraph 1, Article 37 hereof;

2. Any person that does not make a report or submit necessary data or items without any justifiable reason as provided in Subparagraph 3, Paragraph 1, Article 50 or Paragraph 3, Article 50 of the Monopoly Regulation and Fair Trade Act which applies *mutatis mutandis* according to Paragraph 1, Article 37 hereof, or makes a false report or submits false data or items; and

3. Any person that refuses, obstructs or evades, without any justifiable reason, an investigation under Paragraph 2, Article 50 of the Monopoly Regulation and Fair Trade Act which applies *mutatis mutandis* according to Paragraph 1, Article 37 hereof.

- (2) If any Franchisee falls under the provisions of Subparagraph 2 or 3 of the foregoing Paragraph 1, it shall be subject to a fine for negligence of not more than 100 million Won(one hundred million). If it falls under the provision of Subparagraph 1, it shall be subject to a fine for negligence of not more than 10 million Won(ten million).

- (3) If an officer of Franchiser or Franchisee respectively falls under the provision of Subparagraph 3 of the foregoing Paragraph 1, such officer shall be subject to a fine for negligence of not more than 50 million Won (fifty million). If such officer falls under the provision of Subparagraph 1 or 2, such officer shall be subject to a fine for negligence of not more than 10 million Won (ten million).
- (4) If an employee of Franchiser or Franchisee or a party with equivalent legal interests respectively falls under the provision of Subparagraph 3 of the foregoing Paragraph 1, such person shall be subject to a fine for negligence of not more than 50 million Won (fifty million). If such person falls under Subparagraph 2 or Subparagraph 1 of the foregoing Paragraph 1, such person shall be respectively subject to a fine for negligence of not more than 10 million Won (ten million) and not more than 5 million Won (five million).
- (5) Any person, who does not comply with an imperative to maintain order under Article 43-2 of the Monopoly Regulation and Fair Trade Act which applies *mutatis mutandis* according to Paragraph 1, Article 37 hereof, shall be subject to a fine for negligence of not more than 1,000,000 Won (one million).
- (6) Any person, who fails to make evidentiary materials available or does not comply with a request to provide relevant data in violation of Paragraphs 2 and 3, Article 9 hereof, shall be subject to a fine for negligence of not more than 10 million Won (ten million).
- (7) Any person, who represents himself/herself as a Counselor or uses a similar terminology in violation of Paragraph 3, Article 29 hereof shall be subject to a fine for negligence of not more than 3 million Won (three million).

Article 43 (Joint Penal Provisions) If the representative, agent, employee or worker of a corporation or an individual perpetrates a violation under Article 41 hereof with respect to the business affairs of such corporation or individual, such corporation or individual shall be punished by a fine set forth in each paragraph of Article 41 hereof, in addition to the due punishment of the violator.

Article 44 (Accusation)

- (1) The crimes set forth in Paragraph 1, Subparagraph 1 of Paragraph 2 and Paragraph 3 of the foregoing Article 41 hereof may be subject to prosecution, only when charges are brought by the Fair Trade Commission.
- (2) The Fair Trade Commission shall inform the Prosecutor General of any crimes of which the severity of violation is deemed objectively evident and material in its reasonable discretion, among the crimes set forth in Paragraph 1, Subparagraph 1 of Paragraph 2 and Paragraph 3 of the foregoing Article 41 hereof.
- (3) The Prosecutor General may request the Fair Trade Commission to bring charges by giving notice of any fact meeting the requirements of such accusation as provided in the foregoing Paragraph 2. The Fair Trade Commission shall comply with a request from the Prosecutor General to make such charges.
- (4) The Fair Trade Commission shall not rescind its charges after prosecution has begun.

Addendum <Enacted May 13, 2002>

(1) (Date of Enforcement) This Act shall enter into force on November 1, 2002.

(2) (Interim Provisions regarding Corrective Measures, Penalty Surcharges and Penal Provisions) As regards application of corrective measures, penalty surcharges and penal provisions against any violation of Subparagraph 1 (limited to the acts to unfairly refuse transactions), Subparagraph 3 (limited to the acts to unfairly entice the customers of a competitor to engage in transactions), Subparagraph 4 and Subparagraph 5 (limited to acts to make transactions on the condition of unfairly restricting the business activities of a transaction counter-party) of Paragraph 1, Article 23 of the existing Monopoly Regulation and Fair Trade Act prior to the enforcement hereof and Paragraph 1, Article 29 thereof, such Act shall apply.

Addendum <Jan. 20, 2004 Law No. 7109>

This Act shall enter into force from the date of its promulgation.