

□ Actual Living English Engages in Obviously Unfair Conduct Able to Affect Trading Order and Violates Article 24 of the Fair Trade Law 【January 19, 2006】

During its 741st Commissioners' Meeting on January 19, 2006, the FTC determined that Actual Living English (hereafter ALE) violated Article 24 of the Fair Trade Law by entering into purchase contracts with customers and failing to immediately provide the customer copy of the contract to some consumers; such conduct was obviously unfair and able to affect trading order. In addition to ordering ALE to stop the aforementioned unlawful conduct, the FTC also imposed a fine of NT\$1.85 million.

If an enterprise requires consumers to sign pre-drafted standard contracts and takes advantage of the consumers' weak trading position, and if the enterprise uses the review of the signed contract as an excuse to reclaim, retain, or temporarily hold on to the contract instead of immediately giving the contract to the consumers, such action is obviously unfair and able to affect trading order. Such action violates Article 24 of the Fair Trade Law.

After consumers had entered into purchase contracts, ALE used the review of the signed contract as an excuse and did not immediately give a duplicate copy of the contract to the consumers. As a result, consumers were unable to verify the contract contents and would find it difficult to exercise their contractual rights. Since the consumers did not have a copy of the contract, they were unaware of the seven-day hesitation period stipulated in the contract, and thus could not exercise their rights to contract termination as soon as possible. ALE used its dominant trading position and the consumers' relatively weak trading position to engage in such obviously unfair conduct that was able to affect trading order. The FTC determined that ALE violated Article 24 of the Fair Trade Law.

The FTC took into account the motive, objective, expected improper benefits, degree of damage to trading order, duration of the action, benefits obtained, scale of business, business operations, revenue and market position, whether the competent authority had previously corrected or warned against such acts, the type and number of previous violations, interval of violations, punishments incurred, conduct after the violation, cooperation during the investigation, and other factors. The FTC subsequently imposed the aforementioned punishment in accordance with Article 41 of the Fair Trade Law.