



# Regulatory Insights

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**Government Agency**

SAMR

**SMAR Announcement of Further Strengthening Management of Health Food Telephone Marketing**

市场监管总局关于进一步加强保健食品生产经营企业电话营销行为管理的公告

According to the Special Action Plan for Comprehensive Remediation of Harassment Telephones (MIIT (2018) No. 138, hereinafter referred to as "the Plan") jointly issued by the Ministry of Industry and Information Technology, the State Administration for Market Regulation and other 13 departments, a one-and-a-half-year comprehensive campaign has been organized nationwide to comprehensively rectify harassing phones. In line with this action, relevant matters concerning the further strengthening of the telephone marketing management of health food companies are announced as follows:

1. Health food production and operation enterprises shall, in accordance with the requirements of the Plan, earnestly carry out self-examination and self-correction of telephone marketing activities. Health food operators shall, when conducting marketing and publicity of health food by telephone, be truthful and legal, and shall not make false or misleading propaganda; shall not express or imply that health foods have disease prevention or treatment functions; shall not use state organs, medical units, or academic institutions, the organization or industry organization, or experts, medical personnel and consumers to prove the efficacy of products; shall not fabricate the information of supervisor, producer or recommender units. Telephone marketing of health foods shall comply with the relevant requirements of the Food Safety Law, and shall not exaggerate the scope of functions in the label and instruction book to conduct false propaganda.

2. local market supervision departments should include telephone marketing in the daily supervision as an important part, urge enterprises to fulfill their main responsibilities and regulate telemarketing behavior. Specially focusing on the supervisions on false publicity, express or imply the prevention or treatment functions of health food. Strengthen credit management, establish credit files, and include health care food telemarketing organizers and brands in the “blacklist” of supervision according to telemarketing monitoring and consumer complaints. Relevant administrative punishment information shall be publicized to the public through the national enterprise credit information publicity system.

Local market supervision departments should strengthen communication with the industry and information technology departments and public security departments to establish a comprehensive remediation harassment telephone marketing mechanism and a joint disciplinary mechanism for violations of laws and regulations. For telecommunications call services involving violations of laws and regulations, they shall be handed over to the industrial and information technology departments, those suspected of violating the law and crimes shall be promptly transferred to the public security department for treatment. In order to form a situation of “dishonest people get limited everywhere” , create a good social atmosphere in which the whole society is co-operating to supervise the bad behaviors.

3. If the consumer discovers that the health food violates the law and violates the telephone marketing behavior, he can call 12315 to make a complaint. Encourage health food industry associations at all levels to give full play to self-discipline and promote the healthy development of the industry.

### **Original Chinese Document listed Below**

# 市场监管总局关于进一步加强保健食品

## 生产经营企业电话营销行为管理的公告

〔2018 年 第 32 号〕

根据工业和信息化部、国家市场监督管理总局等 13 部门联合印发的《综合整治骚扰电话专项行动方案》（工信部联信管〔2018〕138 号，以下简称《行动方案》），自 2018 年 7 月起，在全国范围内组织开展为期一年半的综合整治骚扰电话专项行动。为配合本次行动，现就进一步加强保健食品生产经营企业电话营销行为管理有关事项公告如下：

一、保健食品生产经营企业要按照《行动方案》要求，认真开展电话营销行为自查自纠。保健食品经营者以电话形式进行保健食品营销和宣传时，应当真实、合法，不得作虚假或者误导性宣传；不得明示或暗示保健食品具有疾病预防或治疗功能；不得利用国家机关、医疗单位、学术机构、行业组织的名义，或者以专家、医务人员和消费者的名义为产品功效作证明；不得虚构保健食品监制、出品、推荐单位信息。电话营销的保健食品应当符合《中华人民共和国食品安全法》的相关要求，不得在保健食品标签、说明书中夸大功能范围，进行虚假宣传。

二、各地市场监管部门要把电话营销列入保健食品日常监督管理重要内容，督促企业切实履行主体责任，规范电话营销行为。重点加强保健食品虚假宣传、明示或暗示疾病预防或治疗功能等行为的监督检查。加强征信管理，建立信用档案，根据电话营销监测和消费者投诉等情

况，把有重大违规行为的保健食品电话营销举办者、品种纳入监管“黑名单”，相关行政处罚信息通过国家企业信用信息公示系统依法向社会公示。

各地市场监管部门要加强与工业和信息化部门、公安机关的联系沟通，建立综合整治骚扰电话营销工作机制和违法违规行为联合惩戒机制。对涉及违法违规电信呼叫业务的，及时移交工业和信息化部门处理。涉嫌违法犯罪的，及时移送公安机关处理，形成“一处失信、处处受限”的高压态势，着力营造全社会齐抓共管的良好社会氛围。

三、消费者发现保健食品违法违规电话营销行为的，可拨打 12315 进行投诉。鼓励各级保健食品行业协会充分发挥自律作用，促进行业健康发展。

市场监管总局

2018 年 12 月 20 日