

关于加强境内网络交易网站监管工作协作积极促进电子商务发展的意见	<b>Opinions on Reinforcing Collaboration on Supervision of Domestic Online Trading Websites and Active Promotion of the Development of E-commerce</b>
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<p>各省、自治区、直辖市及计划单列市工商行政管理局、市场监督管理部门、通信管理局：</p> <p>为进一步形成监管合力，加强境内网络交易网站管理，有力打击境内网络交易网站违法经营行为，着力营造公平竞争的 network 交易市场环境，切实维护消费者、经营者的合法权益，积极促进电子商务健康有序发展，依据《电信条例》、《互联网信息服务管理办法》、《网络交易管理办法》有关规定，工商总局、工业和信息化部就加强境内网络交易网站监管工作协作，积极促进电子商务发展提出以下意见。</p>	<p>Administrations for Industry and Commerce, Market Supervision Administrations, and Communication Administrations in all provinces, autonomous regions, municipalities and separately listed cities:</p> <p>To further form joint regulatory force, strengthen management of domestic online trading websites, forcefully strike against illegal operation of domestic online trading websites, strive to create an online trading environment of fair competition, earnestly safeguard the legitimate rights and interests of consumers and vendors, and actively promote healthy development of e-commerce, pursuant to the relevant provisions of "Regulation on Telecommunications", "Measures for the Administration of Internet Information Services", and "Measures for the Administration of Online Trading", concerning the purpose of reinforcing collaboration on supervision of domestic online trading websites and actively promoting development of e-commerce, the State Administration for Industry and Commerce and the Ministry of Industry and Information Technology, hereby issue the following opinions.</p>

## 一、加强工作协作的意义

近年来，随着电子商务的快速创新发展，网络交易呈现爆发态势，对推动经济社会发展作用显著。同时，一些实体经济中的不良现象也延伸至网络空间，网上伪造或冒用合法市场主体名义设立网站、侵犯知识产权和销售假冒伪劣商品、恶意欺诈、不正当竞争、虚假宣传等问题时有发生，既破坏网络交易市场秩序，严重侵害消费者和经营者的合法权益，又在一定程度上影响了人们对电子商务发展的信心。

**工商行政管理部门承担网络交易市场监管职责，电信主管部门承担互联网行业管理职责**，通过充分发挥各自的职能优势，加强网络交易网站监管工作协作，强化对网络经营主体和载体的管理，有利于及时发现和快速解决网络交易市场中的不良现象，有效遏制网络交易市场违法违规行为，营造透明有序、公平正义的市场环境，推动网络交易市场诚信机制的形成，促进我国电子商务实现又好又快发展。

## 二、加强工作协作的原则与目标

**工商行政管理部门**应充分利用自身在市场管理、机构设置方面的优势，积极配合电信主管部门强化对互联网行业的监管，在**涉网市场主体工**

## 1. Significance of Reinforcing Collaboration

In recent years, with the rapid innovative development of e-commerce, online trading has grown in an explosive manner, and has imposed a substantial influence on economic and social development. Meanwhile, certain negative phenomena in real economy have also extended to cyberspace, phenomena such as forgery and fraudulent use of legitimate market players' identity for setting up website, intellectual property rights infringement, the sale of counterfeit and shoddy goods, malicious fraud, unfair competition, false advertising, etc., have occurred, undermining market order in online trading, seriously violating the legitimate rights and interests of consumers and vendors, as well as to some extent affect people's confidence in the development of e-commerce.

Administrations for industry and commerce have supervisory duty oer online trading markets, while telecommunication administrations have management responsibility over the internet industry, and by fully exploiting their functional advantages, reinforcing collaboration in the supervision of online trading websites, strengthening management of online trading website vendors and operators, it will be conducive to timely detection and quick handling of negative phenomena in online trading markets, effectively curbing illegal activities, and creating a transparent, orderly and fair market environment, promoting the formation of mechanisms for integrity in online trading markets, and facilitation of the sound and rapid development of e-commerce .

## 2. Principles and Objectives for Reinforcing Collaboration

The Administrations for industry and commerce shall exploit their advantages in market management and institutional delegation, and actively cooperate with telecommunications administration in

商登记注册信息、网站主办者主体信息真实性核验等方面配合电信主管部门开展工作。电信主管部门应发挥在互联网行业管理方面的职能和技术优势，在网站备案信息核查、网络接入服务信息核查等方面积极配合工商行政管理部门开展工作。

要建立健全简便高效的网络交易管理工作协作机制，及时准确定位载有违法信息的网站及服务器相关信息，实现对网络交易违法行为及时、有效、务实、强力打击的工作目标。

### 三、加强工作协作主要措施

#### (一)建立部门协调配合工作机制。

工商总局与工业和信息化部建立部际工作协作机制，设立常规工作沟通渠道和流程。支持各地工商行政管理部门与电信主管部门积极探索工作协作方法和机制，紧密结合注册资本登记制度改革相关要求，进一步转变职能，选择部分省市研究开展工作协作试点工作。各级工商行政管理部门、电信主管部门要进一步加强网络交易管理工作协调配合，省、自治区、直辖市等省级建制单位中要确定互相协调配合的机构，共同签署协作备忘录，定期召开协调工作会议，研究部署联合管理工作，建立常规的交流沟通和查处违法行为的工作机制。

strengthening supervision over the internet industry, and cooperate in activities such as the verification of authenticity of information concerning industrial and commercial registration of online trading vendors and operators. Telecommunications administrations shall exploit their functional and technical advantages in internet industry management, and actively cooperate with administrations for industry and commerce in verification of website recordal information, internet access service information, etc.

A convenient and efficient collaborative mechanism for managing online trading shall be established and perfected, so as to timely and accurately locate websites containing illegal information as well as server-related information, to achieve the goal of addressing illegal online trading in a timely, effective, practical, and forceful manner.

### 3. Main Measures for Reinforcing Collaboration

#### (a) Establishment of a Working Mechanism for Coordination and Cooperation

The State Administration for Industry and Commerce and the Ministry of Industry and Information Technology shall establish a coordination mechanism at the ministry level and set up routine channels and procedures for communications, supporting local administration for industry and commerce and telecommunications administration in actively exploring methods and mechanisms for collaboration in close connection with the relevant requirements for reforming registration system for registered capital, further transforming functions, selecting certain provinces and cities for studying and carrying out experimental collaboration. All levels of administration for industry and commerce and telecommunication administration shall further reinforce coordination and

(二)加强信息共享与工作协作。

各级工商行政管理部门、电信主管部门应通过有效方式实现市场主体的工商登记注册信息和网站备案信息等数据共享,对相互提出的涉网经营主体信息、网站主办者主体信息的查询、比对、核实等予以配合,从多方面保障网络经营主体、物理经营地址、网络接入信息真实有效。

各级工商行政管理部门、电信主管部门要充分发挥职能作用,加强对网络交易及电信业务经营行为的日常监督管理,对检查发现的违法线索或收到的投诉举报,属本部门管辖的依据有关法律法规予以处理;超越本部门职责管辖范围、属对方部门管辖范围的,应依法及时办理抄告、移交手续,并做好协查协办工作。

cooperation regarding management of online trading; institutions at the level of provinces, autonomous regions, and municipalities shall establish organizations to facilitate the organization of mutual coordination, jointly sign off on MOUs for collaboration, hold regular coordination meetings, study and deploy joint management, and establish regular working mechanism for communication and dealing with illegal activities.

(b) Strengthening Information Sharing and Collaboration

Administrations for industry and commerce and telecommunication administration at all levels shall achieve sharing of information concerning industrial and commercial registration and website registration of market players in an effective manner, cooperate with inquiryies, compare and verify information regarding online trading vendors and operators requested by the other parties, and guarantee the truth and validity of that information regarding online business entities, physical business addresses and internet access.

Administrations for industry and commerce and telecommunication administration at all levels shall fully perform their functions, and strengthen daily supervision and management of online trading and telecommunications business. Regarding lues concerning violations, inspections or complaints received, for those falling within the jurisdiction of the administration (with first access to the clues), they shall be dealt with in accordance with relevant laws and regulations; for those falling outside of their scope of jurisdiction and responsibility, where they fall within the jurisdiction of the other administration, prompt written notification and transfer shall be conducted, as well as cooperation for investigation and handling.

(三)处理各类违法网络交易网站的工作协作方式。

各级工商行政管理部门在查处网络交易违法行为工作中，应按照《互联网信息服务管理办法》、《非经营性互联网信息服务备案管理办法》、《关于建立境内违法互联网站黑名单管理制度的通知》的要求，对境内违法网络交易网站(以下简称违法网站)提请电信主管部门处理时，按照不同情况依法采取以下方式：

1. 对未履行备案手续的违法网站的处理。

网站接入地在本省(含自治区、直辖市，下同)的，由当地省级工商行政管理部门将违法网站名单送交省级电信主管部门进行核实并依法处理；网站接入地在省外的，由当地省级工商行政管理部门将违法网站名单报送工商总局，由工商总局转送工业和信息化部依法处理。

(c) Collaborative Approach for Dealing with Various Kinds of Illegal Online Trading Websites

Administrations for industry and commerce at all levels, in the process of investigating and dealing with illegal activities in online trading, shall comply with the requirements of the "Measures for the Administration of Internet Information Services", "Registration Administration Measures for Non-Commercial Internet Information Services", and "Notice Regarding Establishment of Blacklist Management System for Domestic Illegal Websites," and when brought to the attention of the competent telecommunications administration for dealing with a domestic illegal online trading website (hereinafter referred to as illegal websites), shall take the following different approaches according to various situations in accordance with law,

(i) Dealing with Illegal Websites that Have Not Undergone Filing Requirements

Where the location for internet access of the websites is in one province (including autonomous regions and municipalities), the local administration for industry and commerce at the province level shall send the list of illegal websites to the local telecommunications administration at the provincial level for verification and processing according to law; where internet access is outside the province, the local administration for industry and commerce at the provincial level shall submit the list of illegal websites to the State Administration for industry and Commerce, which will thereafter be forwarded to the Ministry of Industry and Information Technology for processing according to law.

2.对已履行备案手续的违法网站的处理。

对已在本省履行备案手续的违法网站,由当地省级工商行政管理部门向当地省级电信主管部门通报查处情况;对已在省外履行备案手续的违法网站,由当地省级工商行政管理部门转请网站备案地省级工商行政管理部门向备案地省级电信主管部门通报查处情况。省级电信主管部门根据工商行政管理部门的通报情况对违法网站依法进行处理。

3.其他有关事项。

各级工商行政管理部门查处违法网站经营者过程中,遇到危及国家安全、社会公共安全和人民财产安全等重大且紧急的特殊案件时,为及时制止违法网站的违法行为,可以先行函请电信主管部门依法对违法网站采取停止互联网接入服务的紧急处置措施。案件查处结束后,对违法行为情节严重需要关闭网站的,应将《行政处罚决定书》、《行政建议函》等函件一并提交电信主管部门,由电信主管部门根据相关法律法规对违法网站采取进一步处置措施,主要包括:注销违

(ii) Dealing with Illegal Websites that Have Already Undergone Recordal Procedures

For illegal websites that have fulfilled recordal procedures in one province, the local administration for industry and commerce at the province level shall notify the local telecommunications administration at the province level of the status of investigations and deal with such websites; for illegal websites that have fulfilled recordal procedures outside the province, the local administration for industry and commerce at the provincial level shall request the equivalent-level administration for industry and commerce in the province where the illegal website is recorded to notify the telecommunications administration at the provincial level in that province of the investigation status and deal with such websites. Telecommunications administrations at the province level shall, based on the situation informed by administration for industry and commerce, proceed to deal with illegal websites in accordance with law.

(iii) Other Relevant Matters

While investigating and dealing with illegal website operators, if significant and urgent special cases arise that may endanger national security, public safety and property of the people, etc., for the purpose of promptly stopping illegal activities of the illegal websites, administrations for industry and commerce at all level may first request in writing that the competent telecommunications administration to lawfully take emergency measures against the illegal website, such as suspension of internet access. After investigations and addressing the case, websites that pose serious

法网站主办者的经营许可或备案，并通知相关接入服务商停止接入服务，相关域名服务提供商停止域名解析服务，纳入网站黑名单管理。函请文书格式参照《关于建立境内违法互联网站黑名单管理制度的通知》(工信部联电管[2009]371 号)执行。对于违法主体及涉及网站的查处信息，应在网上网下查处完成后，录入在工商行政管理部门、电信主管部门的数据库，并互相备份。

#### 四、加强工作协作要求

##### (一)坚持依法行政。

各级工商行政管理部门、电信主管部门在网络交易违法行为查处工作的各个环节中，要各司其职，坚持依法行政，严格依照法定程序开展工作，做到不错位、不缺位、不越位。

violations shall be shut down, instruments including "Decisions for Administrative Punishment" and "Letters for Administrative Recommendation" shall all be submitted to the telecommunications administration, so as to allow telecommunication administrations to take further action against such illegal websites in accordance with relevant laws and regulations, including: cancellation of business licenses or registration of operators of illegal websites, notifying the relevant access service providers to terminate access services, notify related domain names service provider to terminate domain name services, and adding the website to the website blacklist. When formulating such requests, reference shall be made to "Notice Regarding Establishment of Blacklist Management System for Domestic Illegal Websites" ([2009] No. 371). Investigations and information on the handling of entities violating laws and the subject website shall be entered into the database of the administration for industry and commerce as well as that of the telecommunication administration after the completion of online and offline procedures, and shall copies shall be recorded by each.

#### 4. Requirements for Reinforcing Collaboration

##### (a) Adhere to Administration According to the Law

Administration for industry and commerce and telecommunication administration at all levels, shall, at all stages of investigating and dealing with illegal activities of online trading, carry out their duties respectively, adhere to the principle of administration according to the law, work strictly in accordance with legal procedures, with no misplacing, missing or overriding of function.

<p>(二) 加强调查研究。</p> <p>各级工商行政管理部门、电信主管部门要注意在实际工作中总结经验，充分研究目前网络交易违法行为查处工作在法律适用、职责分工、监管技术、监管机制等方面存在的主要问题，共同推动网络交易监管法律体系与监管技术的建设进程，实现监管信息互通、监管资源共享和监管行动协同。</p> <p>(三) 增强监管合力。</p> <p>各级工商行政管理部门、电信主管部门要进一步加强配合，适应信息技术、信息网络快速发展的趋势，不断提高网络管理、信息处理等技术能力，增强有效监管电子商务活动的能力。</p> <p>工商总局</p> <p>工业和信息化部</p> <p>2014 年 9 月 29 日</p>	<p>(b) Strengthening Study and Research</p> <p>Administrations for industry and commerce and telecommunication administration at all levels shall pay attention to lessons learned in practical work, fully study major problems existing in current investigations and work in handling illegal activities in online trading from the perspectives of law enforcement, division of responsibility, regulatory technology, regulatory mechanisms, etc., jointly promote the building of legal system and regulatory technology for regulating online trading, in order to realize the exchange of regulatory information, regulatory resource sharing and collaboration in regulatory action.</p> <p>(c) Reinforcing Joint Regulatory Force</p> <p>Administrations for industry and commerce and telecommunication administration at all levels shall further reinforce cooperation, adapt to the trend of rapid development of IT and information networks, consistently improve their technical capacity in network management and information processing, and enhance their capacity in the effective regulation of e-commerce activities.</p> <p>State Administration for Industry and Commerce</p> <p>Ministry of Industry and Information Technology</p> <p>September 29, 2014</p>
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