

<p>关于市场价格异常波动时期价格违法行为处罚的特别规定</p> <p>Special Regulations on Penalties for Unlawful Practices Committed during the Periods of Abnormal Fluctuation of Market Price</p> <p>(征求意见稿)</p> <p>(Draft for Comment)</p>	
<p>第一条 为依法打击市场价格异常波动时期的价格违法行为，维护正常的市场价格秩序，保护消费者和经营者的合法权益，促进社会主义市场经济健康发展，根据《中华人民共和国价格法》，制定本规定。</p>	<p>Article 1 These Regulations are enacted pursuant to the Price Law of the Peoples Republic of China for the purposes of combating the unlawful practices committed during the periods of abnormal fluctuation of market price according to law, maintaining the normal market order, safeguarding the legitimate rights and interests of consumers and business operators as well as promoting the healthy development of socialist market economy.</p>
<p>第二条 重要商品（包括服务）的市场价格出现异常波动，可能对人民群众生活和企业生产造成重大影响时，经国务院价格主管部门或者省、自治区、直辖市人民政府同意，价格主管部门可以按照本规定对价格违法行为进行查处。</p>	<p>Article 2 When the market price of an important commodity (or service) incurs an abnormal fluctuation which may bring a significant impact to the livelihood of ordinary people and the business operation of enterprises, the price authority may, subject to the consent of the Price Authority under the State Council or the people's government of province, autonomous region or municipality, carry out an investigation and impose punishments on unlawful pricing practices in accordance hereto.</p>
<p>市场价格异常波动的情形消除后，应当及时停止适用本规定。</p>	<p>The application of these Regulations shall be ceased in a timely manner after such market price fluctuation has disappeared.</p>
<p>第三条 经营者捏造、散布涨价信息，扰乱市场价格秩序的，责令改正，没收违法所得，并处违法所得 5 倍以下的罚款；没有违法所得的，处 20 万元以上 200 万元以下的罚款；情节严重的，责令停业整顿，或者由工商行政管理机关依法吊销营业执照。</p>	<p>Article 3 If a business operator fabricates and disseminates information of pricing increases, disturbing the order of market prices, such business operator will be ordered to make a rectification, face confiscation of illegal gains, and be subject to a fine of less than five times the illegal gains; the business operator who obtains no illegal gains will be subject to a fine between RMB 200,000 and RMB 2 million; in a serious case, the business operator will be ordered to cease its business operation or face a suspension of its business license by the administrative authority of industry and commerce according to law.</p>
<p>其他单位或者个人捏造、散布涨价信息，扰乱市场价格秩序的，责令改正，对单位处 10 万元以上 100 万元以下的罚款，对个人处 1 万元以上 10 万元以下的罚款；情节严重的，由有权机关依法吊销许可证和执照，或者撤销登记。</p>	<p>If another unit or individual fabricates and disseminates information of pricing increases, thus disturbing the order of market price, such unit or individual will be ordered to make rectification, and the unit will be subject to a fine between RMB 100,000 to RMB 1 million and the individual will be subject to a fine between RMB 10,000 to RMB 100,000; in a serious case, such a unit or individual will face a suspension of its(his/her) permit and business license or cancellation of registration by</p>

	the competent authority according to law.
<p>第四条 经营者对市场供应紧张，价格发生异常波动的商品，多进少售、只进不售或者囤积拒售的，责令改正，没收违法所得，并处违法所得5倍以下的罚款；没有违法所得的，处20万元以上200万元以下的罚款；情节严重的，责令停业整顿，或者由工商行政管理机关依法吊销营业执照。</p>	<p>Article 4 When a commodity is in short supply and has an abnormal price fluctuation, if a business operator speculates in such commodity by: purchasing more and selling less; purchasing only and not selling it; or hoarding such commodity and refusing to sell, such business operator will be ordered to make a rectification, face confiscation of illegal gains and be subject to a fine of less than five times the illegal gains; the business operator who obtains no illegal gains will be subject to a fine between RMB 200,000 and RMB 2 million; in a serious case, the business operator will be ordered to cease its business operation or face suspension of its business license by the administrative authority of industry and commerce according to law.</p>
<p>第五条 经营者的产销或者进销差价额超过正常时期差价额一倍的，责令改正，没收违法所得，并处违法所得5倍以下的罚款；没有违法所得的，处20万元以上200万元以下的罚款；情节严重的，责令停业整顿，或者由工商行政管理机关依法吊销营业执照。</p>	<p>Article 5 If the difference between the production cost and selling price or the difference between purchasing price and selling price is twice as much as in a normal period, such business operator will be ordered to make a rectification, face confiscation of illegal gains and be subject to a fine of less than five times the illegal gains; the business operator who obtains no illegal gains will be subject to a fine between RMB 200,000 and RMB 2 million; in a serious case, the business operator will be ordered to cease its business operation or face suspension of its business license by the administrative authority of industry and commerce according to law.</p>
<p>第六条 经营者之间通过协议、决议或者协同行为等方式相互串通，操纵市场价格，损害其他经营者或者消费者的合法权益的，责令改正，没收违法所得，并处违法所得5倍以下的罚款；没有违法所得的，处20万元以上200万元以下的罚款；情节严重的，责令停业整顿，或者由工商行政管理机关依法吊销营业执照。</p>	<p>Article 6 If two or more business operators collude by such means as an agreement, resolution or collaboration in manipulating the market price, thus harming the legitimate rights and interests of other business operators or consumers, such business operators will be ordered to make a rectification, face confiscation of illegal gains and be subject to a fine of less than five times the illegal gains; the business operator who obtains no illegal gains will be subject to a fine between RMB 200,000 and RMB 2 million; in a serious case, the business operator will be ordered to cease its business operation or face suspension of its business license by the administrative authority of industry and commerce according to law.</p>
<p>行业协会或者其他单位组织经营者相互串通，操纵市场价格的，可以处50万元以下的罚款；情节严重的，由有权机关依法吊销许可证和执照，或者撤销登记。对经营者的处罚依照第一款的规定执行。</p>	<p>If an industrial association or another unit organizes business operators to collude in manipulating the market price, such industrial association or other unit may face a fine of less than RMB 500,000; in a serious case, they will face suspension of their permits and business license or cancellation of registration by the competent authority according to law. Penalties towards above said business</p>

	operators shall be implemented in accordance with Article 1 hereof.
有关行为构成垄断行为的，依照《中华人民共和国反垄断法》的规定处罚。	If the relevant behaviors constitutes monopolistic behaviors, penalties shall be imposed pursuant to the Anti-monopoly Law of the People's Republic of China ("AML").
第七条 因情况紧急，需要立即制止和查处价格违法行为的，可以采取下列措施：	Article 7 If there is an urgent situation demanding for the immediate take-down, investigation and punishment of unlawful price practices, the following measures may be taken:
（一）当场决定立案；	To establish the case immediately
（二）责令暂停相关营业，查封扣押相关财物；	To order the suspension of the relevant business operation and attach or seize relevant property;
（三）以口头方式履行行政处罚事先告知程序、听证告知程序；	To go through the procedure of prior notification of administrative penalty and the procedure of a notification of hearing;
（四）先行收缴违法所得，并按有关规定处理。	To confiscate the illegal gains in advance and handle such illegal gains according to relevant regulations
对垄断行为的查处，适用《中华人民共和国反垄断法》的规定。	Investigations and penalties towards monopolistic behaviors shall be subject to the provisions of AML.
第八条 经营者、其他单位或者个人应当按照价格主管部门的要求提供有关材料、信息，不得拒绝、阻碍调查。	Article 8 Business operators, other units or individuals shall, at the request of the price authority, provide relevant materials and information, and shall not refuse or obstruct investigation.
拒绝提供有关材料、信息，或者提供虚假材料、信息，或者隐匿、销毁、转移证据，或者有其他拒绝、阻碍调查行为的，责令改正，给予警告；逾期不改正的，可以处 20 万元以下的罚款，对直接负责的主管人员和其他直接负责人员，由有关部门给予处分	Those who refuse to provide materials and information, or provide false materials and information, or hide, destroy or remove evidence, or conduct any other behaviors to refuse or obstruct investigation, will be ordered to make a rectification and be given a warning; those who fail to make rectification within the specified time limit will be subject to a fine less than RMB 200,000, and the managing personnel or other personnel who is directly responsible will be punished by the competent authority.
第九条 违法所得无法计算或者难以计算的，按照无违法所得论处。	Article 9 If the illegal gains cannot be calculated or the calculation thereof is difficult, it shall be deemed as no illegal gains.
第十条 经营者有转移涉案资金或者商品、拒绝配合调查和处理、屡查屡犯等情形的，应当在法定幅度内从重处罚。	Article 10 If the business operator has conditions such as transferring the fund or commodity at issue, refusing to provide cooperation in an investigation and inquiry, being investigated repeatedly while offending persistently, it shall be

	punished severely to the extent permitted by law
本条所称"从重处罚"是指在法定罚款幅度内应当从高适用；行政处罚种类在两个以上的应当从重适用；可以并处的应当并处处罚。	For the purposes of these regulations, "be punished severely" means that within the stipulated fine range, the higher amount shall apply; in the types of administrative penalty, the severe penalty shall apply; multiple penalties shall be imposed if applicable.
第十一条 本规定所列价格违法行为严重扰乱市场秩序，构成犯罪的，依法追究刑事责任。	Article 11 If the unlawful price practices set forth herein have severely disturbed the market order, thus constituting a crime, criminal liabilities shall be pursued
第十二条 农业生产者直接销售自己生产的农产品，不适用本规定。	Article 12 These regulations are not applicable to agricultural producers' direct sales of their agricultural products.
第十三条 本规定自公布之日起施行。	Article 13 These regulations shall come into force as of the publication date hereof.