

□ Happy Holidays International Co., Ltd. used improper marketing methods to sell membership cards for a foreign vacation resort. The obviously unfair conduct was sufficient to affect trading order and violated Article 24 of the Fair Trade Law. 【February 16, 2006】

During its 745th Commissioners' Meeting on February 16, 2006, the FTC determined that Happy Holidays International Co., Ltd. (hereafter Happy Holidays) used improper marketing methods to sell membership cards for a foreign vacation resort. The company's obviously unfair conduct was sufficient to affect trading order and violated Article 24 of the Fair Trade Law. In addition to ordering Happy Holidays to immediately cease the aforementioned unlawful act, the FTC also imposed a fine of NT\$3 million.

Investigations showed that Happy Holidays invited consumers over the phone to attend its sales orientation and used aleatory prize winnings as an inducement. The company, however, did not reveal its objective of selling the membership cards, such that consumers attended the orientation without any prior mental preparation for trade. Investigations also showed that Happy Holidays was a distributor of the Thai QVC Resort membership and was selling membership cards for the resort.

Since the resort was located overseas and the resort operator was a foreign enterprise, consumers had limited access to information on the resort, membership details, and contract stipulations that would affect membership rights due to information asymmetry. If Happy Holidays required advance deposit payments before consumers could review the contract, it would place the consumers in a further disadvantageous position.

Although Happy Holidays claimed that it did not engage in the aforementioned act, the company admitted that it had collected fees from consumers who were willing to become ad spokespersons. After filling the membership application forms, the consumers were led to another room for a contract review. In addition, Happy Holidays announced that consumers who became members on the same day could avail of the special pricing given to ad spokespersons. Before showing the contract to the consumers for review, however, Happy Holidays collected a fee as a guarantee of the membership discount; such fee was in effect a deposit payment. Investigations also showed that Happy Holidays often used lengthy and exhaustive selling tactics, and that Happy Holidays indeed requested deposit payment from consumers before showing them the contract for review.

To sum up, Happy Holidays intended to attract consumers who were mentally unprepared to engage in trade, used lengthy and exhaustive selling tactics, and took advantage of its dominant position in trade information to request deposit payment from consumers before showing the contract to them. These were improper methods of selling membership cards, and the conduct caused its trading counterparts to make a trading decision in the absence of transparency of information. Happy Holidays' apparently unfair conduct was sufficient to affect trading order and violated Article 24 of the Fair Trade Law.

After taking into account the motive, objective, expected improper benefits, degree of damage to trading order, duration of the actions, benefits obtained, scale of business, business operations, revenue and market position, whether the competent authority had previously corrected or warned against such acts, previous violations, interval of violations, punishments incurred, conduct after the violation, and cooperation during the investigation, and other factors, the FTC imposed the aforementioned punishment.