

## Legal Regulation of Online Unfair Competition in China

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### Abstract

"The first long-living Chinese unfair competition law was enacted in 1993 and included a list of classic unfair competition acts like confusion, misleading publicity and the infringement of trade secrets. This law survived for more than two decades. There were no special regulations of online unfair competition except for some administrative regulations of market entry and a self-discipline convention of the Internet society. But new kinds of online unfair competition acts emerge with the booming of the Chinese online market, such as the insertion of links in others' webpages, forced webpage jumping and hindrance of the function of others' applications. The revised Chinese unfair competition law 2018 codified the representative case law in a particular Internet clause.

Art. 12 reads that 'Entrepreneurs, who make use of the Internet for manufacturing and operation activities, shall abide by the provision of this law.

Entrepreneurs shall not, with the help of network technology and by influencing the choice of users or by other ways, hinder the normal operation of network applications or services legally provided by other entrepreneurs:

- 1)without the authorization of other entrepreneurs, insert links in their network applications or services and proceed to a jump to the target webpage;
- 2)mislead, deceive or force users to modify, close or uninstall the network applications or services legally provided by others;
- 3)proceed intentionally to the incompatibility with the network products or services provided by others;
- 4)hinder the normal operation of the network applications or services legally provided by others in other ways.'

The question remains whether a particular Internet clause is necessary to regulate online unfair competition practice. The main favorite argument is that special norm is needed to regulate special competition acts. On contrary, the current legal provisions, especially the general clause, are already sufficient to regulate the online market. However, the current trend in China is to regulate Internet-related things with special norms and special courts, for example, since 2017, three Internet courts are established to try Internet-related cases. So the Internet clause could have a practical effect in China."