



Taiwan Fair Trade Commission

行政院公平交易委員會

TFTC's mission: To build up a fair competition environment in Taiwan

By WILLIAM C. PAO
The China Post

The Taiwan Fair Trade Commission (TFTC) was set up in 1992 to build up a fair competition environment in Taiwan. Over the years the TFTC has worked to further free trade on the island and made sure that operations running contrary to the spirit of fair trade, such as monopolistic practices or collusion between companies to raise prices, were penalized and corrected.

The commission was created in accordance with the Fair Trade Law of 1991, which set the framework for the establishment and organization of the TFTC. The agency consists of nine commissioners — all of them with expertise in the field of law or economics — headed by a chairman. The commission is bipartisan — no single political party may be represented by half of the commission — to ensure that its mission is carried out in the most objective, unbiased manner.

"The Taiwan Fair Trade Commission operates with the principles of honesty, integrity, and pragmatism," said Tang Jinn-chuan, chairman of the TFTC, in a recent interview with The China Post. "We want to make sure that fair trade is practiced in Taiwan so that consumers will benefit by getting the best products and services at the most reasonable prices."

The amendment of a leniency clause

Given the business world is changing everyday, the TFTC has announced several measures to strengthen fair trade in Taiwan. One of these measures is the amendment of a leniency clause to the Fair Trade Law. The clause stipulates that leniency, in the form of reduced fines or sentences, will be granted to a firm involved in an act of collusion to inhibit fair trade, if the firm reports the other participants in the act and provides assistance to investigators in the case.

"The amendment of a leniency clause to the Fair Trade Law is based on observation and study of fair trade laws in other nations," Tang said. "This is meant to make investigations more effective and less costly."

IPR protection vs. fair competition

At the same time, the Taiwan Fair Trade Commission has constantly been looking for ways to strike a balance between intellectual property rights protection and fair trade. Specifically, TFTC will look into any case involving a company trying to inhibit competition in the market by threatening IPR infringement lawsuits against competitors.

"The TFTC places a heavy



(Top) Tang Jinn-chuan, center, Chairman of the Taiwan Fair Trade Commission, presides over a Commissioners' Meeting of the TFTC to decide on important fair trade cases. (Right) Chairman Tang poses with a balance, a symbol of justice and fair trade.



Akie Ang, The China Post

emphasis on IPR protection, but the need to place a balance between IPR protection and fair trade has become more important not only for Taiwan but for many countries in the world," Tang said. "For this, the TFTC has developed several guidelines for intervention when businesses are found to have misused their trademarks, copyrights or patents."

Also, the TFTC is working with the Intellectual Property Office (IPO) of the Ministry of Economic Affairs on ways to handle trademark infringement disputes. Currently, the IPO handles all cases involving infringe-

ment on registered trademarks, while the Taiwan Fair Trade Commission handles those involving infringement on unregistered trademarks.

"The IPO is working to include unregistered trademarks in the country's Trademark Law so that it will be solely responsible for handling all trademark infringement cases, whether the trademark is registered or unregistered," Tang said.

Multi-level marketing schemes and misleading ads

The TFTC is also working to step up efforts to crack down on illegal multi-level marketing schemes. Multi-level marketing, which involves an upstream individual selling a particular product to a downstream individual, has become a sizable industry in Taiwan. Yet when people use such a scheme to

make huge profits — not necessarily to sell a product — the operation may become illegal.

The TFTC has drafted a multi-level marketing law to regulate the industry and set the legal grounds for enforcement in the future, Tang said. The commission is planning to set up a multi-level marketing evaluation system for people to decide whether to join a particular program.

The TFTC has also targeted advertisers running misleading ads. Among the most common misleading ads found in the media, according to Tang, are those for new residential buildings. "Some of these buildings are built on land reserved for public purposes. Developers either don't mention it or give a fuzzy disclaimer in the ad, causing readers to purchase a house that is illegal," Tang said.

When a case is reported, the TFTC

first determines whether the ad in question is in fact an advertisement. If a product claims to have effects for a certain illness, for example, the TFTC would refer the case to the Department of Health, Tang said.

International cooperation

To engage in better cooperative efforts with other nations, the Taiwan Fair Trade Commission has actively participated in conferences under the frameworks of the World Trade Organization, Organization for Economic Cooperation and Development (OECD), and Asia-Pacific Economic Cooperation Forum. The TFTC is now an observer of the OECD competition committee and an official member of the International Competition Network. Through the TFTC's participation in OECD, countries all over the world have gained a better understanding of Taiwan's competition environment, of which many countries have given their approval, Tang said.

Furthermore, Taiwan has signed memoranda of understanding with several countries, including Australia, New Zealand, France, and Mongolia, to further fair trade exchanges. Meanwhile, Taiwan has held fair trade talks with the United

States, Australia, New Zealand, Germany, Japan and Indonesia to share the island's experience in this area.

To increase people's understanding of fair trade and what it involves, TFTC has held various seminars and public awareness campaigns. It has set up a Web site providing information regarding fair trade, and has established service centers throughout the island for people to report cases or get information.

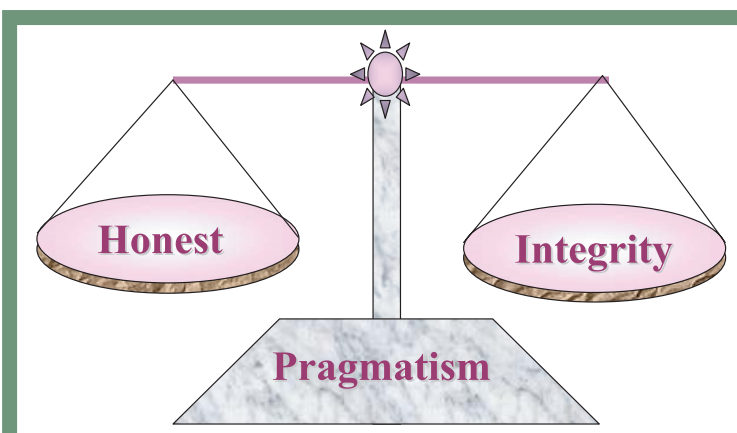
In April this year, TFTC held a conference, where the commission set its working agenda for 2007 to 2009. The agenda was the result of brainstorming by attendees to the conference, including TFTC employees as well as officials from related government agencies.

"Our mission from 2007 to 2009 will be based on the following four principles: fostering a business culture conducive to fair trade, establishing an environment where businesses can compete fairly, developing new regulations to enhance fair trade, and demonstrating Taiwan's achievements to the rest of the world," Tang said. "It is our hope that through our efforts, Taiwan will achieve sustained economic growth and better international competitiveness."

TFTC working agenda, 2007-2009

Mission: maintaining order in a competitive environment

A. Fostering a business culture conducive to fair trade	(1) Promoting amendment of Fair Trade Law (2) Reviewing competition rules and regulations (3) Examining regulations that may inhibit competition
B. Establishing an environment where businesses can compete fairly	(1) Careful selection of industries (2) Maintaining order in the following industries: real estate, telecom, banking, petroleum, liquefied petroleum gas, and sand and gravel
C. Developing new regulations to enhance fair trade	(1) Monitoring for misleading ads (2) Investigating misleading ads in certain industries (3) Setting up multi-level marketing evaluation system (4) Setting up multi-level marketing management system
D. Demonstrating Taiwan's achievements to the rest of the world	(1) Participating in int'l confabs on competition (2) Engaging in exchanges with other nations (3) Providing technical support on competition-related issues (4) Organizing int'l academic seminars



A promotional image designed by the Taiwan Fair Trade Commission shows the three pillars of the commission's operations: honesty, integrity, and pragmatism.

Taiwan Fair Trade Commission's organization and duties

PROVIDED BY THE TFTC

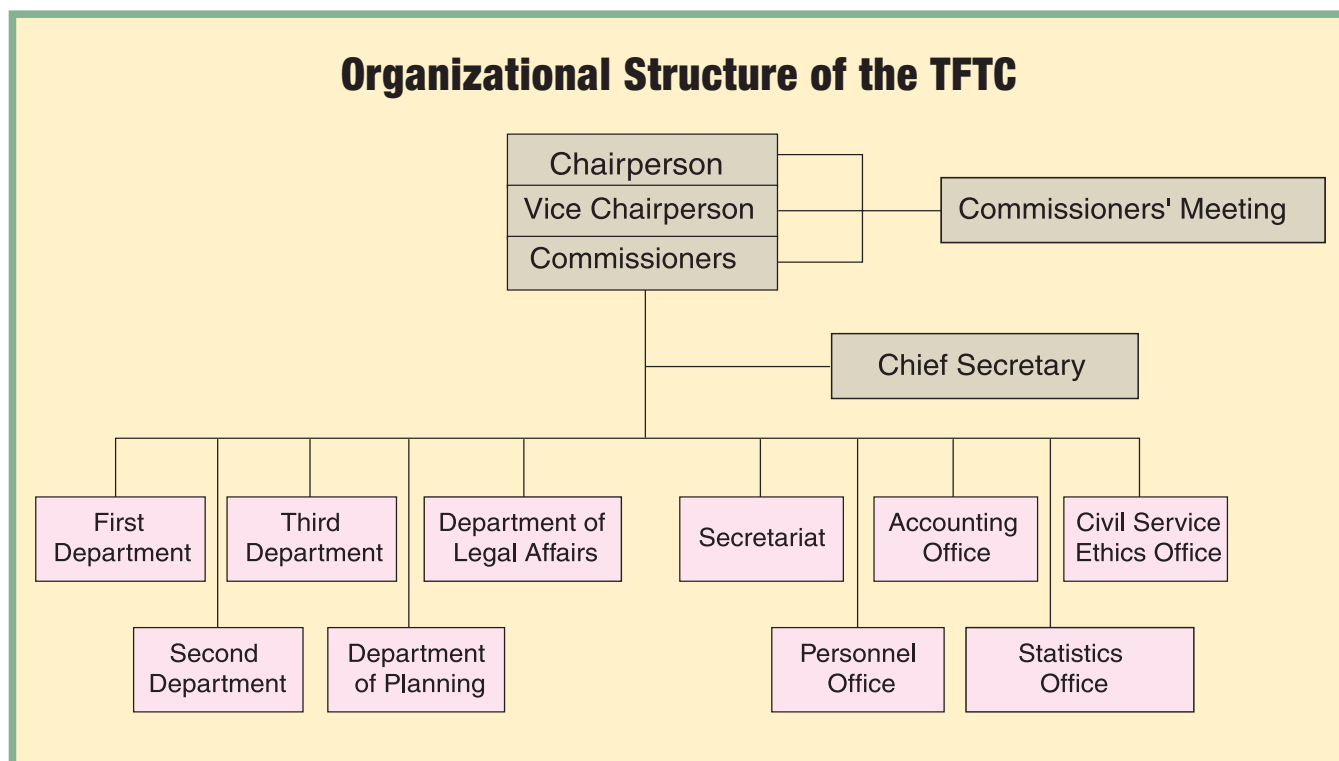
The Taiwan Fair Trade Commission (TFTC) was established on January 27, 1992 and is under the jurisdiction of the Executive Yuan (the Cabinet). The TFTC is the central authority in charge of competition policy and Fair Trade Law in Taiwan. It is charged with drafting fair trade policy, laws, regulations, and investigating and handling various activities impeding competition, such as monopolies, mergers, concerted actions, and other restraints on competition or unfair trade practices on the part of enterprises.

As for any matters provided for in this Law that concern other ministries and commissions, the TFTC may consult with such ministries and commissions to deal with them. The TFTC shall have the responsibility to direct and supervise competent metropolitan and county (city) authorities in administering their matters arising under the Fair Trade Law.

The duties of the TFTC, as provided for under the Fair Trade Law, include the following:

- (1) preparation and formulation of fair trade policy, laws and regulations;
- (2) review of any fair trade matters related to this Law;
- (3) investigation of activities of enterprises and economic conditions;
- (4) investigation and disposition of any case violating this Law; and
- (5) any other matters related to fair trade.

According to Article 26 of the Fair Trade Law, "The Taiwan Fair Trade Commission may investigate and handle, upon complaints or ex officio, any violation of the provisions of this Law that harms the public interest." Article 28, states: "The Taiwan Fair Trade Commission shall carry out its duties independently in accordance with the law and



may dispose of the cases in respect of fair trade in the name of the Commission."

The TFTC can be generally divided into the Commissioners' Meeting and the following departments and administrative supporting offices: First Department, Second Department, Third Department, Department of Planning, Department of Legal Affairs, Secretariat, Personnel Office, Accounting Office, Statistical Office, and Civil Service Ethics Office.

The TFTC is by law allocated a quota of 180 to 242 personnel; it actually had 213

personnel at the end of September 2007.

(1) Educational background of TFTC personnel

Master's degree or higher: 38%
Bachelor's degree: 50%
Junior college: 9%
High school, vocational high school: 3%

(2) Age of TFTC personnel

29 or younger: 8%
30-39: 36%

40-49: 39%
50 or older: 17%
(Average age: 37.58)

(3) Area of Specialization of TFTC personnel

Law: 56 persons (26%)
Economics: 35 persons (17%)
Other: 122 persons (57%)
(The "Other" category includes business administration, information technology, statistics, accounting, and other fields.)

TFTC service centers in Taiwan

Name of center	Services
TFTC Service Center ☎ 886-2-2351-7588 ext. 380 ☎ 886-2-2351-7567	1. Liaison work regarding cases on application, complaints or pleading 2. Explanation of the Fair Trade Law 3. Provision of educational materials 4. Other services
Competition Policy Information and Research Center ☎ 886-2-2397-0339 ext. 213 ☎ 886-2-2327-8129	1. Open reading 2. Book loans 3. On-line consultation 4. Research services 5. Training services 6. Other services
Southern Region Service Center ☎ 886-7-213-5265	1. Services pertaining to the processing of complaints regarding fair trade law violations, premerger notification, and to applications for the approval of concerted actions 2. Explanation and inquiry services pertaining to fair trade law and regulations 3. Provision of educational materials 4. Consultative services pertaining to industry trade practices 5. Liaison services pertaining to other affairs of the TFTC

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