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▶ Selected Cases

- ▶ Extension of Joint Credit Card-related Operations for National Credit Card Center and its Member Institutions
- ▶ Eastern Rehouse Violated the Fair Trade Act for Not Fully Disclosing Important Franchise Information
- ▶ Non-Prohibition of Merger between Intel Corporation and Altera Corporation
- ▶ Aluminum and Tantalum Capacitor Companies Violated the Fair Trade Act due to Concerted Actions
- ▶ False Advertising on Mobile Power Packs
- ▶ Home-Rich International Violated the Multi-level Marketing Supervision Act for Failing to File Change of Product Items

▶ Regulation Report

Announcement: The Annual Participant Fee to be Paid to the Multi-level Marketing Protection Foundation Shall Remain at NT\$200 in 2016

▶ FTC Statistics

Statistics on Cases in which Ex Officio Investigations were Initiated

▶ FTC Activities

FTC Activities in January and February 2016

▶ FTC International Exchanges

FTC International Exchanges in January and February 2016


Extension of Joint Credit Card-related Operations for National Credit Card Center and its Member Institutions

The FTC decided at the 1,259th Commissioners' Meeting on Dec. 23, 2015 to approve the application from the National Credit Card Center of the R.O.C. (hereinafter referred to as the National Credit Card Center) and 27 member institutions to extend their joint credit card-related operations with conditions attached. The extension was from Jan. 1, 2016 to Dec. 31, 2020.

The applicants intended to continue to "use credit cards of unified specifications and service label," "centralized account processing and settlement" and "joint authorization for the National Credit Card Center to process numbers of credit cards reported lost or suspended, credit card issuance and credit checks, provide contracted stores with standardized credit card payment processing equipment, process contracted stores' payment requests and credit card accounts." The application complied with the description of "unifying the specifications or models of goods or services for the purpose of reducing costs, improving quality, or increasing efficiency" set forth in Article 15(1)(i) of the Fair Trade Act.

The application was for approval to continue the joint operation items listed in the previous application. There were no new agreements with regard to price, production, market or customer. Moreover, the structure of the relevant market remained more or less the same as at the time when the previous application had been filed and continued joint operations were deemed unlikely to lead to an increase in competition restrictions. Concluding that the concerted action could help standardization and reduce transaction costs

and risks whereas it also did not exceed the range necessary for achieving the purpose of increasing efficiency, the FTC therefore approved the application in accordance with the proviso in Article 15(1)(i) and Article 16(2) of the Fair Trade Act. However, in order to prevent competition restrictions and protect the overall economic benefits and public interest, the FTC attached conditions that the applicants should not use the approval to engage in other concerted


actions, restrict any of the applicants from launching their own credit card systems, withdrawing from the existing system or joining other credit card issuance organizations, forbid other businesses to join the current concerted action, use the approval to establish market status, impose illegitimate compulsory regulations, obstruct other enterprises from engaging in fair competition or adopt any practices to abuse their market status. 

Eastern Rehouse Violated the Fair Trade Act for Not Fully Disclosing Important Franchise Information

The FTC decided at the 1,244th Commissioners' Meeting on Sep. 9, 2015 that Eastern Rehouse Co., Ltd. (hereinafter referred to as Eastern Rehouse) had violated Article 25 of the Fair Trade Act for failing to fully disclose important franchise information in writing to trading counterparts before contract signature during franchisee recruitment. The FTC imposed an administrative fine of NT\$150,000 on the company and also ordered it to cease the unlawful act.

When recruiting franchisees for the ETWARM chain, Eastern Rehouse did not fully disclose the number of its franchisees in each county (city) and the percentages of contracts cancelled and terminated in the previous year. However, since such information was closely associated with the scale of the relevant market as well as the performance and risk of

franchisees, parties interested in joining a real estate agency franchise needed such data to assess whether they would sign the contract or choose a different franchiser.

With advantages in terms of accessing information, Eastern Rehouse did not fully disclose such important trading information in writing. The practice could have obstructed trading counterparts from making right decisions and was obviously unfair to trading counterparts or unspecific potential trading counterparts whereas it could also cause the company's competitors to lose opportunities to find franchisees. Such obviously unfair conduct was likely to affect trading order in violation of Article 25 of the Fair Trade Act and the FTC therefore imposed the aforesaid sanction. 


Non-Prohibition of Merger between Intel Corporation and Altera Corporation

The FTC decided at the 1,251st Commissioners' Meeting on Oct. 28, 2015 not to prohibit the merger between Intel Corporation (hereinafter referred to as Intel), and Altera Corporation (hereinafter referred to as Altera) in accordance with Article 13(1) of the Fair Trade Act.

Intel intended to acquire 100% percent of the shares of Altera through 615 Corporation, Intel's wholly-owned subsidiary. The condition met the merger types described in Subparagraphs 1, 2 and 5 of Article 10(1) of the Fair Trade Act. Meanwhile, since Intel accounted for over one quarter of the domestic server, PC and notebook computer microprocessor market and Altera also claimed more than a fourth of the Field-programmable gate array (FPGA) and complex programmable logic device (CPLD) markets in the country in 2014, both companies were subject to Article 11(1)(ii) of the Fair Trade Act while the proviso set forth in Article 12 of the same Act did not apply. Therefore, they filed a pre-merger notification as required.

Besides soliciting opinions from different sectors, the

FTC also sent written requests to obtain the views of related competent authorities and research institutes toward the intended merger. The results of the FTC's investigations showed that Intel was a leading supplier in the microprocessor market but Altera did not produce or sell any related products. Hence, the merger would not cause any significant change in the domestic microprocessor market. As for the FPGA and CPLD markets, despite the fact that Intel would take over EPGA and CPLD production from Altera, there would still be other suppliers with certain scales of business and competitiveness in the markets. Intel would not have the capacity to exclude competition on such products or create market closure. At the same time, the merger could have positive effects on industrial innovation without leading to competition restrictions. Hence, the FTC did not prohibit the merger according to Article 13(1) of the Fair Trade Act.

The FTC also exchanged views with the competition authorities of the US, EU and Korea on the issue and the results were beneficial to the FTC's overall evaluation of such cross-border merger cases. 

Aluminum and Tantalum Capacitor Companies Violated the Fair Trade Act due to Concerted Actions

The FTC decided at the 1,257th Commissioners' Meeting on Dec. 9, 2015 that seven aluminum capacitor companies, namely, Nippon Chemi-Con Corporation (NCC), Hongkong Chemi-Con Limited (NCC HK), Taiwan Chemi-Con Corporation (NCC TW), Rubycon Corporation (RUBYCON), ELNA Co., Ltd. (ELNA), SANYO Electric (Hong Kong) Ltd. (SANYO HK), and Nichicon (Hong Kong) Ltd. (NICHICON HK), and three tantalum capacitor companies, NEC TOKIN Corporation (NEC TOKIN), Vishay Polytech Co., Ltd. (VISHAY POLYTEC), and Matsuo Electric Co., Ltd. (MATSUO) participated in meetings or bilateral communications to exchange sensitive business information such as that on prices, quantity, capacity, and terms of trade to reach agreements, and the conduct was sufficient to affect the market function for capacitors in Taiwan. The practices were in violation of Paragraph 1, Article 14 of the Fair Trade Act at the time, and the FTC therefore imposed administrative fines of NT\$1,868,300,000 on NCC, NT\$82,900,000 on NCC HK, NT\$293,800,000 on NCC TW, NT\$1,248,000,000 on RUBYCON, NT\$76,600,000 on ELNA, NT\$842,000,000 on SANYO HK, NT\$111,300,000 on NICHICON HK, NT\$1,218,200,000 on NEC TOKIN, NT\$31,200,000 on VISHAY POLYTEC, and NT\$24,300,000 on MATSUO; the amounts of the fines totaled NT\$5,796,600,000.

The FTC stressed that this case has shown the successful results of its efforts in international enforcement cooperation with other competition authorities over the years. The FTC had worked with the competition authorities of the US, EU and Singapore in its investigation activities since the beginning. In addition to coordinating a synchronized investigation action on 28 March 2014, the FTC also exchanged enforcement experiences with these agencies through telephone conferences

or emails. The FTC's decision is the first among competition agencies and will receive much attention internationally as it is still under investigation at least in countries such as those in the EU, the US, Japan, Korea, Singapore and China, etc.

The FTC's investigation revealed that Japanese capacitor companies had convened several multilateral meetings and engaged in bilateral communication since the 1980s, and had exchanged sensitive business information to reach agreements. Products involved in this case included aluminum capacitors and tantalum capacitors. There are seven aluminum capacitor companies, including NCC, NCC HK, NCC TW, RUBYCON, ELNA, SANYO HK, and NICHICON HK, that have been involved in this case, each to a different extent and duration in terms of attending meetings. Starting from at least 2005 to January 2014 at the latest, the companies convened the MK Meeting (Market Study Meeting), CUP Meeting (Cost Up Meeting), and SM Meeting (Hongkong Sales Manager Meeting) in Japan and other countries, or conspired bilaterally via e-mails, telephone conferences or gatherings to exchange sensitive business information for reaching agreements. The three tantalum capacitor companies, NEC TOKIN, VISHAY POLYTEC, and MATSUO, also exchanged sensitive business information in the above-mentioned MK Meeting and conspired bilaterally via e-mails, telephone conferences or gatherings to reach agreements.

Aluminum capacitors are mainly used in larger electronic products, e.g., PCs, household appliances, home video game consoles, and power supplies. Tantalum capacitors are mainly used in thin and small electronic products, e.g., notebooks, mobile phones, and handheld game consoles. Domestic electronics companies largely rely on the companies

involved in this case for the supply of capacitors. Even though there are a few aluminum capacitor companies in Taiwan, their scale is far smaller than that of the Japanese capacitor companies. On the other hand, there are no domestic tantalum capacitor companies; all tantalum capacitors are imported. The total sales revenue of the aluminum capacitors and tantalum capacitors of the companies involved in this case is estimated at NT\$50 billion and NT\$16 billion, respectively, during the term of their concerted action. The aluminum capacitor companies NCC, RUBYCON and NICHICON are the top three aluminum capacitor companies in the world. The tantalum capacitor companies involved in this case also have considerable global market shares. Hence, the companies involved in this case have had a direct, substantial impact on the domestic markets with reasonably foreseeable effects.

The FTC indicated that the leniency program was introduced to the Fair Trade Act on November 23, 2011. The case has a significant meaning for the FTC's enforcement as this was one of a few applications and involved heavy fines since the introduction of the leniency program. The FTC is required to keep the identity of the leniency applicant confidential in accordance with the "Regulations on Immunity and Reduction of Fines in Illegal Concerted Action Cases".

The FTC believed that the above-mentioned companies attended meetings to discuss prices and exchange sensitive business information and such conduct was sufficient to affect the functioning of the domestic aluminum capacitor and tantalum capacitor markets. This was in violation of Paragraph 1, Article 14 of the Fair Trade Act at the time. Furthermore, the unlawful conduct spanned nearly a decade and the illegal profit gained from Taiwan's market was considerably high. Hence, the FTC determined that this case is a severe violation punishable by a fine of no more than 10% of each company's sales revenue in the previous accounting year in accordance with paragraph 2, Article 40 of the Fair Trade Act. The total

fine in relation to this case was the highest to have been imposed on international businesses since the establishment of the FTC.

The FTC also emphasized that the competent authorities around the world have reached a consensus to strengthen cooperation in jointly fighting international cartels. As Taiwan has recently completed the signing of an MOU with Japan regarding the application of competition laws, competition law enforcement will become more rigorous for multinational companies. Furthermore, the FTC has introduced several amendments to the Fair Trade Act in recent years to reinforce its law enforcement mechanism and meet international standards. The FTC will strictly enforce the Fair Trade Act. Therefore, companies involved in concerted actions should consider applying for the leniency program to benefit from immunity or lower fines.

Attached Tables:

Amounts of Fines Imposed on Aluminum Capacitor Companies that Engaged in Concerted Actions

Company Name	Fine Amount (NT\$)
NCC	1,868,300,000
NCC HK	82,900,000
NCC TW	293,800,000
RUBYCON	1,248,000,000
ELNA	76,600,000
SANYO HK	842,000,000
NICHICON HK	111,300,000
Total	4,522,900,000


Amounts of Fines Imposed on Tantalum Capacitor Companies that Engaged in Concerted Actions

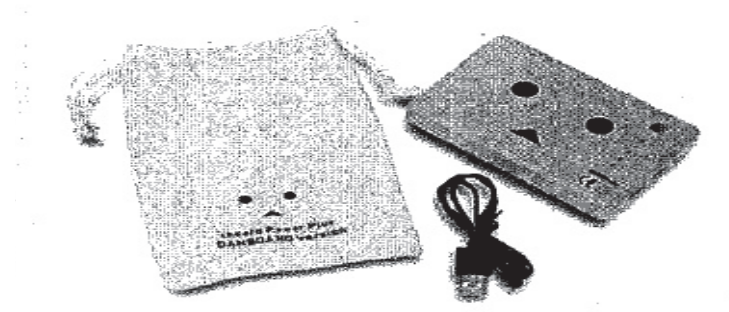
Company Name	Fine Amount (NT\$)
NEC TOKIN	1,218,200,000
VISHAY POLYTEC	31,200,000
MATSUO	24,300,000
Total	1,273,700,000

False Advertising on Mobile Power Packs

The FTC decided at the 1,260th Commissioners' Meeting on Dec. 30, 2015 that PChome Online Inc. (hereinafter referred to as PChome Online) and Yuan Heng Technology Co., Ltd. (hereinafter referred to as Yuan Heng Technology) had violated Article 21(1) of the Fair Trade Act for posting a product certification mark and a registration number supposedly issued by the Bureau of Standards, Metrology and Inspection of the Ministry of Economic Affairs when marketing mobile power packs online. The practice was a false, untrue and misleading representation with regard to quality of product and the FTC therefore imposed an administrative fine of NT\$50,000 on each company.

When marketing mobile power packs on the PChome Online website, PChome Online and Yuan Heng Technology posted a product certification number "R54634" supposedly issued by the Bureau of Standards, Metrology and Inspection of the Ministry of


Economic Affairs. It gave consumers the impression that the products complied with the certification standard announced by the competent authority. However, according to the announcement from the Bureau of Standards, Metrology and Inspection of the Ministry of Economic Affairs, starting on May 1, 2014, "secondary lithium mobile power packs for 3C products" were items requiring certification before they could be put on display and sold. However, the mobile power packs involved in this case had been imported by Yuan Heng Technology before May 1, 2014. In other words, they did not require certification and no certification number could have been issued. Apparently, the advertising was inconsistent with reality and it was posted to create a wrong perception in consumers regarding the quality of the products. Therefore, it was a false, untrue and misleading representation with regard to quality of product in violation of Article 21(1) of the Fair Trade Act. 



Home-Rich International Violated the Multi-level Marketing Supervision Act for Failing to File Change of Product Items

The FTC decided at the 1,256th Commissioners' Meeting on Dec. 2, 2015 that Home-Rich International Enterprise Corp. (hereinafter referred to as Home-Rich International) had engaged in multi-level marketing and violated Article 7(1) of the Multi-level Marketing Supervision Act for failing to file with the FTC before changing its product items. The FTC imposed on the company an administrative fine of NT\$50,000.

Home-Rich International changed the names of the originally registered product items "Huan Cai Moisturizer", "Huan Cai Makeup Cleansing Cream"


and "Huan Cai Skin Firming Cream" to "Revitalizing Moisturizer", "Revitalizing Makeup Cleansing Cream", "Antrodia Skin Cleansing Mousse" and "Crystal Skin Firming Cream" as well as altered the price and point value of "Antrodia Skin Cleansing Mousse" and the point value of "Crystal Skin Firming Cream" in March 2015, but did not file the changes with the FTC until Oct. 9, 2015. For failing to file the changes of item, price and point value with the FTC in advance, the company had violated Article 7(1) of the Multi-level Marketing Supervision Act. 

Announcement: The Annual Participant Fee to be Paid to the Multi-level Marketing Protection Foundation Shall Remain at NT\$200 in 2016

The FTC decided at the 1,262nd Commissioners' Meeting on Jan. 13, 2016 that the annual fee that each participant is required to pay to the Multi-level Marketing Protection Foundation (hereinafter referred to as the MMPF) in 2016 shall remain at NT\$200.

According to Article 38(2) of the Multi-level Marketing Supervision Act, the MMPF may collect protection fund contributions from multi-level marketing enterprises and annual fees from participants to provide budgets needed to protect the interests of multi-level marketing enterprises and participants and handle disputes. The collection methods and specific amounts shall be determined by the FTC, the competent authority. The FTC had already specified the collection method and amounts of the aforesaid contributions in Article 21 of the "Regulations for the Establishment and Administration of the Multi-level

Marketing Enterprises and Participants Protection Institute" but the participant annual fee was not defined in that article. Instead, it is only stated that the FTC will announce the amount before the end of January each year depending on the scale of the fund.

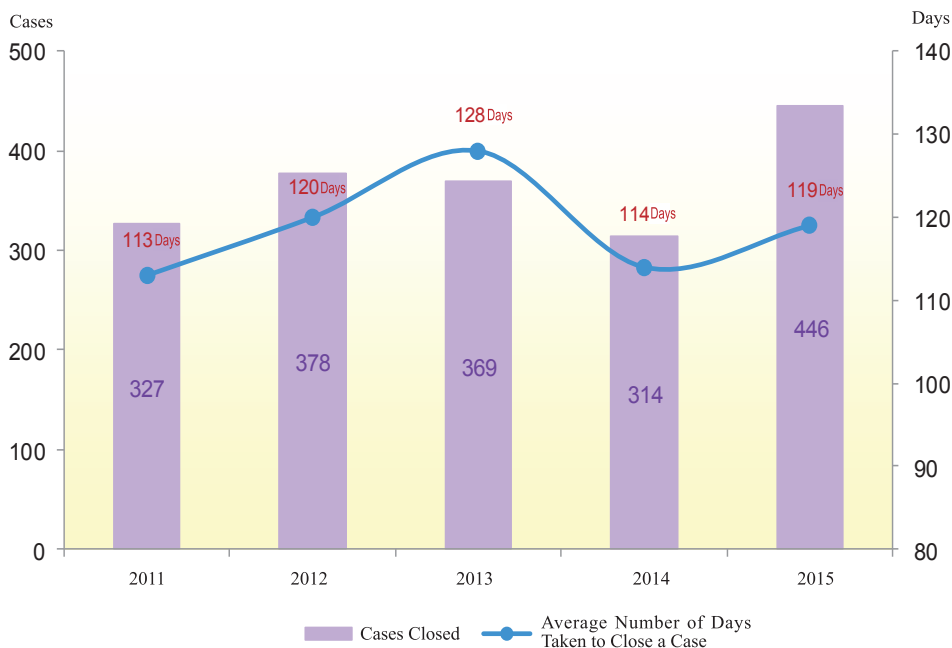
After assessing the income and expenditure of the MMPF, the general economic situation today, the public sentiment, the difficulty faced by the MMPF in urging participants to pay the fee and the opinion of the MMPF, the FTC decided to maintain the fee for 2016 at the same level as in 2015 and made the decision publicly known via Announcement Kung Jing Tzu No. 10514600671. As set forth in Article 38(4) of the Multi-level Marketing Supervision Act, only multi-level marketing enterprises and participants paying contributions and annual fees may request protection from the MMPF. 

Statistics on Cases in which Ex Officio Investigations were Initiated

To establish fair and reasonable competition order in the country, besides processing complaints, applications for concerted actions, applications for pre-merger notifications and requests for interpretation of related regulations, the FTC also initiates investigations into activities, which may be in violation of fair trade regulations or endanger the public interest. In 2015, the FTC initiated ex officio investigations in 424 cases, reviewed 558 cases (including 134 cases that remained unclosed at the end of 2014) and completed 446 cases (a 42% increase from the year before). On average, it took the FTC 119 days to close one case (Fig. 1). As of the end of 2015, the total number of cases in which ex officio investigations were launched accumulated to 3,396 and 3,284 cases were completed. A case closure rate of 96.7% has been achieved.

Judged by the amount of human resources invested, 446 cases were completed in 2015 with the effort of 3,100 person-times of manpower. 2,087 enterprises were investigated and 3 public hearings and seminars were held. Analyzed according to the results, sanctions were administered in 92 cases in which ex officio investigations were investigated (accounting for 20.6% of the total number of cases completed, with 102 dispositions issued and 123 businesses sanctioned). No-dispositions were decided in 174 cases (39.0%). Administrative disposal was concluded in 1 case (0.2%) and investigations were suspended in 137 cases (30.7%). From 1992 when the FTC was established to the end of 2015, the FTC completed 3,284 cases in which ex officio investigations were initiated, handed down sanctions in 1,096 cases (33.4%) and issued 1,240 dispositions. A total of 1,775 businesses were sanctioned.

Fig. 1 Average Number of Days Taken to Close a Case in which an Ex Officio Investigation was Initiated



Statistics on Handling Results of Cases in which Ex Officio Investigations were Initiated

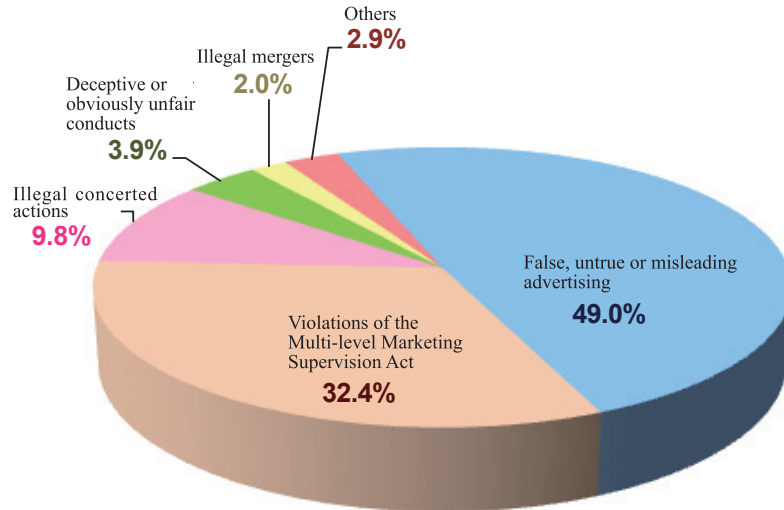
Unit: Case

Year	Sanctions			Non-disposition	Administrative Disposal	Investigation Suspended	Investigation Terminated	Others
	No. of Cases	No. of Dispositions Issued	No. of Businesses Sanctioned					
Total	1,096	1,240	1,775	965	114	772	-	337
1992 to 2010	582	703	979	356	95	279	-	138
2011	151	156	230	114	7	42	-	13
2012	102	107	190	112	7	118	-	39
2013	102	104	153	110	1	71	-	85
2014	67	68	100	99	3	125	-	20
2015	92	102	123	174	1	137	-	42

Notes: The term "Others" refers to the same cases transferred from other agencies or cases consolidated after the FTC received complaints from private citizens.

In 2015, the FTC issued 102 dispositions in cases in which ex officio investigations were initiated and imposed administrative fines totaling NT\$5.82408 billion. Analyzed by the pattern of violation against the Fair Trade Act (cases involving two or more articles repeatedly calculated), the 50 cases of false, untrue or misleading advertising constituted the largest portion (49.0%), followed by 33 cases (32.4%) involving violations of the Multi-level Marketing Supervision Act, and 10 cases (9.8%) of illegitimate concerted actions. Judged by the amount of the fines, NT\$5.7981 billion in total was imposed on the businesses engaging in illegal concerted actions and NT\$5.7966 billion of the amount was imposed on 10 capacitor suppliers involved in an illegal concerted action (Fig. 2).

Fig. 2 Number of Dispositions Issued in 2015 Cases in which Ex Officio Investigations were Initiated—Classified by Type of Violation



102 Dispositions Issued in Cases in which Ex Officio Investigations were Initiated in 2015

FTC Activities in January and February 2016

- ▲ On Jan. 4, the FTC's Competition Policy Information and Research Center was reopened to the public.
- ▲ On Jan. 8, the teachers and students of the Graduate Institute of Technology Management of National Taiwan University of Science & Technology attended the "Fair Trade Act and Multi-level Marketing Supervision Act Training Camp" conducted by the FTC.
- ▲ On Feb. 26, Professor Andy C.M. Chen of the Department of Financial and Economic Law of Chung Yuan Christian University gave a lecture on "Choice of Competition Policy and Regulations in Emerging Economies" at the invitation of the FTC.



1. The teachers and students of the Graduate Institute of Technology Management of National Taiwan University of Science & Technology attending the "Fair Trade Act and Multi-level Marketing Supervision Act Training Camp" conducted by the FTC
2. Professor Andy C.M. Chen of the Department of Financial and Economic Law of Chung Yuan Christian University giving a lecture on "Choice of Competition Policy and Regulations in Emerging Economies" at the invitation of the FTC

FTC International Exchanges in January and February 2016

- ▲ On Jan. 20, 21 and 26, the FTC respectively attended the teleconferences held by the ICN Cartel Working Group, Unilateral Conduct Working Group, Advocacy Working Group and Merger Working Group.
- ▲ On Feb. 3, 4, 16 and 24, the FTC respectively attended the teleconferences for the ICN Steering Group’s First “Global Citizen”, Agency Effectiveness Working Group, Merger Working Group and Cartel Working Group Subgroup 1.
- ▲ On Feb. 24 and 25, the FTC attended the “Workshop on Promoting Competition International Best Practices to Implement APEC New Strategy for Structural Reform Goals: Guidance on Investigative Process” held by APEC in Lima, Peru.
- ▲ From Feb. 27 to Mar. 1, the FTC attended APEC meetings for the “Competition Policy and Law Group” and First Economic Committee in Lima, Peru.



The FTC attending APEC meetings for the “Competition Policy and Law Group” in Lima, Peru

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