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China Passes E-Commerce Law

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Report Highlights:

On August 31, 2018, the Standing Committee of the 13th National People's Congress of the People's Republic of China passed the E-commerce Law of the People's Republic of China. The E-commerce Law of the People's Republic of China will enter into force as of January 1, 2019. The E-commerce Law of the People's Republic of China contains the following sections: General Provisions, E-commerce Operators, Establishment and Fulfilment of E-commerce Contracts, Settlement of E-commerce Disputes, Promotion of E-commerce, Legal Liability and Supplementary Provisions. The following report contains an unofficial translation of the E-commerce Law of the People's Republic of China.

– **BEGIN TRANSLATION** –

E-commerce Law of the People's Republic of China

Order of the President of the People's Republic of China No.7

August 31, 2018

The E-commerce Law of the People's Republic of China, adopted at the Fifth Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on August 31, 2018, is hereby promulgated and shall enter into force as of January 1, 2019.

President of the People's Republic of China Xi Jinping

E-commerce Law of the People's Republic of China

(Adopted at the Fifth Session of the Standing Committee of the 13th National People's Congress on August 31, 2018)

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Chapter I General Provisions

Article 1 In order to safeguard the legitimate rights and interests of all subjects involved in electronic commerce, regulate e-commerce practices, maintain the sound market order and foster the development of the e-commerce industry in a sustainable and healthy manner, the E-commerce Law of the People's Republic of China (hereinafter referred to as this "Law") is formulated.

Article 2 E-commerce activities conducted within the territory of the People's Republic of China shall be governed by this Law.

For the purpose of this Law, the term "e-commerce" refers to business activities conducted on an information network, such as the Internet, to sell commodities or offer services.

Where there are other provisions in respect of the sale of commodities or the provision of services, in other laws and administrative regulations, such provisions shall prevail. This Law does not apply to financial products or services, or services regarding news stories, audio or video programs, publications and culture products provided through information networks.

Article 3 The State encourages the development of new forms of e-commerce, innovation of business modes, promotion of the research and development of e-commerce technologies and popularization of the applications thereof, advancement of the building of the e-commerce

credibility system, and the formation of market conditions favorable to the innovative development of the e-commerce sector, as well as the giving of full play to the role of e-commerce in driving high-quality development, satisfying people's ever-growing needs for a better life and creating an open economy.

Article 4 The State treats online and offline commercial activities equally, and encourages the integrative development of online and offline industries. The people's governments at all levels and related departments shall neither introduce discriminating policies or measures nor abuse their administrative authorities to eliminate or restrict market competition.

Article 5 In carrying out business activities, e-commerce operators shall comply with the principles of voluntariness, equality, fairness, and good faith, abide by laws, observe business ethics, equally participate in market competition, perform obligations regarding the protection of consumers' rights and interests, environmental protection, intellectual property protection, and the protection of cyberspace safety and personal information, take charge of the quality of products and services, and receive the supervision of the government and the general public.

Article 6 Relevant departments of the State Council shall take charge of promoting, supervising and administering e-commerce development in accordance with the assignment of their duties. Local people's governments at or above the county level may divide their duties in relation to the e-commerce of each related department within their own jurisdiction, as per the actual conditions within the local administrative region.

Article 7 The State has developed a collaborative administration system that conforms to the characteristics of the e-commerce sector, and pushes for forming a governance framework for the e-commerce market within which related departments, industrial organizations for the e-commerce industry, e-commerce operators and consumers join to govern this market.

Article 8 The industrial organizations for the e-commerce sector shall conduct industry self-discipline programs in accordance with their own rules and regulations of association, establish and perfect standards for the industry, push forward the credibility construction within the industry, and supervise and guide operators doing business in this industry to compete fairly in the market.

Chapter II E-commerce Operators

Section 1 General Provisions

Article 9 For the purpose of this Law, "an e-commerce operator" refers to a natural person, a legal person or an unincorporated association that carries out business activities through information networks such as the Internet to sell commodities or offer services, including operators of e-commerce platforms, business operators on e-commerce platforms, and other e-commerce operators that sell commodities or offer services on the website they develop themselves or through other network services.

For the purpose of this Law, "an operator of an e-commerce platform" refers to a legal person or an unincorporated association that provides certain services in respect of online business sites, trading matchmaking and information release for two or more parties involved in deals in order to facilitate their efforts to conduct trading activities independently.

For the purpose of this Law, "operators on a platform" refer to businesses engaging in e-

commerce to sell commodities or offer services on e-commerce platforms.

Article 10 E-commerce operators shall register themselves as market subjects according to the law, except for individuals selling self-produced agricultural products and byproducts, or family handicrafts, individuals using their own skills to engage in labor activities for the convenience of people and few small-amount transaction activities that do not require any license under the law, and other circumstances under which no registration is required under laws and administrative regulations.

Article 11 E-commerce operators shall fulfill their tax obligations in accordance with the law, and enjoy preferential tax treatment according to the law.

For an e-commerce operator that is not required to register itself as a market subject according to the preceding article, when the tax obligation arises for the first time, such operator shall apply for the tax registration in accordance with laws and administrative regulations concerning the administration of tax collection, and declare and pay the tax due truthfully.

Article 12 Where business activities conducted by e-commerce operators are subject to the relevant administrative approval as required under the law, they shall obtain the administrative license in accordance with the law.

Article 13 Commodities sold or services offered by e-commerce operators shall meet certain requirements to safeguard personal safety and property security as well as the requirements on environmental protection, and they shall not sell or offer any commodity or service prohibited by laws and administrative regulations.

Article 14 E-commerce operators shall issue purchase vouchers or service vouchers, such as paper or electronic invoices for selling commodities or providing services in accordance with the law. Electronic invoices shall have the same legal effect as paper ones.

Article 15 Any e-commerce operator shall always have information about its own business license, the administrative license issued for its business, and its status as a party that is not required to register itself as a market subject according to the provisions of Article 10 herein, or the link to a webpage with such information, published in a prominent position on its homepage.

In the case of any change to the information specified in the preceding paragraph, the e-commerce operator shall promptly update the information it has published.

Article 16 Where an e-commerce operator decides not to engage in e-commerce business any longer, it shall continuously announce relevant information in a prominent position on its homepage 30 days in advance.

Article 17 An e-commerce operator shall disclose information about commodities or services in a comprehensive, faithful, accurate and timely manner, so as to safeguard consumers' right to know and right of choice. It shall not engage in false or misleading commercial publicity activities by means of fictitious deals, fabricated user comments to cheat and mislead consumers.

Article 18 While displaying search results of commodities or services to consumers tailor to

their interests, preferences, consumption habits and other personal characteristics, an e-commerce operator shall also provide consumers with options irrelevant to their personal characteristics, and respect and equally safeguard the lawful rights and interests of consumers.

When sending advertisements to consumers, e-commerce operators shall observe relevant provisions of the Advertising Law of the People's Republic of China.

Article 19 To offer tie-in commodities or services, an e-commerce operator shall warn consumers about the tie-in sale in a prominent position and cannot set the tie-in commodities or services as the default option.

Article 20 An e-commerce operator shall deliver commodities or services according to its promises or the ways and time limits as agreed upon with consumers, and bear the risks and responsibilities when commodities are in transit. However, there is an exception where consumers select separate logistics service providers.

Article 21 Where an e-commerce operator charges consumers deposits as agreed thereby, it shall explicitly indicate how and under what procedures consumers may have the deposits refunded, but shall not impose any unreasonable conditions on the refund of guarantee deposits. When a consumer requests deposit refund and such request meets the conditions of deposit refund, the e-commerce operator shall refund the deposit in a timely manner.

Article 22 Where an e-commerce operator gains a dominant market position as a result of its technological advantage, quantity of users, its controlling influences on relevant industries, and dependence of other operators on such e-commerce operator with respect to transactions, the e-commerce operator shall not abuse its dominant market position to eliminate or restrict competition.

Article 23 When collecting and using the personal data of users, an e-commerce operator shall abide by the provisions regarding the protection of personal data as stipulated in laws and administrative regulations.

Article 24 An e-commerce operator shall display the methods and procedures for searching, correcting and deleting users' information and deregistering users' accounts, and shall not set unreasonable conditions on the possibility to search, correct and delete users' information and deregister users' accounts.

Upon receipt of an application filed by a user for searching, correcting or deleting its information, the e-commerce operator concerned shall, after verifying the user's identity, promptly provide query information or have its information corrected or deleted. When a user applies to deregister its account, the e-commerce operator shall immediately delete all information about the user; if the provisions of laws and administrative regulations require or both parties have agreed that the user's information shall be kept, such provisions or agreement shall prevail.

Article 25 E-commerce operators shall provide relevant e-commerce data information if they are required to do so by related competent authorities pursuant to the provisions of laws and administrative regulations. Related competent authorities shall take necessary measures to protect the security of data information provided by e-commerce operators, keep personal

information and privacy and trade secrets strictly confidential, and shall not divulge, sell or illegally provide others with such information.

Article 26 Where an e-commerce operator conducts cross-border e-commerce business, it shall abide by laws and administrative regulations on the supervision and administration of import and export and relevant State provisions.

Section 2 Operators of E-commerce Platforms

Article 27 An operator of an e-commerce platform shall require business operators that apply to sell commodities or provide services on its platform to submit truthful information, including the identity, address, contact information and administrative license, verify and register such information, establish registration archives, and have them verified and updated regularly.

In providing non-business users with services for their efforts in selling commodities or offering services on an e-commerce platform, the operator of such e-commerce platform shall abide by the applicable provisions set out in this section.

Article 28 An operator of an e-commerce platform shall, in accordance with the relevant provisions, submit information on the identification of operators on its platform to the market supervision and management department, notify operators that have not registered themselves as market subjects about handling such registration in compliance with the applicable provisions, and cooperate with the market supervision and management department in providing convenience to operators for their market subject registration, in consideration of the characteristics of e-commerce.

An operator of an e-commerce platform shall, in accordance with the laws and administrative regulations concerning the administration of tax collection, submit to the tax authority information on the identification of operators on its platform and information relating to tax payment, and notify e-commerce operators that are not required to register themselves as market subjects under Article 10 herein about handling tax registration as per the second paragraph of Article 11 herein.

Article 29 Where the operator of an e-commerce platform found out information about any commodity or service is by in violation of any circumstance set out under Article 12 or 13 herein, it shall take necessary measures to deal with such circumstance in accordance with the law and report to the related governing authority.

Article 30 An operator of an e-commerce platform shall take technical measures and other necessary measures to guarantee the safety and stable operation of its network, prevent illegal internet crimes, effectively respond to cyber security incidents and safeguard the security of e-commerce deals.

An operator of an e-commerce platform shall prepare emergency plans to specify how to respond to cyber security incidents. When a cyber security incident occurs, it shall immediately activate its emergency plans, take corresponding remedial measures, and report to the related governing authority.

Article 31 An operator of an e-commerce platform shall record and save information released on its platform about commodities and services as well as trading information, and ensure the

integrity, confidentiality and availability of such information. Information about commodities and services as well as trading information shall be kept for no less than three years from the date on which deals are completed; where this matter is otherwise stipulated in other laws and administrative regulations, the applicable provisions in such laws and administrative regulations shall prevail.

Article 32 An operator of an e-commerce platform shall conform to the principles of openness, fairness and justice, draw up a platform service agreement and design transaction rules, in order to specify rights and obligations with respect to the entry into and exit from the platform, guarantee the quality of commodities and services, protection of consumers' rights and interests, and protection of personal data, etc.

Article 33 An operator of an e-commerce platform shall always display the platform's service agreement and transaction rules or the link to such information, in a prominent position on the platform's homepage, and ensure that business operators and consumers are able to read and download the full agreement and rules in convenience.

Article 34 An operator of an e-commerce platform shall seek public comments in a prominent position on the platform's homepage on proposed changes to the platform service agreement and transaction rules, and take reasonable measures to ensure that all interested parties can express their opinions in a timely manner. Such proposed changes shall be made public at least seven days in advance before they become effective.

Where any operator on the platform refuses to accept the proposed changes, and thus requires to withdraw from the platform, the operator of the e-commerce platform shall not hinder its withdrawal, and bear the relevant liability as per the platform service agreement and transaction rules before the introduction of such changes.

Article 35 An operator of an e-commerce platform shall neither take advantage of the service agreement, transaction rules, technologies or other means to impose unreasonable restrictions over or add unjustified conditions to the deals, as well as their prices, made on the platform by business operators on its platform, and their deals with other business operators, nor charge operators on its platform any unreasonable fees.

Article 36 If an operator of an e-commerce platform will impose certain measures, such as giving a warning and suspending or terminating services, on operators on its platform that violate relevant laws and regulations, pursuant to the platform's service agreement and transaction rules, it shall make an announcement in a timely manner.

Article 37 An operator of an e-commerce platform that has operates own business on its platform shall distinguish its own business with noticeable labels from that of other operators on its platform, and shall not mislead consumers.

The operator of an e-commerce platform shall bear the civil liability, as the product seller or the service provider, for business labeled as a self-operated one.

Article 38 Where an operator of an e-commerce platform fails to take necessary measures when it knows or should know of the fact that operators on its platform sell commodities or offer services that fail to safeguard personal or property safety, or commit any other acts that impair the lawful rights and interests of consumers, the operator of such e-commerce platform shall be jointly held liable together with the violating operators on its platform.

Where an operator of an e-commerce platform fails to fulfill its obligations to examine the qualifications of the operators on its platform which provide commodities or offer services that have an influence on consumers' life and health, or fails to fulfill its obligations to safeguard the safety of consumers, which results in damage to consumers, the operator of the e-commerce platform shall bear the corresponding liability.

Article 39 An operator of an e-commerce platform shall create and improve its credit rating system, display public credit rating rules, and provide channels for consumers to make comments on commodities sold or services provided on its platform. The operator of an e-commerce platform shall not delete any comment made by consumers on any commodity sold or service provided on its platform.

Article 40 An operator of an e-commerce platform shall display the search results of commodities or services for consumers in multiple ways, such as by their price, sales volume and credit rating; commodities or services ranked under paid listing shall be noticeably labeled with the word "Advertisement".

Article 41 An operator of an e-commerce platform shall establish rules on the protection of intellectual property rights and strengthen its cooperation with intellectual property right owners, so as to protect intellectual property rights in accordance with the law.

Article 42 Where an intellectual property right owner believes that its intellectual property right has been infringed, it shall have the right to send a notice to the operator of the e-commerce platform, requiring it to take necessary measures to delete or block relevant information, disable relevant links and terminate transactions and services. Such notice shall include preliminary evidence for alleged infringements.

Upon receipt of such notice, the operator of the e-commerce platform shall take necessary measures in a timely manner and forward the notice to operators on its platform; if it fails to take the necessary measures in due time, it will be held jointly liable with the concerned operators on its platform for the increased part of the damage. Where the notice issued is erroneous and thus causes damage to the operators on the platform, civil liability shall be borne according to the law. Where an erroneous notice is issued maliciously, which causes losses to the operators on the platform, the compensation liability shall be doubled.

Article 43 The operator on an e-commerce platform may make a statement to the operator of such e-commerce platform that there exists no infringement, upon receipt of a forwarded notice. The statement shall specify preliminary evidence that excludes the existence of any infringement.

After receiving such statement, the operator of the e-commerce platform shall forward the statement to the intellectual property right owner who sends out the notice, and inform the right owner of the opportunity to make complaints to the related competent authority or file a lawsuit with the people's court. Where the operator of the e-commerce platform does not receive a notice from such right owner that it has made a complaint or brought a lawsuit, within 15 days of the statement having been successfully delivered to the intellectual property right owner, it shall promptly lift all measures that it has taken.

Article 44 An operator of an e-commerce platform shall make notices and statements as provided in Article 42 and Article 43 herein it has received as well as resolutions public in a timely manner.

Article 45 Where an operator of an e-commerce platform knows or should have known that an operator on its platform has infringed any intellectual property right, it shall take necessary measures, such as deleting or blocking relevant information, disabling relevant links, and terminating transactions and services; otherwise, it shall be held jointly liable with the infringing party.

Article 46 Except for the services set out in the second paragraph of Article 9 herein, an operator of an e-commerce platform may, pursuant to the platform service agreement and transaction rules, offer services concerning warehousing, logistics, payment settlement, handover and receipt, for the e-commerce activities between operators. When offering services for the e-commerce activities between operators, the operator of an e-commerce platform shall abide by applicable laws and administrative regulations and relevant rules of the State, but shall not conduct transactions in a centralized manner, such as centralized competitive bidding and market-making, or transactions based on the standardized contract.

Chapter III Establishment and Fulfilment of E-commerce Contracts

Article 47 The provisions of this chapter herein and those stipulated in the General Rules of the Civil Law of the People's Republic of China, the Contract Law of the People's Republic of China, the Law of the People's Republic of China on Electronic Signatures and other applicable laws shall apply to the establishment and fulfilment of e-commerce contracts between the parties concerned.

Article 48 The practice of establishing or fulfilling an e-commerce contract by the e-commerce parties concerned through an automatic information system shall be legally binding on the parties that use such system.

It will be presumed that the parties concerned have the corresponding capacity for civil conduct in relevant e-commerce activities, unless there is any contrary evidence to overturn this presumption.

Article 49 Where the information on any commodity or service released by an e-commerce operator meets the conditions of an offer, and a client selects the commodity or service and successfully submits an order, a contract is established. If the parties concerned have any other agreement in this regard, such agreement shall prevail.

An e-commerce operator shall not invalidate the contract after consumers have made the payments, by means of a standard contract term.; if such stipulation is contained in the standard contract term, it shall be invalid.

Article 50 An e-commerce operator shall inform its users in a clear, comprehensive and explicit manner of the steps to establish a contract, noteworthy items, ways to download the contract, etc., and ensure that users are able to read and download the full texts of the contracts conveniently.

The e-commerce operator shall ensure users to make any corrections before orders are submitted.

Article 51 Where the subject under a contract is a commodity to be delivered through express logistics, the time of delivery shall be the time when the consignee signs for receiving the commodity. Where the subject under a contract relates to services, the time of delivery shall be the time indicated on the electronic or physical voucher generated; where such voucher does not indicate the time or the time indicated on such voucher is inconsistent with the actual time when services are provided, the time of delivery shall be the actual time when services are provided.

Where the subject under a contract will be delivered through online transmission, the time of delivery shall be the time when such subject is successfully delivered into a certain system designated by the counterparty and can be retrieved and identified in the system.

Where the parties under a contract have reached other agreement in respect of how and when to deliver the subject, such agreement shall prevail.

Article 52 The parties concerned in e-commerce activities may agree to deliver commodities by means of express logistics.

Express logistics service providers that provides express logistics services for e-commerce activities shall abide by laws and administrative regulations, and comply with the service standards and time limits they have promised. While handing over commodities, express logistics service providers shall remind consignees to examine the commodities immediately on the spot; where the commodities are received by others on behalf of consignees, the providers shall obtain the consent of consignees.

Express logistics service providers shall use environmentally-friendly packaging materials in accordance with the relevant provisions in an effort to reduce the consumption of packaging materials and to make use of recycled packaging materials.

While offering express logistics services, the providers thereof may provide services to collect payments for goods on a commission basis from e-commerce operators.

Article 53 The parties concerned in e-commerce activities may agree to make payments in an electronic manner.

Electronic payment services providers that provide electronic payment services for e-commerce activities shall abide by the rules of the State, notify users of the functions of electronic payment services, methods to use the payments, noteworthy matters, relevant risks, standards of charging fees, and other matters, but shall not add any unjustified transaction conditions. Electronic payment service providers shall ensure that the instructions for electronic payments are complete, consistent, traceable, auditable, and unchangeable. Electronic payment service providers shall provide their users with free account checking services and make the transaction history of the latest three years available to users.

Article 54 Where electronic payment services offered by electronic payment service providers do not conform to the State's administrative requirements on payment security, which results in damage to users, they shall bear liability for compensation.

Article 55 Before sending out a payment instruction, users shall check the amount, the

beneficiary and other information involved in the payment instruction.

Where the payment instruction goes wrong, the electronic payment service provider shall find out the reasons in a timely manner, and take relevant measures to make corrections. If any damage is caused to users, the electronic payment service provider shall bear the liability for compensation, unless the electronic payment service provider is able to prove that the error in payment is not attributable to its own .

Article 56 Once the electronic payment has been completed, the electronic payment service provider shall provide the client in a timely manner with accurate and confirmed payment information in a way as agreed upon.

Article 57 Any user shall safekeep its transaction password, electronic signature data and other security tools. If any user finds that its security tool is lost or used illegally by any other party or any unauthorized payment is made, the user shall notify the electronic payment service provider in a timely manner.

The loss resulting from an unauthorized payment shall be borne by the electronic payment service provider; if the electronic payment service provider is able to prove that the unauthorized payment is attributable to the user's fault, it will not be held liable.

Where the electronic payment service provider finds any unauthorized payment instruction, or receives a notice from a user to report an unauthorized payment instruction, it shall take immediate measures to prevent further loss; otherwise, electronic payment service provider shall be held liable for the further loss incurred.

Chapter IV Settlement of E-commerce Disputes

Article 58 The State encourages operators of e-commerce platforms to establish a mechanism of guaranteeing the quality of commodities or services that is helpful to e-commerce development and the protection of consumers' rights and interests.

Where deposits are set under an agreement between an operator of an e-commerce platform and an operator on its platform to safeguard consumers' rights and interests, both parties shall clearly specify methods in respect of the withdrawn amount, management, use, and refund of such deposits.

Where a consumer claims that the operator of the e-commerce platform bears liability for compensation in advance and the operator of the e-commerce platform claims the refund of such compensation it has paid from the operator on its platform, the relevant provisions stipulated in the Law of the People's Republic of China on the Protection of Consumer Rights and Interests shall apply.

Article 59 An e-commerce operator shall establish a complaint and tip-off mechanism that is convenient and effective, make information about the ways to file complaints and tip-offs public, and promptly accept and deal with complaints and tip-offs.

Article 60 Any e-commerce dispute may be resolved through consultation, or via mediation by the consumer association, industry association or any other legally established mediation organization, or by complaining to the related authority, or by requesting for arbitration, or

settled through a lawsuit.

Article 61 Where any dispute arises between an operator on an e-commerce platform and a consumer that purchases commodities or receives services on such platform, the operator of such platform shall take the initiative to assist the consumer to protect its lawful rights and interests.

Article 62 When handling an e-commerce dispute, the e-commerce operator shall provide the original contract and transaction history. Where the e-commerce operator's practice of having such materials lost, forged, tampered with, destroyed or concealed or refusing to provide such materials results in the fact that the people's court, the arbitral institution, or the related authority is unable to verify the facts, such e-commerce operator shall bear the corresponding legal liability.

Article 63 An operator of an e-commerce platform may establish a mechanism to settle disputes online, establish rules for dispute resolution and make the rules public, and settle disputes confronting the parties concerned in a fair and impartial manner under the principle of free will.

Chapter V Promotion of E-commerce

Article 64 The State Council and people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall integrate e-commerce development into the national economic and social development plan, formulate scientific and reasonable industrial policies, and promote the development of the e-commerce industry in an innovative way.

Article 65 The State Council and people's governments above the county level as well as related departments thereof, shall take measures to support and promote green packaging, warehousing and transportation, to facilitate the green development of the e-commerce industry.

Article 66 The State is advancing the construction of e-commerce infrastructure and the formation of the logistics network, improving the statistics system for e-commerce, and stepping up efforts to build a framework of e-commerce standards.

Article 67 The State promotes the application of e-commerce in every aspect of the national economy, and supports the development of the e-commerce industry in combination with various industries.

Article 68 The State promotes the application of internet technologies in agricultural production, processing, distribution and other processes, encourages diverse social resources to form stronger cooperation, promotes e-commerce development in rural areas, and is having e-commerce play a role in the program to alleviate poverty in a targeted manner.

Article 69 The State safeguards the safety of e-commerce deals, protects users' information on e-commerce, encourages the development and application of e-commerce data, and secures the free flow of e-commerce data in a legal and orderly manner.

The State takes actions to help establish a public data sharing mechanism, and encourages e-

commerce operators to make use of public data according to the law.

Article 70 The State encourages legally established credit rating agencies to roll out credit ratings for the e-commerce industry and offer credit rating services for the e-commerce industry to the general public.

Article 71 The State facilitates the development of cross-border e-commerce, has established and is improving administrative rules in respect of customs, taxation, entry-exit inspection and quarantine, and payment and settlement that are in line with the characteristics of the cross-border e-commerce sector, boosts the level of facilitation in all aspects of the cross-border e-commerce sector, and supports operators of cross-border e-commerce platforms to offer warehousing, logistics, customs clearance, submission for inspection and other services with respect to cross-border e-commerce.

The State encourages small and micro enterprises to engage in cross-border e-commerce.

Article 72 The import and export administration of the State shall facilitate the construction of comprehensive services and the regulatory system in all aspects of cross-border e-commerce, such as customs declaration, tax payment, and inspection and quarantine, and optimize regulatory procedures, so as to promote information sharing, mutual recognition of regulation, and mutual assistance in law enforcement and make services and the regulation concerning cross-border e-commerce more efficient. Cross-border e-commerce operators may handle relevant procedures by presenting electronic vouchers to the import and export administration of the State.

Article 73 The State facilitates exchange and cooperation regarding cross-border e-commerce between China and other countries and regions, and participation in formulating international rules for e-commerce, and helps make electronic signatures and identities mutually recognized around the globe.

The State helps with the formation of dispute resolution mechanisms for cross-border e-commerce with different countries and regions.

Chapter VI Legal Liability

Article 74 Where an e-commerce operator fails to fulfill its contractual obligations or its performance of obligations does not conform to the agreement, or it causes damage to others, while selling commodities or offering services, it shall bear the civil liability.

Article 75 An e-commerce operator which violates Article 12 and Article 13 hereof, and conducts business activities without obtaining the relevant administrative license, or sells or provides commodities or services prohibited by laws or administrative regulations, or fails to perform obligations of providing certain information as stipulated in Article 25 hereof, and an operator of an e-commerce platform that violates Article 46 hereof and conducts transactions in a centralized manner or based on the standardized agreement, shall be punished in accordance with the provisions of relevant laws and administrative regulations.

Article 76 Where an e-commerce operator violates the provisions of this Law through any of the following acts, the market supervision and management department for market regulation shall order it to make corrections within the required time limits, and may impose a fine of less than CNY10,000, and the operator of the e-commerce platform shall be punished in

accordance with the first paragraph of Article 81 of this Law,

1. Fails to publish information about its own business license, the administrative license issued for its business, and its status as a party that is not required to register itself as a market subject, or the link directing to a webpage with such information, in a prominent position on its homepage.
2. fails to keep relevant information about the termination of e-commerce activities in a prominent position on its homepage; or
3. fails to indicate the methods and procedures for consulting, correcting and deleting users' information and deregistering users' accounts, or sets unreasonable conditions on the possibility to consult, correct or delete users' information or deregister users' accounts.

The market supervision and management department shall order the operator of the e-commerce platform to make corrections within the required time limits and may impose a fine of more than CNY20,000 but less than CNY100,000 if it fails to take necessary measures against the operator on its platform that has violated the provisions of the preceding paragraph.

Article 77 The department for market regulation shall order an e-commerce operator to make corrections within the required time limits and confiscate its illegal gains, and may additionally impose a fine of more than CNY50,000 but less than CNY200,000 if it displays search results in violation of the first paragraph of Article 18 hereof, or sells tie-in commodities or services in violation of Article 19 hereof; if the case is serious, the fine may be increased to more than CNY200,000 but less than CNY500,000.

Article 78 The related competent authority shall order an e-commerce operator to make corrections within the required time limits and may additionally impose a fine of more than CNY50,000 but less than CNY200,000 if it fails to indicate to consumers how and under what procedures they may have their deposits refunded, or imposes unjustifiable conditions on the refund of a deposit, or fails to refund deposits in a timely manner, in violation of Article 21 hereof; if the case is serious, the fine may be increased to more than CNY200,000 but less than CNY500,000.

Article 79 Where an e-commerce operator violates provisions in respect of the protection of personal information, according to laws and administrative regulations, or fails to fulfill obligations of ensuring cyber security, set out in Article 30 hereof and in applicable laws and administrative regulations, it shall be punished according to such laws and administrative regulations as the Cyberspace Security Law of the People's Republic of China.

Article 80 The related authority shall order an operator of an e-commerce platform to make corrections within the required time limits if it commits any of the following acts; if it fails to make corrections within the required time limits, it shall be fined more than CNY20,000 but less than CNY100,000; where the case is serious, it shall be ordered to suspend business operations and be fined more than CNY100,000 but less than CNY500,000.

1. fails to perform the obligations of verification and registration, as stipulated in Article 27 of this Law;
2. fails to submit relevant information to market supervision and management departments or tax authorities, as stipulated in Article 28 of this Law;
3. fails to take necessary measures to deal with illegalities as mentioned in Article 29 of this Law, or report such illegalities to the related authority; or
4. fails to perform the obligation to keep information about commodities and services as well

as that about transactions, as stipulated in Article 31 of this Law.

Where relevant laws and administrative regulations comprise provisions regarding penalties imposed on the violations set out in the preceding paragraph, such provisions shall prevail.

Article 81 The market supervision and management department shall order an operator of the e-commerce platform to make corrections within the required time limits and may impose a fine of more than CNY20,000 but less than CNY100,000 if it violates any provisions of this Law by any of the following acts; where the case is serious, it shall be fined more than CNY100,000 but less than CNY500,000.

1. fails to keep information about the platform service agreement or transaction rules or the link to such information public, in a prominent position on the platform's homepage;
2. fails to seek public comments in a prominent position on its homepage on proposed changes to transaction rules, or make such changes public in advance according to relevant time requirements, or prevents operators on its platform from withdrawing from its platform;
3. fails to distinguish its self-operated business with noticeable labels from that of other operators on its platform; or
4. fails to provide channels to consumers to make comments on commodities sold or services provided on its platform, or removes consumers' comments privately.

Where an operator of an e-commerce platform violates Article 40 of this Law by failing to label commodities or services, underpaid listing, with the noticeable word "Advertisement", it shall be punished according to the Advertisement Law of the People's Republic of China.

Article 82 Where an operator of an e-commerce platform violates Article 35 of this Law by imposing unreasonable restrictions on or adding unjustified conditions to the deals, or their prices, concluded on such platform by business operators on its platform, or to their deals with other business operators, or charging operators on its platform any unreasonable fees, the department for market regulation shall order it to make corrections within the required time limits and may impose a fine of more than CNY50,000 but less than CNY500,000; where the case is serious, it shall be fined more than CNY500,000 but less than CNY2 million.

Article 83 Where an operator of an e-commerce platform violates Article 38 of this Law by not taking necessary measures against practices of operators on its platform that impair the lawful rights and interests of consumers, or failing to fulfill its obligations to examine the qualifications of operators on its platform, or failing to fulfill its obligations to ensure security for consumers, the market supervision and management department shall order it to make corrections, and may impose a fine of more than CNY50,000 but less than CNY500,000 as well; where the case is serious, it shall order the operator to suspend business operations and impose a fine of more than CNY500,000 but less than CNY2 million.

Article 84 Where an operator of an e-commerce platform violates Article 42 or Article 45 of this Law by failing to take necessary measures against the acts of operators on its platform that infringe others' intellectual property rights, the administrative department for intellectual property shall order it to make corrections within the required time limits; where it fails to make corrections within the required time limits, it shall be fined more than CNY50,000 but less than CNY500,000; where the case is serious, the fine can be increased to more than CNY500,000 but less than CNY2 million.

Article 85 Where an e-commerce operator violates the provisions of this Law by selling

products or offering services that cannot safeguard personal or property safety or committing unfair competition acts such as implementing false or misleading commercial publicity programs, or abusing its dominant market position, or infringing intellectual property rights or damaging consumers' rights and interests, it shall be punished according to applicable laws.

Article 86 Illegal acts, as mentioned under this Law, performed by an e-commerce operator shall be filed in the credit records pursuant to the provisions of applicable laws and administrative regulations, and shall be made public.

Article 87 Where an authority that is responsible for e-commerce supervision and administration under the law neglects his or her duties, abuses his or her power or plays favoritism or commits any irregularity, or divulges, sells or illegally provides others with personal information or privacy or trade secrets he or she has accessed during the performance of his or her duties, his or her legal liability shall be investigated and pursued.

Article 88 Where any violation of this Law constitutes a violation of the public security administration regulations, the violator shall be subject to public security administrative punishment; if the act constitutes a crime, the violator shall be subject to criminal liability in accordance with the law.

Chapter VII Supplementary Provisions

Article 89 This Law shall come into force as of January 1, 2019.

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