



NO 040

# TAIWAN FTC NEWSLETTER

2011.08

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## **Cross-Strait Airfare Competition Restriction by China Airlines and Eva Airways Deemed Deceptive and Obviously Unfair Conduct in Violation of the Fair Trade Act**

The FTC decided at its 1009th Commissioners' Meeting on March 9, 2011 that China Airlines and Eva Airways violated Article 19(6) of the Fair Trade Act for stipulating in the T/C cash refund regulations the ticketing rebate for ticketing centers for each direct or transfer cross-strait air ticket at merely NT\$150 and causing abnormality in the price competition function in the cross-strait air transportation market. It was regarded as an unjustifiable restriction on the business activities of trading counterparts and likely to restrain competition or obstruct fair competition. Although the two companies announced they were lowering airfares beginning on April 16, 2010, they readjusted the ratio of economy class seats in each plane to counterbalance the price decreases. The said practice was deceptive and obviously unfair conduct able to affect the trading order of the cross-strait passenger transportation market and in violation of Article 24 of the Fair Trade Act. Therefore, in acting in line with Article 41 of the Fair Trade Act, the FTC ordered the two companies to correct the unlawful act and also imposed an administrative fine of NT\$20,000,000 on China Airlines and one of

NT\$12,000,000 on Eva Airways.

The case attracted the attention of the FTC last year when the public media extensively reported that the cross-strait airfares were overpriced and the prices did not come down in spite of the increased numbers of flights and shortened flight distances after the ban on direct flights was lifted. The FTC therefore initiated an ex officio investigation to find out whether the pricing practice of the airlines involved a violation of the Fair Trade Act.

After a comprehensive investigation and collection of information regarding the supply-demand condition, airfares and the numbers of tickets issued, the FTC discovered that as a result of media reports on the overpriced cross-strait airfares, the Ministry of Transportation and Communications and the Civil Aviation Administration had on several occasions expressed their concerns and urged the airlines to lower their airfares. China Airlines, Eva Airways and TransAsia Airways complied and, starting on April 16, 2010, reduced their cross-strait airfares several times, apparently the consequence of repeated coordination efforts from the competent authorities.

However, a further investigation revealed that the price decreases did not bring down the average cross-strait airfare at all and China Airlines and Eva Airways appeared to enjoy steady growth in their revenues. Based on the outcomes of the investigation, the FTC believed there were two reasons behind this phenomenon. The first was

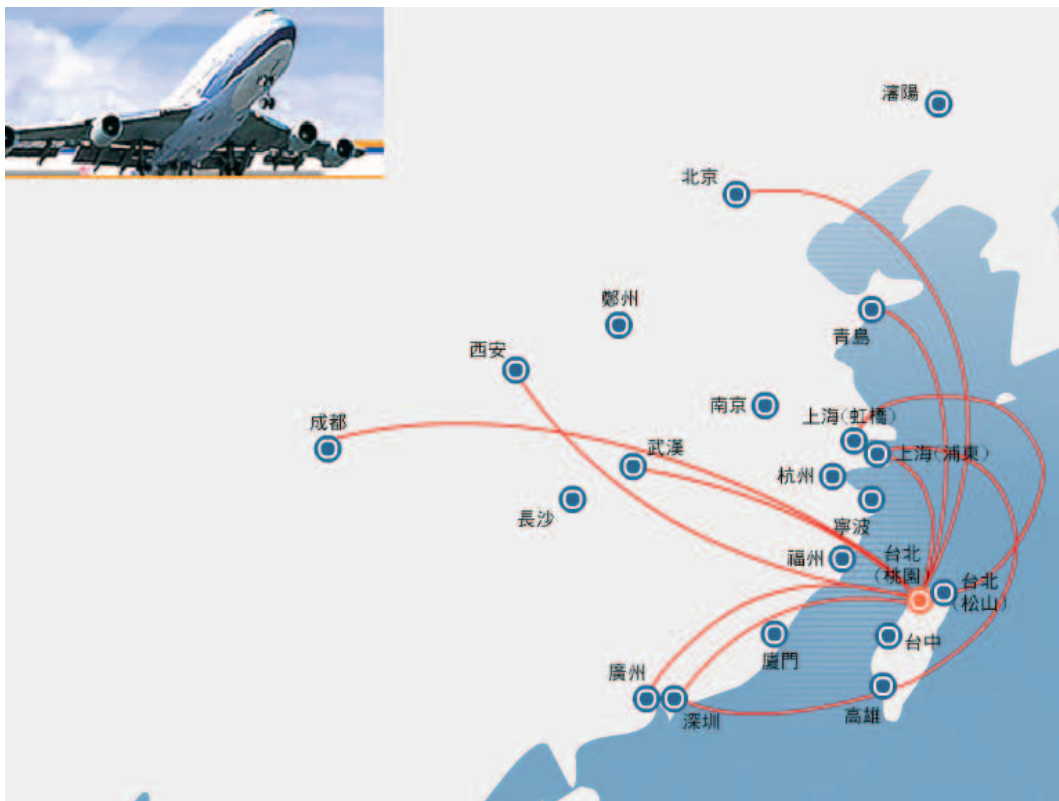
that the ticketing rebate per ticket for both direct and transfer cross-strait flights stipulated in the T/C cash refund regulations of China Airlines and Eva Airways was merely NT\$150, and the room for price competition in the mid-stream and downstream markets of the air transportation industry was compressed. Secondly, the two companies readjusted the ratio of economy class seats in each plane to counterbalance the price decreases. These two reasons caused the long-lasting rigidity in cross-strait airfares.

In the air ticket marketing mechanism of China Airlines and Eva Airways, the rebate per ticket for direct and transfer cross-Strait flights was merely NT\$150, considerably lower than the rates for other routes – normally NT\$600, 700 or even 1,400. This rebate represents the maximum room allowed for competition between ticketing centers. Meanwhile, the two companies would also call up travel agents to understand the ticket sales situations, and especially whether travel agents were selling tickets at prices beyond the rebate would allow. Eva Airways even signed with ticketing centers a “Memorandum of Understanding of Sales of Eva Airways Tickets by Ticketing centers in Taiwan” in which it was stipulated that ticketing centers were required to sell tickets according to busy and slow season rates for each air route as defined by the company, and violations, depending on the gravity, could lead to termination or suspension of the ticketing agent status. The said

practice not only greatly compressed the leeway of ticketing centers in price competition, but also made it easier for the airline companies to perform price supervision on each other and thus allowed them to avoid tough competition. At the same time, it even served to maintain price rigidity without consent being reached between the ticketing centers. Judging from the intention of the said conduct of China Airlines and Eva Airways – the two companies together accounting for almost 50% of the cross-strait direct flight market, China Airlines 29.2% and Eva Airways 20.6% – and the high degree of limitation in the supply-demand adjustment function of the cross-strait air transportation market, the FTC considered the mere NT\$150 ticketing rebate per ticket for


ticketing centers for both direct and transfer cross-strait flights to be an unjustifiable restriction likely to cause competition restriction or unfair competition in the market.

Airfares vary greatly according to the ticket type, the class and the validity of the ticket, and Y Class is the most expensive economy class. The findings of the FTC’s investigation showed that after China Airlines and Eva Airways lowered the airfares in April 2010, the number of Y Class seats apparently increased compared to the lower-priced economy class seats. As a consequence, the average total prices of tickets issued by ticketing centers were either equivalent to or only slightly lower than in March and April 2010 before the airfare decreases took place. The FTC



believed that since travel agents and consumers could only make reservations through online booking systems, information asymmetry obviously existed between airline companies and consumers. Despite their airfare decreases, China Airlines and Eva Airways readjusted the ratio of economy class seats in the plane to counterbalance the price decreases while consumers, due to information asymmetry, had no choice when making their transaction decisions. The supply-demand function of the market was thus jeopardized.

The pricing of cross-strait airfares is a structural issue and the FTC will continue to consult with the competent authorities to establish proper control measures to protect the interests of consumers.

※Rebate: the discount an airline company gives for each ticket of a certain air route sold when settling the account with its ticketing agents; it is also the maximum discount a ticketing agent can offer to small travel agencies downstream. 

※Table of class ratios and airfares:

Company	Air Route	Number of Tickets Issued and Average Price for T/C	2010									
			January	February	March	April	May	June	July	August	September	October
China Airlines	Taipei to Shanghai	Percentage of Y Class tickets in all economy class tickets issued	20.63%	43.11%	16.51%	39.28%	79.26%	82.69%	81.84%	80.78%	68.99%	50.03%
		Average economy class ticket price for T/C	1.07	1.19	1.09	1.00	1.01	1.02	1.06	1.05	0.94	0.85

Note: The average economy class airfare is based on the average price in April 2010 – the average price in April 2010 being 1 and the average price in the other months being expressed in terms of their relative ratio to the average price in April 2010.

Company	Air Route	Number of Tickets Issued and Average Price for T/C	2010									
			January	February	March	April	May	June	July	August	September	October
Eva Airways	Taipei to Shanghai	Percentage of Y Class tickets in all economy class tickets issued	30.47%	61.71%	45.99%	54.16%	56.97%	64.37%	63.50%	60.38%	62.81%	62.87%
		Average economy class ticket price for T/C	0.95	1.03	0.99	1.00	1.00	1.01	0.99	0.97	0.98	0.94

Note: The average economy class airfare is based on the average price in April 2010 – the average price in April 2010 being 1 and the average price in the other months being expressed in terms of their relative ratio to the average price in April 2010.


## Taiwan Securities Association Violated the Fair Trade Act for a Concerted Action

The FTC decided at its 1013th Commissioners' Meeting on April 6, 2011 to impose an administrative fine of NT\$1,000,000 on the Taiwan Securities Association (hereinafter referred to as the TSA) for its violation of Article 14 (1) of the Fair Trade Act by instructing its members to charge no less than 2% of the amount underwritten for the book building service when accepting underwriting cases from public companies.

At the Second Underwriting Business Committee Meeting on March 7, 2007, the TSA reached the decision that "underwriters may act in line with the condition of each case and stipulate in the book building or underwriting announcement whether to charge a book building service fee. If an underwriting case is determined as requiring payment of a book building service fee, the fee shall be collected from the allottee only and the book building service fee shall be no less than 2% of the underwritten amount." The decision was approved at the 18th Board of Directors and Supervisors Joint Meeting of the Third Association on March 13, 2007 and all the members were notified on March 15, 2007.

From the enforcement of the decision in March 2007 until April 2010, book building service fees were collected in 70 cases of underwriting for public companies and in 69 of these cases the fee collected was no less than 2% of the underwritten amount as prescribed in the said decision. This apparently made the decision a binding regulation on the business activities of the members who had to charge the book

building service accordingly. Moreover, since both the Securities and Exchange Act and the TSA's charter regulate that securities firms must join the TSA before they are allowed to operate, all operating securities firms have to be members of the TSA and obey every decision made by the TSA. Otherwise, the TSA may act in line with the charter and hand out sanctions according to the gravity of the disobedience. Therefore, the said decision had a certain binding effect on all the members of the TSA across the country. However, since there is no regulation in underwriting-related laws on the collection of book building service fees, securities underwriters competing at the same level should have the liberty to determine whether to charge for book building or the rate of the fee according to the competition situation in the market in order to gain opportunities to provide their underwriting service.

The FTC regarded the book building service fee bottom line that the TSA imposed on its members through the said decision as a direct restriction on the competition between the members. It had twisted the competitive pricing mechanism of the market and jeopardized the competition performance. As the targets of the restriction were all the members, the said decision had a strong effect on the supply-demand function of the market and was in violation of Article 14 (1) of the Fair Trade Act. The FTC therefore acted in accordance with Article 41 of the same act and imposed on the TSA an administrative fine of NT\$1,000,000. 

## Zhen An Technology Co. Violated the Fair Trade Act by Pressuring Consumers into Buying Gas Valves


The FTC decided at its 1014th Commissioners' Meeting on April 12, 2011 that Zhen An Technology Co., Ltd. (hereinafter referred to as Zhen An Co.) had violated Article 24 of the Fair Trade Act for deliberately hiding its identity, enticing consumers to attend its gas valve presentations with raffle tickets, lying about the prices, and sending salespeople to follow consumers home to pressure them into buying the products. The overall sales approaches were deemed deceptive and obviously unfair conduct able to affect trading order. The FTC ordered the company to immediately cease the unlawful act and also imposed on it an administrative fine of NT\$4,000,000.

The FTC was informed by the Yilan County Government that Zhen An Co., registered in Kaohsiung City, was suspected of holding fire hazard prevention presentations allegedly as an agent commissioned by the government and promoting its gas valves. Within two years, various county and city governments received a total of 105 petitions filed over consumer disputes with the said company.

In addition to surveying and interviewing concerned consumers, the FTC also uncovered a set of deceptive and obviously unfair sales approaches that the company had designed when inspecting the business offices of Zhen An Co. It was divided into three steps: First the sales staff gained the access to use venues such as local community centers or temple squares before distributing flyers advertising the fire hazard prevention presentation and raffle tickets to entice people to attend. At the presentation venue only banners saying "Taiwan – the Science and Technology Island" and

New Technology Presentation" were hung up and the attendees had no idea about the true identity of the company and its intention to sell gas valves. Next, Zhen An Co. would make the offer of buying one and getting one free at the price of NT\$7,990, while the actual prices ranged between NT\$3,200 and NT\$4,000, sometimes even without disclosing that payment would be required. This was considered lying about the prices. Finally, when the presentation was over, whether the attendees expressed interest in having a gas valve installed or not, salespersons would follow them home to pressure them into buying or install the gas valve without the home owner's consent and by refusing to uninstall it. Either due to price information asymmetry or the pressure from the sales persons already inside their homes, many people found it impossible to refuse. Between January and October 2009, a total of 138 people from all over Taiwan made requests to return the product and get their money back.

Zhen An Co. started to sell through the said approaches all around Taiwan in 2007. On average, it held four presentations a day and was able to sell 150 to 360 gas valves each month. The conduct was able to affect trading order. The FTC therefore made the aforesaid sanction.


The FTC once again reminds consumers to evaluate whether the gas safety equipment being pushed on them is really necessary, in order to safeguard their interests. If gas safety equipment businesses conduct any fraudulent practices or install any equipment without their consent, people can contact the police right away to protect their personal safety and property. 

## Yayi Studio Violated the Fair Trade Act for Deceptive or Obviously Unfair Conduct

The FTC decided at its 1018th Commissioners' Meeting on May 11, 2011 that Yayi Studio had violated Article 24 of the Fair Trade Act for employing deceitful measures to recruit people for household production work and using excuses to collect charges from these people for a profit. The practices were deemed deceptive and obviously unfair competition conduct that was able to affect trading order. Acting in line with the regulation prescribed in the first section of Article 41 of the Fair Trade Act, the FTC ordered Yayi Studio to cease the unlawful act and also imposed on it an administrative fine of NT\$100,000.

Yayi Studio, a household production agent in Douliou, Yunlin County, advertised in newspapers to recruit people to do household production work. By convincing applicants that the work was easy to learn and profitable within a short time, it was able to convince the applicants to sign the "Yayi Studio Delivery and Inventory Record" and also pay a NT\$3,000 deposit on the spot. Moreover, it withheld from telling the applicants the product acceptance standards and the difficulty in meeting them. As a consequence, the household production workers could only receive mediocre wages after turning in


the products several times. In spite of the deposits that the workers had paid in advance, Yayi in fact had no definite channels or customers for the products and therefore no definite income to pay for its expenses. By combining all the evidence, the FTC concluded that the deposits were the main source of income for Yayi and it was in violation of Article 24 of the Fair Trade Act.

The FTC has established the "Fair Trade Commission Disposal Directions (Guidelines) on Reviewing Cases Involving Illegal Commissioning of Household Production" to ensure fair competition, maintain trading order and protect consumers' interests. The FTC would like to remind household production agents that information transparency and legality are two prerequisites when commissioning household production work. No one should resort to illegal measures as mentioned above. People intending to do household production work should assess such work carefully to protect themselves from scamming schemes. 

## **Addcn Technology Co. Violated the Fair Trade Act For Unlawful Acquisition of Competitor's Classified Business Information**

The FTC decided at its 1014th Commissioners' Meeting on April 12, 2011 that Addcn Technology Co., Ltd. (hereinafter referred to as Addcn) had violated Article 19(v) of the Fair Trade Act for the unlawful acquisition of its competitor's classified business information to engage in unfair competition. The FTC imposed an administrative fine of NT\$400,000 on the company and ordered it to immediately cease the unlawful act after receiving the disposition.

The manager of an "outsourcing case" website has to make efforts to collect related data and arrange them into various categories in accordance with the types of outsourcing services needed to facilitate use by trading counterparts. All the data are kept confidential for privacy and security considerations. Interested parties are required to become members


and to purchase points to access the data. It is not a website open to public access. In other words, the data are kept "secret" to a certain extent. The convenient arrangement of the outsourcing cases is an important factor in interested parties' willingness to pay the fee for the service. Therefore, the data have to be regarded as business information of financial value. However, by using its employee's pay member account, Addcn accessed the "104 Outsourcing Case" website to acquire the data of over 150 cases and posted 70 odd entries on its "518 Outsourcing Case" website to increase its own number of outsourcing cases to attract visitors. The unlawful acquisition of business information from its competitor to engage in unfair competition was in violation of Article 19(v) of the Fair Trade Act. 

## 104 Information Technology Co. Violated the Fair Trade Act for False, Untrue and Misleading Advertisement.

The FTC decided at its 1017th Commissioners' Meeting on May 4, 2011 that 104 Information Technology Co., Ltd. (hereinafter referred to as 104 Co.) had violated Article 21(3) of the Fair Trade Act for claiming on its website that "the number of job seekers using 104 Job Bank was three times more than that for those using other job banks" and displaying a bar chart to show "65.1% of job seekers use 104 Job Bank and 18.6% use 1111 Job Bank," asserting the the 65.1% of job seekers using 104 Job Bank numbered three times more than the 18.6% of job seekers using competitor B's website and the 11.6% of those using competitor A's. The conduct was a misleading representation with regard to the quality of service and Article 21(1) could apply *mutatis mutandis*. The FTC ordered the company to immediately cease the unlawful act and also imposed on it an administrative fine of NT\$500,000.

The findings of the FTC's investigation revealed that the alleged "number of job seekers using 104 Job Bank was three times that of those using other competing websites" that 104 Co. cited from a market survey company actually included the "approaches" and the "most often used approach" by people searching for job opportunities and the survey results for both items were different. When calculating just the "approaches," only 43% of job seekers used 104 Job Bank and 31% used 1111 Job Bank. The

difference was obviously much less than a threefold one.

Since job seeking approaches are diverse and not mutually exclusive, job seekers will naturally choose various approaches that meet their needs to look for work. Even when job seekers use a job bank's service to look for work, it is impossible to expect them not to use other websites as well. Therefore, when calculating the "frequency of use by job seekers," all job seeking approaches, instead of the most often used approach, employed by job seekers have to be taken into account; otherwise, the outcome may not truly reflect the reality. When the said rate of use is calculated erroneously, the result may be unrealistic. 104 Co. twisted the study results of the market survey company and its claim that "the number of job seekers using the 104 Job Bank was three times that of those using other competing websites" was merely based on the "approaches" used by job seekers, and it misled the public into believing that the number of job seekers using other websites was only one third of that for those using the 104 website. As a result, it could have an effect on the interest of trading counterparts in using the service that other job banks offered. It was a misleading representation in violation of Article 21(3) and Article 21(1) could apply *mutatis mutandis*. 

## Sanctions Against Domestic Cement Businesses for Concerted Action Finalized by Court Ruling

The FTC decided at the 736th Commissioners' Meeting on December 15, 2005 that including 11 cement manufacturers and 10 cement silo holders or distributors had violated Article 14 (1) of the Fair Trade Act for their anti-competitive practices which led to a serious impact on the supply-demand function of the domestic cement market. In addition to ordering the said businesses to immediately cease the unlawful act, the FTC imposed on them administrative fines ranging from NT\$5,000,000 to NT\$18,000,000 respectively. The fines totaled NT\$210,000,000.

By making co-investments, entering contracts, having meetings or establishing mutual understandings through other approaches, the said 21 cement suppliers, being competitors in the same market, jointly decided to increase cement prices, limit sales, resell cement, withdraw from the market or stop importing to restrict the business activities of each other.

1.To block the world' s third largest cement group from obtaining marketing channels in southern Taiwan, domestic cement manufacturers reached an agreement to jointly invest in Chia Huan Tung Cement Corporation and Shih Hsin Storage and Transportation Co., Ltd. to control the cement sales

channels in southern Taiwan and this resulted in the consolidation of domestic cement manufacturers.

2.In order to reduce competition among them, domestic cement manufacturers negotiated and made Jiantai Cement Co., Ltd. and Tong Fa Jin Enterprises withdraw from the domestic cement market and Huan Chia Tung Cement Corporation suspend its operations. Use of the storage facilities of Shih Hsin Storage and Transportation Co., Ltd. and other companies was minimized and Teng Hui Cement' s Daliao Plant and the management right of Universe Co., Ltd. for the cement storage facilities in Kaohsiung Harbor were purchased through Shih Hsin to bar or minimize the importation of cement and cement clinker.

3.To prevent price undercutting, domestic cement manufacturers drew up with international cement groups a cartel agreement so that they would not to sell cement in each other' s business areas. The domestic cement businesses also consented to allow the use of each other' s storage facilities to ensure that the importation of foreign cement could be blocked.

4.Domestic cement manufacturers and importers reached an agreement to sell domestic cement to each other to instead of importing from

other countries at lower price for the purpose of restricting market competition and facilitating the joint hiking of cement price.

5. After forming the international cartel with foreign cement manufacturers, domestic cement manufacturers started to limit sales, shorten the duration of orders and apply fixed retail prices to achieve the goal of jointly increasing cement prices.

6. Bagged cement suppliers in southern Taiwan notified each of their distributors to meet with them and demand that they raise the price of bagged cement.

7. Pao Good Industrial Corporation represented the cement enterprises to “exchange information” with Japanese steel companies and made them agree to gradually reduce their granulated blast furnace slag imports into Taiwan. The result was that the prices of granulated blast furnace slag, an alternative for cement, increased.

Due to the immense complexity of the case, its severe impact on the market, and the enormous public interest involved, the FTC particularly acted according to Article 107 (2) of the Administrative Procedure Act and held a hearing on October 17, 2005 before presenting it at a Commissioners’ meeting for deliberation and deciding the disposition. Aside from Dongyu Enterprises Co., Ltd., all the other 20 cement businesses found the sanctions that the FTC administered via the Kung Chu Tzu No. 094136

Disposition unacceptable and filed an administrative litigation action with the Taipei High Administrative Court which ruled on September 30, 2009 to reject the appeal. Besides Guoxing Cement Co., Ltd., the remaining 19 cement businesses appealed to the Supreme Administrative Court which ruled on April 28, 2011: “The appeal has been rejected and the appellants shall be responsible for all the litigation expenses.” At long last, the sanctions were finalized.

Having gone through five long years of administrative litigation procedures under the rigorous scrutiny of the domestic judicial system, the FTC’s original sanctions were sustained and the Supreme Administrative Court also precisely pointed out in its verdict a number of bases for judging concerted actions. They could serve as valuable references in the determination of concerted actions in the future. The important points in the verdict of the Supreme Administrative Court are as follows:

1. The Supreme Administrative Court confirmed that “facilitating conduct” could be regarded as circumstantial evidence of “mutual understandings” between enterprises to ascertain the existence of concerted actions. The term “facilitating conduct” can be manifested in different forms such as a consensus between enterprises leading to joint monopoly and supervision for any aberration from the consensus, or the prevention of the market entry of new competitors. In the said verdict, it was clearly

indicated that “any material able to prove the conduct of enterprises as facilitating the establishment of a consensus, detection and punishment of aberrations from the consensus, or prevention of market entry of new competitors to promote the stability of the cartel can be regarded as “circumstantial evidence” to substantiate the existence of a concerted action. If the findings through the application of the ‘facilitating conduct’ theory comply with the facts, they will be recognized as circumstantial evidence.” In other words, the Supreme Administrative Court confirmed that the use of “facilitating conduct” to reason whether a mutual understanding existed between enterprises could be recognized as “circumstantial evidence” in the determination of concerted actions.

The Supreme Administrative Court also confirmed that there were a variety of other types of facilitating conduct, including the formation of an information exchange platform to facilitate consensus achievement and deter aberrations; the obstruction of the use of alternative products to facilitate a price increase; the elimination of smaller or ineffective marginal suppliers through mutual understandings to reduce the operating cost for the cartel; the inactive use or redistribution of essential facilities to create market entry bottlenecks; coordinated market share distribution arrangements through mutual understandings for competitors

to withdraw from the market; the use of the same sales agent for consolidated goods shipment to allow the cartel members to have a firm grasp on the sales situations.

2. If the affiliates of an enterprise operate independently, they will be regarded as subjects of conduct in a concerted action. In this case, Wanqing (transliteration) Cement Co., Ltd. was an affiliate of Taiwan Cement Corporation, with the latter holding over 90% of the shares of the former. The Supreme Administrative Court ruled that, since both companies were cement suppliers and downstream businesses had to deal with them separately, Wanqing Cement Co., Ltd. was an independent company by law and had a horizontal competition relationship with Taiwan Cement Corporation. Therefore, both companies were considered horizontal competitors as described in Article 7 (2) of the Fair Trade Act. According to the aforesaid viewpoint of the Supreme Administrative Court, an affiliate company’s independence in business operations has to be the basis for determining whether it is an independent and effective subject of competition and to be held liable as a party to a concerted action.
3. The Supreme Administrative Court recognized that enterprises could reinforce their horizontal concerted action through a vertical transaction restriction. In this case, the five bagged cement suppliers demanded that their distributors raise

the price of bagged cement to the same level. Yet the Supreme Administrative Court concluded by stating that “since the said mutual understanding regarding the price restriction took place between the appellers and Taiwan Cement Corporation and the four other bagged cement suppliers, it was a concerted pricing action between horizontal enterprises. Although the bagged cement suppliers demanded that their distributors carry out the pricing decision achieved between them through a mutual understanding, it could not make it a non-horizontal concerted action.” In other words, while the bagged cement suppliers may have restricted the pricing of their own downstream distributors, the purpose was in fact to reinforce the pricing restriction agreed upon horizontally between them. Hence, such a vertical transaction restriction can

also be considered conduct carried out to achieve the joint monopoly agreed by the bagged cement suppliers on the horizontal level.

4. Enterprises that did not participate in the actual consensus negotiation but executed the agreement were also considered parties to the concerted action. In this case, Universe Co., Ltd. did not participate in the negotiation for the “Provisional Market Consensus” and the “Philippines Agreement” but acted in accordance with the agreement and adopted consistent practices. The Supreme Administrative Court therefore ruled that the company was indeed a part of the mutual understanding with regard to the “Provisional Market Consensus” and the “Philippines Agreement” . 

### Statistics of False Advertising Cases

Statistics show that between January and June 2011 there were 52 cases receiving decisions from the FTC for violation of the regulation against false, untrue and misleading advertising prescribed in Article 21 of the Fair Trade Act. This represented an increase of 23.8% over the same period in the previous year and accounted for 50.5% of the total number of dispositions handed out. In other words, one out of every two dispositions was for false advertising. An aggregate of 57 dispositions were issued, and 81 businesses were convicted. The administrative fines added up to NT\$24,410,000. The average fine per business was NT\$301,000.

Judging by the type of industry for the 57 businesses receiving false advertising dispositions, wholesale

and retail industries topped the list with 20 cases (31 businesses convicted) followed by 15 cases involving the real estate industry (21 businesses convicted). These two types made up 61.4% of the total number of businesses receiving sanctions for false advertising during that period. Judging by the type of advertising, the inconsistency of TV shopping channels and online advertisements in terms of the actual content, quality or function of the product were the most common, and a total of 42 businesses (accounting for 51.9% of the total) that were responsible for such advertisements were convicted. This was followed by 21 businesses (25.9%) of false advertising by real estate businesses, while the remaining cases were mostly to do with false advertising through newspapers or flyers.



### Statistics of False Advertising

January to End of June 2011

Year & Month	Number of Decisions (Case)	Number of Dispositions (Case)	Number of Businesses Subject to Decisions (Business)	Fine	
				(NT\$10,000)	Average Fine per Business (NT\$10,000)
Jan.to June 2011	52	57	81	2,441	30.1
Jan.	5	5	6	545	90.8
Feb.	3	3	4	200	50.0
Mar.	13	14	18	988	54.9
Apr.	9	10	15	343	22.9
May	12	13	16	165	10.3
June	10	12	22	200	9.1

## FTC Activities in May and June 2011

- ✦ On May 2, the FTC conducted the junior high school “Fair Trade Act Seed Teacher Workshop” in Kaohsiung City.
- ✦ On May 6, the FTC held the “Seminar on International Antitrust Practices in Key and Innovative Industries”.
- ✦ On May 6, the FTC gave a presentation on “Agriculture and Competition Issues” in Kaohsiung City.
- ✦ On May 6, 10, 18 and 24, and June 7, the FTC conducted the “Fair Trade Act Training Camp” respectively at National Pingtung Institute of Commerce, National Pingtung University of Science and Technology, National Yunlin University of Science and Technology, National Sun Yat-Sen University and National Kaohsiung First University of Science and Technology.
- ✦ On May 11, the FTC held the “Seminar on Rice Price Increases and the Fair Trade Act” and invited the Council of Agriculture, Consumer Protection Commission and the rice and grain farmers association of each county/city to attend.
- ✦ On May 17, the FTC invited Professor Uang Du-Tsuen of the Department of Science and Technology Law of Ming Chuan University to speak on the special topic of “The Right to Protection in the Fair Trade Act – The Rights to Removal and Prevention of Infringement”.
- ✦ On May 30, the FTC gave a presentation on “The Air Transportation Industry and Competition”.
- ✦ On May 31, and June 10 and 24, the FTC respectively gave a presentation in Taipei City, Taichung City and Kaohsiung City on “Regulations on Multilevel Sales” to high-ranking executives from multilevel businesses and administrators from private enterprises.
- ✦ On June 3, the FTC held a seminar on the feasibility of handling illegal concerted actions based on the principle of “enforcement before amendment” of related laws.
- ✦ On June 13 and 20, the FTC respectively conducted in Kaohsiung City and Taipei City a workshop on the “Establishment of Fair Competition in the Real Estate Industry”.
- ✦ On June 14, the FTC conducted the 2011 Series of Special Topic Speeches on the Fair Trade Act in Taipei City.
- ✦ On June 21, the FTC gave a presentation on the “Fair Trade Commission Disposal Directions (Guidelines) on Cases of Weight Loss and Body Care Activities”.
- ✦ On June 21, the FTC invited Associate Professor Chi Chen-Ching of the Department of Law of the National University of Kaohsiung to speak on the special topic of “An Analysis of the Correlation between the Macroscopic Adjustment and Control and the Antitrust Act in China”.



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1. The "Seminar on International Antitrust Practices in Key and Innovative Industries" held by the FTC.
2. The presentation on "The Air Transportation Industry and Competition" held by the FTC in Taipei City.
3. The 2011 Series of Special Topic Speeches on the Fair Trade Act in Taipei City.
4. The presentation on "Fair Trade Commission Disposal Directions (Guidelines) on Cases of Weight Loss and Body Care Activities" held by the FTC in Taichung City.

## FTC International Exchanges in May and June 2011

- ✦ From May 17 to 20, FTC Commissioner Sun Lih-Chyun led a delegation to attend the 10th ICN Annual Conference in Hague, the Netherlands.
- ✦ On May 27 and 28, the FTC attended the “International Forum on Competition Law and Policy” and the “Workshop for AFCCP” in Ulaanbaatar, Mongolia.
- ✦ From May 31 to June 2, the FTC attended the “Competition Program Workshop on Competition Issues in the Telecommunications Industry” held by OECD Korea Policy Centre in Jeju Island, Korea.
- ✦ On June 15, the FTC attended the “2011 Taiwan-Nicaragua FTA Free Trade Committee Preparatory Meeting” held at the Ministry of Economic Affairs.
- ✦ On June 20, the FTC attended the seminar on “Taiwan Nationals Involved in Tax or Economic Crimes in the US, Related Laws, and Protection of Their Interests” held at the Ministry of Foreign Affairs.
- ✦ On June 24, the FTC participated in the First EU-Taiwan Intellectual Property Rights Working Group videoconference.
- ✦ On June 24, the FTC participated in the ICN Merger Working Group’s teleconference on the “Non-horizontal Effect in Merger Control – The experience of the European Commission”.
- ✦ From June 27 to 30, FTC Commissioner Sun Lih-Chyun led a delegation to attend the OECD 112th meeting of the OECD “Competition Committee” in Paris.



1. FTC Commissioner Sun Lih-Chyun (left) and Associate Professor Chen Chih-Min (Andy) of the Department of Financial and Economic Law of Chung Yuan Christian University outside the ICN Conference venue.



2. FTC Commissioner Sun Lih-Chyun (right), OECD Competition Committee Chairman Dr. Frederic Jenny (middle) and Head of the OECD Competition Division John Davies (left) at the OECD meeting venue.

**Dear Readers,**

In order to improve the quality of our Taiwan FTC Newsletter, we would like to request a few minutes of your time to fill in the questionnaire below. When completed, it would be appreciated if you would please directly fill in the questionnaire at the website (<http://www.ftc.gov.tw>) Thank you for your assistance and cooperation.”

Fair Trade Commission

Regards

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### **Taiwan FTC Newsletter (No.37~No.40) Reader's Survey**

■ Nationality :

■ Category of your organization

- Government    Embassy    Commerce Institute    Private Corporation  
NGO    Other ( please specify ) \_\_\_\_\_

1. What do you think of the design of the Taiwan FTC Newsletter, including style and photos?

- Very Good    Good    Average    Bad    Very Bad

2. Are the articles clear and understandable or difficult to understand ?

- Very Clear    Clear    Average    Difficult    Too Difficult

3. Are you satisfied with the contents of the Taiwan FTC Newsletter, including choice of subjects, length and thoroughness of articles ?

- Very satisfied    Satisfied    Average    Dissatisfied    Very Dissatisfied

4. Which section is your favourite one ?

- Selected Cases    Administrative Court Judgment    FTC Statistics  
FTC Activities    FTC International Exchanges

5. What more would you like to see in the Taiwan FTC Newsletter, e.g. different subjects? Do you have any other suggestions ?

Your advice : \_\_\_\_\_

# Taiwan FTC Newsletter

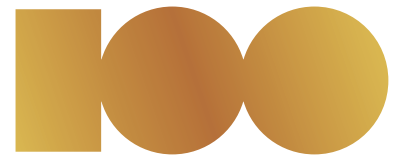
Publisher	Wu, Shio-Ming
Editor- in-Chief	Hu, Kuang-Yu
Co-editor	Cheng, Chia-Lin Tso, Tien-Liang Wu, Ting-Hung Hu, Tzu-Shun Cho, Chiu-Jung Li, Yueh-Chiao Chang, Ying-Fen
Publishers & Editorial Office	Fair Trade Commission, Executive Yuan, R.O.C. Address:12-14 F., No. 2-2 Jinan Rd., Sec. 1, Taipei, Taiwan, R.O.C. Website: <a href="http://www.ftc.gov.tw">http://www.ftc.gov.tw</a> Telephone: 886-2-2351-7588 Fax: 886-2-2327-8155 E-mail: <a href="mailto:ftcnl@ftc.gov.tw">ftcnl@ftc.gov.tw</a>
Date of Publication	30 August 2011
First Date of Publication	February 2008
Frequency of Publication	Bimonthly(the Chinese language edition during odd-number month, and the English language edition during even-number month.)
Price	NT\$ 15 per single copy, NT\$ 180 per year (both Chinese version and English version) and NT\$ 90 per language version
Subscription Phone Line	886-2-2351-0022
Subscription Fax	886-2-2397-4997
Exhibition Place	Service Center on the 13th Floor of the Commission Telephone:886-2-2351-0022 Address:13 F, No. 2-2 Jinan Rd., Sec. 1, Taipei, Taiwan, R.O.C. Wunan Book Co., Ltd. Telephone: 886-4-2226-0330 Address: No. 6, Chungshan Road, Taichung City, Taiwan, R.O.C. Government Publications Bookstore Telephone: 886-2-2518-0207 Address: 1F, No. 209, Sung Chiang Rd., Taipei, Taiwan, R.O.C.
Printer	Hung Yu Prepress And Printing Company Limited Address:11F, No.657, Bannan Rd., Zhonghe Dist, New Taipei City 235, Taiwan (R.O.C.) Telephone:886-2-3234-9166



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Tel : 886-2-2351-7588  
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GPN:2009700036  
PRICE:NT\$15