

DECREE No. 37/2006/ND-CP OF APRIL 4, 2006: Detailing the Commercial Law regarding trade promotion activities

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THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 14, 2005 Commercial Law;

At the proposal of the Trade Minister,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Decree details the implementation of the Commercial Law regarding a number of trade promotion activities, including sales promotion, commercial advertising, trade fairs and exhibitions.

Article 2.- Subjects of application

1. Traders that directly conduct trade promotion activities and traders that provide trade promotion services.
2. Organizations engaged in commerce-related activities, and subjects entitled to conduct trade promotion activities defined in Articles 91, 103 and 131 of the Commercial Law, when conducting trade promotion activities, shall comply with the provisions of this Decree.
3. Individuals engaged in independent and regular commercial activities without having to make business registration defined in Clause 3, Article 2 of the Commercial Law shall be entitled to conduct trade promotion activities specified in this Decree like traders, except for activities specified in Articles 11, 12, 13, 34 and 36 of this Decree.

Article 3.- State management of trade promotion activities

1. The Trade Ministry shall be answerable to the Government for performing the function of state management of trade promotion activities specified in the Commercial Law and this Decree.
2. Ministries, ministerial-level agencies and Government-attached agencies shall, within the ambit of their respective tasks and powers, have to coordinate with the Trade Ministry in performing the state management of trade promotion activities.
3. Provincial/municipal People's Committees (hereinafter referred to as provincial-level People's Committees) shall, within the ambit of their respective tasks and powers, direct provincial/municipal Trade Services or Trade-Tourism Services (hereinafter collectively referred to as provincial/municipal Trade

Services) in performing the state management of trade promotion activities according to the provisions of law.

Chapter II

SALES PROMOTION

Section 1. PRINCIPLES OF SALES PROMOTION, MAXIMUM VALUE OF GOODS AND SERVICES USED FOR SALES PROMOTION, AND MAXIMUM DISCOUNT RATE FOR PROMOTED GOODS AND SERVICES

Article 4.- Principles of sales promotion

1. Sales promotion programs must be conducted in a lawful, honest, public and transparent manner and must not harm legitimate interests of consumers, other traders, organizations and/or individuals.
2. Discriminatory treatment of customers participating in the same sales promotion program is prohibited.
3. Promoting traders must secure favorable conditions for prize-winning customers to receive prizes and are obliged to clearly and quickly settle complaints about their sales promotion programs (if any).
4. Promoting traders are responsible for guaranteeing the quality of promoted goods and/or services and those used for sales promotion.
5. It is prohibited to abuse customers' trust and take advantage of ignorance or inexperience of customers to conduct sales promotion for self-seeking purposes of any traders, organizations or individuals.
6. Sales promotion must not be conducted in a way that creates direct comparisons between one's goods and/or services and those of other traders, organizations or individuals for the purpose of unfair competition.
7. Curative medicines for human use (including those already permitted for circulation) must not be used for sales promotion.

Article 5.- Maximum value of goods or services used for sales promotion

1. Material value used for sales promotion for a unit of promoted goods or service must not exceed 50% of the price of such promoted goods or service unit before the sales promotion, except for sales promotion in the forms specified in Articles 7, 8, 11, 12 and 13 of this Decree.
2. The total value of goods and/or services used for sales promotion conducted by traders under a sales promotion program must not exceed 50% of the total value of such promoted goods and/or services, except for sales promotion in the forms specified in Article 7 of this Decree.
3. The value of goods and/or services used for sales promotion means expenses paid by promoting traders to procure such goods and services at the time of sales promotion, falling into one of the following cases:
 - a/ Where promoting traders neither directly produce, import goods nor provide services used for sales promotion, such expenses shall be equal to the prices paid by promoting traders to purchase such goods or services.

b/ Where goods or services used for sales promotion are those directly produced, imported or provided by promoting traders themselves, the said expenses shall be equal to the production costs or import prices of such goods or services.

Article 6.- Maximum discount rate for promoted goods or services

The maximum discount rate for a promoted goods or service must not exceed 50% of the price of such goods or service immediately before the sales promotion.

Section 2. FORMS OF SALES PROMOTION

Article 7.- Giving of sample goods or provision of sample services free of charge to customers for trial use

1. Sample goods given or sample services provided to customers for trial use must be those which traders are selling or providing or going to sell or provide on the market in accordance with law.
2. When receiving sample goods or sample services, customers shall not have to make any payment.
3. Traders that conduct sales promotion in the form of giving sample goods or providing sample services shall bear responsibility for the quality of such sample goods or sample services and supply customers with sufficient information on the use of sample goods or sample services.

Article 8.- Presentation of goods as gifts or free-of-charge provision of services to customers without accompanied goods sale and purchase or service provision

Traders that conduct sales promotion in the form of presentation of goods as gifts or free-of-charge provision of services to customers without accompanied goods sale and purchase or service provision shall bear responsibility for the quality of goods presented as gifts or services provided free of charge to customers and must notify such customers of sufficient information on the use of such goods or services.

Article 9.- Sale of goods or provision of services at prices lower than their previous prices

1. Where sales promotion is conducted in the form of discount, the discount rate of promoted goods or service applied at any time during the period of sales promotion shall comply with the provisions of Article 6 of this Decree.
2. It is prohibited to discount goods or services the sale prices or charge rates of which are specifically set by the State.
3. It is prohibited to discount goods or services to lower than the minimum level in cases where the State has set price frames or minimum prices for such goods or services.
4. The total duration of sales promotion programs conducted in the form of discount for a certain goods or service mark shall not exceed 90 (ninety) days in a year; the duration of a sales promotion program must not exceed 45 (forty five) days.
5. It is prohibited to take advantage of this form of sales promotion to dump goods and/or services.

Article 10.- Sale of goods or provision of services together with goods purchase or service use coupons

1. Goods purchase or service use coupons given together with goods sold or services provided by a trader are those used for purchasing goods or receiving services from such trader or from another trader or organization.
2. The maximum value offered on a goods purchase or service use coupon given together with a unit of goods sold or service provided during the period of sales promotion shall comply with the regulations on the maximum material value used for sales promotion specified in Article 5 of this Decree.
3. Goods purchase or service use coupons must contain relevant information specified in Article 97 of the Commercial Law.

Article 11.- Sale of goods or provision of services together with promotional contest entry forms to customers for the purpose of selecting prize winners according to rules and prizes already announced

1. Promotional contest entry forms must contain relevant information specified in Article 97 of the Commercial Law.
2. Contents of promotional contests must not be contrary to the historical, cultural, ethical traditions and fine customs and practices of Vietnam.
3. Promotional contests and prize-awarding days must be organized publicly, witnessed by representatives of customers and notified to provincial/municipal Trade Services of localities where such contests and prize-awarding days are organized.
4. Promoting traders must organize promotional contests and the award of prizes according to the rules and prizes they have announced.

Article 12.- Sale of goods or provision of services together with customers' participation in promotional games of chance

1. The prize-drawing of promotional games of chance must be organized publicly, under the announced rules and witnessed by customers. Where the prizes are valued at VND 100 million or more each, traders must notify such to competent state management agencies in charge of commerce defined in Clause 1, Article 15 of this Decree.
2. Where the prize winning shall be determined on the basis of proofs of winning that accompany the promoted goods, promoting traders must notify the time and places of inserting the winning proofs into the goods to competent state management agencies in charge of commerce defined in Clause 1, Article 15 of this Decree.
3. Sales promotion programs being promotional games of chance and involving the issuance of prize-drawing tickets must comply with the following regulations:
 - a/ Such tickets must be in a form different from that of lottery tickets exclusively issued by the State and State lottery prize results must not be used for determining the prize-winning results of such promotional games of chance.
 - b/ Tickets must be fully printed with the quantity of issued tickets, the number of prizes, the value of each prize, place of prize awarding, time and place of prize drawing, and relevant contents specified in Article 97 of the Commercial Law;

c/ The prize drawing shall only apply to already issued tickets.

4. The total duration of sales promotion for a certain goods or service mark shall not exceed 180 (one hundred and eighty) days in a year, while a sales promotion program shall not last more than 90 (ninety) days.

5. Within 30 (thirty) days after the expiration of the prize-awarding time limit, 50% of the announced prize value of a promotional game of chance without any winner must be remitted into the state budget according to the provisions of Clause 4, Article 96 of the Commercial Law.

6. The Finance Ministry shall coordinate with the Trade Ministry in guiding in detail the implementation of Clause 5 of this Article.

Article 13.- Organization of frequent shopper programs

1. Promoting traders shall comply with the regulations on notification of relevant information specified in Article 97 of the Commercial law; and shall be responsible for promptly and accurately confirming the participation by customers in frequent shopper programs.

2. A shopper card or a coupon acknowledging the goods or service purchase must fully contain the following principal contents:

a/ Title of the card or coupon;

b/ Conditions for and method of acknowledging the shopper's participation in the frequent shopper program and the goods or service purchase by such shopper. Where the contents specified at this Point cannot be fully stated, they must be promptly and fully supplied to shoppers upon their participation in such program;

c/ Relevant contents specified in Article 97 of the Commercial Law.

Article 14.- Goods or service sales promotion on the Internet and other electronic media

For sales promotion programs whereby promoted goods or services are purchased, sold or provided via the Internet or other electronic media, promoting traders shall comply with the sales promotion provisions of the Commercial Law and this Decree.

Section 3. ORDER AND PROCEDURES FOR REGISTRATION OF SALES PROMOTION

Article 15.- Notice on organization of sales promotion

1. Traders that conduct sales promotion in the forms specified in Section 2 of this Chapter must send written notices on sales promotion programs to provincial/municipal Trade Services of localities where such sales promotion programs are to be organized at least 7 (seven) working days before conducting such sales promotion.

2. Contents of a notice on sales promotion program include:

a/ Title of the sales promotion program;

b/ Location where the promotion is to be conducted; sale places under the sales promotion program;

c/ Sales promotion form(s);

d/ Promoted goods and/or services and those used for sales promotion;

e/ Time of starting and time of ending the sales promotion program;

f/ Customers of the sales promotion program;

g/ Structure and total value of prizes of the sales promotion program.

3. For a sales promotion in the form of sale of goods or provision of services together with promotional contest entry forms to customers for the purpose of selecting prize winners according to the announced rules and prizes specified in Article 11 of this Decree, promoting traders shall, within 7 (seven) working days after the expiration of the prize-awarding time limit of the sales promotion program, have the responsibility:

a/ To send a written report on prize-winning results to the provincial/municipal Trade Service of the locality where the sales promotion was organized;

b/ To publicize prize-winning results on at least a mass medium in the province or centrally-run city where the sales promotion program was organized and at sale places covered by the sales promotion program.

Article 16.- Order and procedures for registration of sales promotion programs to be conducted in form of goods sale or service provision accompanied with customers' participation in promotional games of chance

1. Sales promotion programs in form of goods sale or service provision accompanied with customers' participation in promotional games of chance specified in Article 12 of this Decree must be registered with the following competent state management agencies in charge of commerce:

a/ Provincial/municipal Trade Services, for sales promotion programs conducted within a given province or centrally-run city;

b/ The Trade Ministry, for sales promotion programs conducted within two or more provinces or centrally-run cities.

2. A dossier for registration of a sales promotion program comprises:

a/ A written request for conducting a sales promotion program, made according to a form set by the Trade Ministry. Contents to be registered for a sales promotion program, stating the title of the sales promotion program; location of sales promotion; promoted goods and/or services; goods and/or services used for sales promotion; sales promotion duration; customers of the sales promotion program;

b/ Rules of the sales promotion program;

c/ Specimen of prize-drawing tickets, for sales promotion programs involving the issuance of prize-drawing tickets;

d/ Pictures of promoted goods and goods used for sales promotion;

e/ Specimen of prize-winning proofs (if any);

f/ Copies of certificates of quality of promoted goods and goods used for sales promotion according to the provisions of law (if any).

3. Within 7 (seven) working days after receiving valid dossiers for registration of sales promotion programs, the competent state management agencies in charge of commerce defined in Clause 1 of this Article shall consider and certify in writing the traders' registration of sales promotion programs. In case of refusal to give certification, they must notify such in writing, clearly stating the reasons therefor.

4. A written certification of registration of a sales promotion program must contain the following:

a/ The title of the sales promotion program;

b/ Form of sales promotion;

c/ Name, address and telephone number of the trader conducting the sales promotion program;

d/ Promoted goods and/or services;

e/ Goods and/or services used for sales promotion; total value of prizes;

f/ Sales promotion duration;

g/ Location where sales promotion is organized; sale places covered by the sales promotion program;

h/ Disposal of prizes without winner;

i/ Rules of the sales promotion program;

j/ Other obligations of the promoting trader.

5. Where the Trade Ministry certifies the sales promotion programs, traders conducting such sales promotion programs must send written notices to the provincial/municipal Trade Services of localities where such sales promotion programs are to be conducted, enclosed with copies of the Trade Ministry's written certifications before conducting such programs.

6. Within 45 (forty five) days after the expiration of the prize-awarding time limit of a sales promotion program, the promoting trader must report in writing to the competent state management agency in charge of commerce defined in Clause 1 of this Article on the sales promotion results and the disposal of 50% of the value of the prize without any winner (if any).

Promoting traders shall be responsible for publicizing prize-winning results on at least a mass medium in provinces or centrally-run cities where their sales promotion programs are organized and at sale places covered by their sales promotion programs.

Article 17.- Order and procedures for registration of sales promotion programs to be conducted in other forms

1. Sales promotion programs conducted in forms other than those specified in Section 2 of this Chapter shall be conducted only after they are approved in writing by the Trade Ministry.

2. Dossiers for registration of sales promotion programs shall cover the contents specified in Clause 2, Article 16 of this Decree.

3. Within 7 (seven) working days after receiving valid dossiers of requesting the registration of sales promotion programs, the Trade Ministry shall consider and certify in writing the registration of sales promotion programs to be conducted by traders. In case of refusal to certify the registration, it must notify such in writing, clearly stating the reasons therefor.

4. Before conducting sales promotion programs, traders shall send written notices thereon enclosed with copies of the Trade Ministry's written approval to the provincial/municipal Trade Services of localities where such programs are organized.

5. Within 45 (forty five) days after the expiration of the prize-awarding time limit of a sales promotion program, the promoting trader must report in writing to the Trade Ministry on the results of his/her sales promotion program.

Article 18.- Announcement of results and award of prizes of sales promotion programs

For sales promotion programs with prizes, the time limit for announcing results and awarding prizes must not exceed 30 (thirty) days after the end of such sales promotion programs.

Article 19.- Termination of sales promotion programs

Promoting traders must not terminate their sales promotion programs ahead of the time limit already announced or certified by competent state management agencies, except the following cases:

1. In *force majeure* circumstances, traders may terminate their sales promotion program ahead of time but must publicly notify such to customers and competent state management agencies in charge of commerce.

2. Where traders are ordered by competent state management agencies in charge of commerce to stop their sales promotion programs ahead of time according to the provisions of Article 20 of this Decree.

Article 20.- Stoppage of sales promotion programs

1. Competent state management agencies in charge of commerce may fully or partially stop sales promotion programs when detecting one of the following violations:

a/ Violation of the provisions of Article 100 of the Commercial Law and Article 4 of this Decree;

b/ Failure to observe or failure to properly or fully observe sales promotion program rules already registered with competent state management agencies in charge of commerce.

2. Traders having their sales promotion programs stopped are obliged to publicly announce the termination of their sales promotion programs and fulfill all their commitments with customers who have participated in such sales promotion programs, except for the cases specified in Clause 3 of this Article.

3. Traders that use goods or services banned from business; goods or services restricted from business; goods not yet permitted for circulation or services not yet permitted for provision; alcohol or beer as gifts for under-18 persons; cigarettes and/or alcohol of an alcoholic volume of 30o or higher; or curative medicines for sales promotion in any form, when having their sales promotion programs stopped, must fully terminate such sales promotion programs.

Chapter III

COMMERCIAL ADVERTISEMENT

Section 1. CONTENTS OF COMMERCIAL ADVERTISEMENT PRODUCTS

Article 21.- Protection of intellectual property rights in commercial advertisement activities

1. The use of commercial advertisement products containing subject matters eligible for protection of intellectual property rights must be authorized by owners of such subject matters.
2. Traders may register for protection of intellectual property rights to commercial advertisement products according to the provisions of law.

Article 22.- Commercial advertisement products with contents of comparison with counterfeit goods or intellectual property right-infringing goods

Traders may incorporate a comparison between their goods and counterfeit goods or intellectual property right-infringing goods in commercial advertisement products after obtaining the competent state management agency's certification that such counterfeit goods or intellectual property right-infringing goods are used for comparison.

Article 23.- Protection of children in commercial advertisement activities

1. Commercial advertisements for nutritious products for children shall comply with the provisions of law on trading and use of nutritious products for children.
2. It is prohibited to take advantage of children's ignorance and inexperience to incorporate in advertisement products the following items of information:

a/ Those which may abate children's confidence in family and society;

b/ Those which directly suggest or stimulate children to ask their parents or other persons to purchase advertised goods or services;

c/ Those which make children believe that the use of advertised goods or services may give them certain advantages over those who do not use such goods or services;

d/ Those which form in children ideas, words or acts against morality, fine traditions and customs, or badly affect children's health, safety or normal development.

Article 24.- Commercial advertisement for goods or services related to healthcare

Commercial advertisement for goods or services related to pharmaceuticals, vaccines, medical biologicals, medical equipment and instruments, curative methods and medicines, and functional foods shall comply with the provisions of law on healthcare.

Article 25.- Commercial advertisements for goods or services related to veterinary drugs, plant protection drugs, fertilizers, livestock feed, livestock breeds and/or plant varieties

Commercial advertisements for goods or services related to veterinary drugs, plant protection drugs, fertilizers, livestock feed, livestock breeds and plant varieties shall comply with the relevant provisions of law and must not contain the following:

1. Affirmation of the safety and intoxicity of such goods or services without any certification of competent state management agencies.
2. Affirmation of effect and utility of veterinary drugs, plant protection drugs, fertilizers, livestock feed, livestock breeds or plant varieties without any scientific ground.

3. Verbal or written words or images in violation of procedures and methods for safe administration of veterinary drugs or plant protection drugs.

Article 26.- Commercial advertisements for goods subject to the application of technical standards and regulations on quality

Apart from goods not subject to technical standards and regulations on goods quality, traders may only conduct commercial advertisements for goods subject to relevant technical standards and regulations after such goods are issued technical standard or regulation conformity certificates by competent state management agencies or have their quality standards published.

Section 2. RESPONSIBILITIES TO CONDUCT COMMERCIAL ADVERTISEMENTS

Article 27.- Responsibility for contents of commercial advertising products

1. Traders engaged in commercial advertising business shall bear responsibility before law if the contents of their advertisement products violate the Commercial Law's provisions on prohibited advertising contents and this Decree's provisions on contents of advertisement products; and shall strictly comply with the current provisions of law on use of advertising means.

2. Heads of agencies managing the mass media, communication means, online newspapers and various kinds of publications shall bear responsibility for commercial advertisement products published on advertising means under their management.

Article 28.- Stoppage of commercial advertisement

1. State management agencies in charge of commerce shall coordinate with agencies licensing advertising activities in stopping commercial advertisements where they detect that commercial advertisement products contain illegal contents.

2. Where commercial advertisements are stopped, traders owning commercial advertisement products and agencies managing advertising means are obliged to abide by decisions of the state management agencies defined in Clause 1 of this Article.

Chapter IV

TRADE FAIRS AND EXHIBITIONS

Section 1. GOODS AND SERVICES DISPLAYED OR INTRODUCED AT TRADE FAIRS AND EXHIBITIONS

Article 29.- Labeling of goods to be displayed or introduced at trade fairs and exhibitions in Vietnam

1. Goods to be displayed or introduced at trade fairs and exhibitions in Vietnam must be labeled according to the provisions of law on goods labeling.

2. Goods temporarily imported for display or introduction at trade fairs and exhibitions in Vietnam must comply with the provisions of law on goods labeling.

Article 30.- Display of counterfeit goods and intellectual property right-infringing goods for comparison with genuine goods

1. The display of counterfeit goods and intellectual property right-infringing goods for comparison with genuine goods must be approved by the state management agencies in charge of commerce according to the provisions of law.
2. Counterfeit goods and intellectual property right-infringing goods must be certified as such by the state management agencies in charge of commerce according to the provisions of law if they are to be displayed for comparison with genuine goods.
3. Counterfeit goods and intellectual property right-infringing goods on display must be shown with clear notices that they are counterfeit or infringing objects.

Article 31.- Use of names and themes of trade fairs and exhibitions

1. Traders and organizations engaged in commerce-related activities, when organizing trade fairs or exhibitions, shall have the right to choose the names and themes of such trade fairs or exhibitions.
2. Where names and themes of trade fairs or exhibitions contain certain words and expressions to popularize the quality and titles of goods or services or the reputation and titles of traders, organizations or individuals participating in such trade fairs or exhibitions, traders and organizations engaged in commerce-related activities, when organizing such trade fairs or exhibitions, shall comply with the following regulations:
 - a/ There are evidences to prove that the quality and titles of goods or services participating in such trade fairs or exhibitions are suitable to the registered names and themes of such trade fairs or exhibitions;
 - b/ There are evidences to prove that the reputation and titles of traders, organizations or individuals participating in trade fairs or exhibitions are suitable to the registered names and themes of such trade fairs or exhibitions.

Article 32.- Conferment of awards and grant of certificates of quality or titles to goods or services, certificates of reputation or titles of traders, organizations or individuals participating in trade fairs or exhibitions

The conferment of awards and grant of certificates of quality or titles to goods or services or certificates of reputation or titles of traders, organizations or individuals participating in trade fairs or exhibitions shall comply with relevant provisions of law.

Article 33.- Temporary import and re-export of goods and services for participation in trade fairs or exhibitions in Vietnam; temporary export and re-import of goods and services for participation in overseas trade fairs or exhibitions

The temporary import and re-export of goods and services for participation in trade fairs and exhibitions in Vietnam; temporary export and re-import of goods and services for participation in overseas trade fairs or exhibitions shall comply with the provisions of customs law and other relevant provisions of law.

Section 2. ORDER AND PROCEDURES FOR REGISTRATION FOR ORGANIZATION OF OR PARTICIPATION IN TRADE FAIRS AND EXHIBITIONS

Article 34.- Organization of trade fairs or exhibitions in Vietnam

1. The organization of trade fairs or exhibitions must be registered with provincial/municipal Trade Services of localities where such trade fairs or exhibitions are to be organized before the first day of October of the year preceding the year of organization thereof.
2. Provincial/municipal Trade Services shall certify in writing the registration for organization of trade fairs or exhibitions by traders or organizations engaged in commerce-related activities before the first day of November of the year preceding the year of organization of such trade fairs or exhibitions. Where they refuse to certify the registration for organization of trade fairs or exhibitions, provincial/municipal Trade Services must notify such in writing and clearly state the reasons for refusal before the deadline specified in this Clause.
3. Where two or more traders or organizations engaged in commerce-related activities register for organization of trade fairs or exhibitions under the same name and theme, on the same date and at the same venue, provincial/municipal Trade Services shall organize consultations to select traders or organizations engaged in commerce-related activities to organize such trade fairs or exhibitions.
4. Where the consultations mentioned in Clause 3 of this Article fails, provincial/municipal Trade Services shall decide to certify the registration for a trader or organization engaged in commerce-related activities to organize the trade fair or exhibition on the following grounds:
 - a/ Results of organization of similar trade fairs or exhibitions;
 - b/ Capability to organize trade fairs or exhibitions;
 - c/ Experience in organizing trade fairs or exhibitions under the same name and theme or similar trade fairs or exhibitions;
 - d/ Appraisals by concerned goods line associations.
5. Within 30 (thirty) days after the end of a trade fair or exhibition, traders or the organizations engaged in commerce-related activities must report in writing to provincial/municipal Trade Services on the results of organization of such trade fair or exhibition according to the contents registered with provincial/municipal Trade Services.

Article 35.- Modification and supplementation of contents of registration for organization of trade fairs or exhibitions in Vietnam

1. In case of modification or supplementation of contents of the registration for organization of a trade fair or exhibition, traders or organizations engaged in commerce-related activities must send a written notice thereon to the provincial/municipal Trade Service at least from 30 (thirty) to 45 (forty five) days before the opening date of such trade fair or exhibition, depending on the registration contents guided by the Trade Ministry.
2. The provincial/municipal Trade Service shall certify in writing the modification or supplementation of the registration for organization of a trade fair or exhibition within 10 (ten) working days after receiving the valid registration. Where it refuses to certify the modification or supplementation, the provincial/municipal Trade Service shall reply in writing and clearly state the reasons therefor within the time limit specified in this Clause.

Article 36.- Organization of participation by traders, organizations or individuals in overseas trade fairs or exhibitions

1. The organization of participation by traders, organizations or individuals in an overseas trade fair or exhibition must be registered with the Trade Ministry before the first day of October of the year preceding the year of organization of such trade fair or exhibition.

2. The Trade Ministry shall certify in writing the registration for organization of participation by traders, organizations or individuals in an overseas trade fair or exhibition before the first day of November of the year preceding the year of organization of such trade fair or exhibition. Where it refuses to certify the registration, the Trade Ministry must notify the refusal in writing and clearly state the reasons therefor within the time limit specified in this Clause.

3. Where two or more traders or organizations engaged in commerce-related activities register for organization of trade fairs or exhibitions under the same name or theme or at the same time and venue overseas, the Trade Ministry shall organize consultations to select a trader or organization engaged in commerce-related activities to organize the participation by other traders, organizations or individuals in such overseas trade fairs or exhibitions.

4. Where the consultations mentioned in Clause 3 of this Article fail, the Trade Ministry shall decide to give the certification to a trader or organization engaged in commerce-related activities permitting it to organize the participation by other traders, organizations or individuals in the overseas trade fairs or exhibitions on the following grounds:

a/ Results of organization of overseas trade fairs or exhibitions;

b/ Capability to organize overseas trade fairs or exhibitions;

c/ Experience in organizing trade fairs or exhibitions under the same name and theme or similar overseas trade fairs or exhibitions;

d/ Appraisals by concerned goods line associations.

5. Within 30 (thirty) days after the end of an overseas trade fair or exhibition, traders or organizations engaged in commerce-related activities and organizing the participation by other traders, organizations or individuals in such overseas trade fair or exhibition must report in writing to the Trade Ministry on the results of organization of participation in the overseas trade fair or exhibition according to the contents already registered with the Trade Ministry.

6. Traders that organize by themselves overseas trade fairs or exhibitions for their goods and/or services shall not have to comply with the provisions of Clauses 1, 2, 3 and 5 of this Article.

Article 37.- Modification and supplementation of contents of registrations for organization of overseas trader fairs and exhibitions

1. In case of modification or supplementation of contents of the registration for organization of an overseas trade fair or exhibition, traders or organizations engaged in commerce-related activities must send a written notice thereon to the Trade Ministry at least from 30 (thirty) to 45 (forty five) days before the opening date of such trade fair or exhibition, depending on the registration contents guided by the Trade Ministry.

2. The Trade Ministry shall certify in writing the modification or supplementation of the registration for organization of an overseas trade fair or exhibition within 10 (ten) working days after receiving the valid registration. Where it refuses to certify the modification or supplementation, the Trade Ministry shall reply in writing and clearly state the reasons therefor within the time limit specified in this Clause.

Article 38.- Contents to be registered for organization of trade fairs and exhibitions

A dossier of registration for organization of a trade fair or exhibition defined in Clause 1, Article 34 and Clause 1, Article 36 of this Decree comprises:

1. A written registration for organization of a trade fair or exhibition, made according to a form set by the Trade Ministry. Contents to be registered for organization of a trade fair or exhibition stating names and addresses of traders or organizations engaged in commerce-related activities that organize the trade fair or exhibition; the name and theme of the trade fair or exhibition (if any); the time and venue of the trade fair or exhibition; the intended scope of the trade fair or exhibition.
2. A copy of the business-investment registration certificate, the establishment decision or another decision of equivalent legal validity as provided for by law.
3. Evidences proving that the quality and titles of goods or services or the reputation or titles of traders, organizations or individuals participating in the trade fair or exhibition are compatible with the name and theme of such trade fair or exhibition (if any).

Chapter V

INSPECTION, EXAMINATION, AND HANDLING
OF VIOLATIONS

Article 39.- Inspection and examination

1. In the course of conducting trade promotion activities, traders and organizations engaged in commerce-related activities and individuals engaged in independent commercial activities must submit to the inspection and examination by competent agencies according to the provisions of Vietnamese law. The inspection and examination of trade promotion activities must be conducted according to proper functions and powers and comply with the provisions of law on inspection and examination.
2. State officials and civil servants who take advantage of inspection and examination to seek personal benefits, harass or cause troubles to persons engaged in trade promotion activities shall, depending on the seriousness of their violations, be disciplined or examined for penal liability. If causing damage, they must pay compensations therefor according to the provisions of law.

Article 40.- Handling of violations

If violating this Decree, traders and organizations engaged in commerce-related activities and individuals engaged in commercial activities shall, depending on the seriousness of their violations, be administratively handled or examined for penal liability according to the provisions of law.

Article 41.- Complaints and denunciations

1. Traders and organizations engaged in commerce-related activities and individuals engaged in commercial activities may lodge their complaints or denunciations about illegal decisions and acts of state

officials or civil servants causing troubles to them. The lodging and settlement of complaints and denunciations shall comply with the provisions of law on complaints and denunciations.

2. Persons competent to settle complaints and denunciations who fail to settle lodged complaints and denunciations, show irresponsibility in the settlement or make unlawful settlement shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability. If causing damage, they must pay compensations therefor according to the provisions of law.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 42.- Implementation effect

1. This Decree takes effect 15 days after its publication in “CONG BAO.”
2. Decree No. 32/1999/ND-CP of May 5, 1999, on sales promotion, commercial advertisement, trade fairs and exhibitions, shall cease to be effective as from the effective date of this Decree.

Article 43.- Organization of implementation

Ministers, heads of ministerial-level agencies, heads of Government-attached agencies and presidents of provincial/municipal People’s Committees shall have to guide and implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI