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FTC International Exchange Activities in November and December 2023

Telecom Merger a New Tide, FTC Giving Approval with Conditions

Case background

Taiwan Mobile and Far Eastone respectively announced in Dec. 2021 and Feb. 2022 their intentions to merge with Taiwan Star and Asia Pacific Telecom. As the two mergers met the merger filing thresholds specified in Paragraph 1 of Article 11 of the Fair Trade Act, Taiwan Mobile and Far Eastone were required to file the mergers with the FTC according to law. However, since mergers of corporations would be involved in both cases, the mergers would reduce the number of competitors in the relevant market. Furthermore, the post-merger frequency spectrum of Taiwan Mobile and Far Eastone would involve the issue of whether it might exceed the upper limit permitted by law, and the National Communications Commission needed to clarify the situation. As a consequence, Far Eastone and Taiwan Mobile followed the established procedure and filed the mergers with the FTC on Jan. 30, 2023 and Mar. 2, 2023, respectively. After both companies submitted supplementary documents on several occasions, presented their statements, held merger seminars and openly solicited opinions from various sectors, the FTC finally and separately made the decisions regarding the merger between Far Eastone and Asia Pacific Telecom and between Taiwan Mobile and Taiwan Star on Jul. 19, 2023 and Oct. 11, 2023.

Both mergers were beneficial to enhancing the effective use of the frequency spectrum resource and improving mobile broadband service quality

The initial benefit that the two mergers would bring to the overall economy would be the increase in frequency spectrum use efficiency. After the mergers received approval, Far Eastone and Taiwan Mobile could consolidate the frequency spectrum resource of Asia Pacific Telecom and Taiwan Star and make more efficient use of the frequency spectrum, thereby upgrading mobile broadband service quality. Moreover, after Far Eastone and Taiwan Mobile consolidated the core networks of Asia Pacific Telecom and Taiwan Star, the repeated installation of machine rooms and base stations could be decreased to help save energy and reduce carbon emissions.

In addition, both mergers could also be of benefit to the development of 5G application services in the future. Taiwan Mobile stated that the saving in cost would be invested to optimize networks and services, develop private networks and stimulate related businesses to engage in vertical applications and provide other innovative services to push the development of the overall digital economy in Taiwan. Meanwhile, Far Eastone also expressed the intention to apply big data, artificial intelligence and Internet of Things technologies to facilitate better corporate cloud services, distance learning services and remote healthcare. At the same time, the company would continue to inject capital to install and expand communications software and hardware to improve network coverage and transmission speed and also increase capacity.

Concern about the two mergers leading to competition restraints

Due to the competition in the mobile broadband service market, however, both mergers could give rise to concerns about competition restraints being created. First, both cases involved the merging of corporations. This would mean that the number of competitors in the mobile broadband service market would be reduced after the merger took place. This

would not only make it easier for enterprises to engage in collusion or concerted actions, but would also intensify market concentration and increase the concern about price hikes. The FTC thus applied economic analysis methods, including the Gross Upward Pricing Pressure Index, Compensating Marginal Cost Reduction and Merger Simulation to test the post-merger market competition. The outcome indicated that telecom tariffs could go up after the two mergers went through.


On the other hand, besides complying with telecommunications regulations, mobile broadband service providers had to cope with the high cost and technological thresholds associated with frequency spectrum resource acquisition and installation of base stations, machine rooms and networks. Market entry barriers would not be small. Judged from the management conditions, mobile virtual network operators in the country were unable to exert pressure on existing telecom companies. After Asia Pacific Telecom and Taiwan Star, two competitors in the market, left the arena, the countervailing power of consumers to cope with the three larger telecom service providers could only become weaker.

Conclusion – Approval of the two mergers with undertakings attached to ensure that the advantages outweigh the disadvantages

After considering the overall economic benefit and disadvantages from competition restraints in the two merger cases, the FTC decided not to prohibit the merger between Far Eastone and Asia Pacific Telecom or the merger between Taiwan Mobile and Taiwan Star. Nevertheless, in order to eliminate concerns about the creation of competition restraints, the FTC also made the decision to attach undertakings to protect the interests of subscribers, upgrade service and network quality and promote market competition. Initially, the FTC requested that Far Eastone and Taiwan Mobile accept all existing subscriber contracts

of Asia Pacific Telecom and Taiwan Star as well as offer general subscribers and those with disabilities preferential plans. Furthermore, Far Eastone and Taiwan Mobile had to present concrete achievement plans with regard to their promises of service and network quality improvements and software and hardware enhancements each year within five years after the mergers were approved. At the same time, because of the many types of services that Taiwan Mobile managed, it would be necessary to observe whether the growing market power of the company in the mobile broadband service market would extend to other service markets. For this reason, the FTC also requested that Taiwan Mobile present tariff plans and reports on the implementation of its cooperation with momo currency on an annual basis within five years

after merger approval. In the end, the FTC reminded Far Eastone and Taiwan Mobile that they could never restrict other telecom companies from competing. They had to offer mobile, data, roaming, number portability and equal access services at the same levels as the services the two companies offered their subscribers.

By demanding that Far Eastone and Taiwan Mobile fulfill the above-mentioned undertakings, the FTC eliminated the concern about the competition restraints likely to be created as a result of the two mergers in the relevant market, protected the interests of consumers, and ensured that the overall economic benefit could be greater than the disadvantages from competition restraints. 


Radium Life Tech Violated the Fair Trade Act by Not Providing Important Transaction Information

The FTC decided at the 1672nd Commissioners' Meeting on Oct. 25, 2023 that Radium Life Tech Co., Ltd. and Newland Harmony Advertising Co., Ltd. had violated Article 25 of the Fair Trade Act by not providing homebuyers with the list of areas held by individual units when marketing the Sunrise Longevity Estate presale homes. The practice was obviously unfair conduct able to affect trading order. The FTC imposed administrative fines of NT\$600,000 on Radium Life Tech Co., Ltd. and NT\$300,000 on Newland Harmony Advertising Co., Ltd.

Presale home transactions involve large amounts of money and contract fulfillment is complicated. Homebuyers need sufficient time to understand important transaction information, including the contract, related drawings and descriptions, and the list of areas held by individual units. Otherwise, it would be obviously unfair conduct to take advantage of information asymmetry when dealing with homebuyers who are in a relatively disadvantageous position. Between May and August 2022, the list of areas held by individual units was not available at the reception center of the housing project and the sales clerks did not provide such important information in writing for homebuyers to examine.

The FTC would like to remind concerned businesses that the list of areas held by individual units indicates the proportions of the main structure, ancillary structures and common area belonging to each unit. It is important transaction information able to affect consumers' purchase decisions. Real estate

businesses are required to provide such information for homebuyers to read so that they can evaluate the property carefully. In this case, however, the builder and the sales agent marketed the presale homes without providing the list. The practice was likely to make consumers with limited real estate transaction experience come up with decisions without an adequate evaluation under information asymmetry. Their interests were thus jeopardized. Furthermore, dozens of units were sold within a few months. Therefore, the marketing practice had an effect on a large number of victims and was also unfair competition which deprived law-abiding competitors, who provided such important transaction information, of their opportunity to make transactions. The conduct was obviously unfair competition able to affect trading order in violation of Article 25 of the Fair Trade Act.

It is the dream of many people to have a home, but the experience of buying one is rather limited for most consumers. The FTC would like to urge all real estate businesses to have all necessary information ready when releasing presale homes to allow consumers to think clearly about reserving and buying a unit so that they can choose what they want carefully and live in their homes happily. For real estate businesses, disclosing all important information before contract signature, not restricting homebuyers from reading purchase contracts and adopting well-grounded selling practices without exaggerations are the only way to market presale homes legally. 

Mr. Cai and Two Others Adopted Illegitimate Practices to Market Gas Safety Devices in Violation of the Fair Trade Act

The FTC decided at the 1668th Commissioners' Meeting on Sep. 28, 2023 that Mr. Cai and Mr. Chen had violated Article 25 of the Fair Trade Act by using the name of Mr. Zhang to set up Provincial Gas Equipment Engineering Company (hereinafter referred to as Provincial Gas Equipment Engineering) and using service notices and uniforms or employee IDs to mislead people into believing that the company's workers were from the local natural gas utility enterprise so that they could use the pretext of performing safety inspections to sell gas safety devices. It was deceptive conduct able to affect trading order. The FTC ordered the three individuals to immediately cease the unlawful act and imposed an administrative fine of NT\$100,000 on each of them.

The FTC's investigation revealed that Provincial Gas Equipment Engineering printed and distributed service notices similar to notices from the local natural gas provider Greater Taipei Area Gas, whereas the name Provincial Gas Equipment Engineering in seal character style stamped on the notices was hard to distinguish. The company's salespeople wore uniforms and employee IDs to visit private homes claiming they were there for gas safety inspections. The practice misled people into believing that the salespeople were sent by the local natural gas utility enterprise and let them in. Then the salespeople claimed the gas was leaking or the equipment was old and unsafe and suggested that the gas safety devices be replaced. Afterwards, they collected the charges on the spot.

The FTC found out that Mr. Cai and Mr. Chen printed and distributed the service notices and were the actual sellers while the company was registered under

the name of Mr. Zhang. Mr. Cai paid Mr. Zhang a fixed amount each month. Mr. Cai and Mr. Chen had been sanctioned previously for using the names of Greater Taipei Area Gas, Shin Shin Natural Gas and Hsin Tai Gas to mislead people into thinking the company's employees were sent by the local natural gas utility enterprise. Apparently, the two people frequently engaged in sales of gas safety devices. Therefore, the FTC imposed an administrative fine of NT\$100,000 on each of them.

It is not uncommon that certain businesses use the names of natural gas utility enterprises to print and distribute notices to deceive consumers. The FTC has made sanctions in many cases and would like to urge consumers to find out the actual enterprise people visiting to perform gas safety inspections represent. Consumers can also verify with the local natural gas utility company. When gas safety inspectors push gas safety devices, consumers should think clearly whether the products are really necessary before deciding to purchase them and have them installed in order to safeguard their interests.

In the end, the FTC would like to remind consumers that if they buy gas safety devices without thinking clearly, they can act according to the door-to-door sales regulation in the Consumer Protection Act and request that the sellers provide refunds within seven days after accepting the products or service in order to protect their interests. If a seller has not provided information regarding contract termination, he or she can make a request for a refund within four months.



Abbott Restricted Distributors' Resale Prices in Violation of the Fair Trade Act

Self-monitoring of blood glucose is an important part of diabetes care. The results of regular self-monitoring of blood glucose can serve as reference for medication adjustment and diet control to achieve the objective of diabetes alleviation. Household blood glucose meters (including blood glucose monitors, test strips and lancets) commonly seen on the market are useful tools for patients to self-monitor blood glucose. The FTC received complaints that the product sales contracts that Abbott Taiwan (hereinafter referred to as Abbott) signed with distributors contained retailer purchase price and retail price lists for the FreeStyle household blood glucose meters and the practice restricted the resale prices of trading counterparts. The FTC decided at the 1670th Commissioners' Meeting on Oct. 11, 2023 that the conduct without justifiable causes, such as to promote competition, was in violation of Article 19 (1) of the Fair Trade Act and imposed an administrative fine of \$300,000 on the company.

In the distribution contract, Abbott authorized distributors to market the company's household blood glucose meters and the prices of blood glucose meters, blood glucose test strips and blood glucose lancets (including distributor purchase prices, retailer purchase prices and retail prices) were listed in the contract in contrast to different sales outlets. If distributors failed to sell the products according to

the contract, Abbott could terminate or cancel the contract. The company not only intervened in the distributors' freedom to decide the purchase prices for retailers but also used email or LINE to demand that distributors adjust their resale prices according to the price lists in the contract when the company found out or was informed by other distributors that prices in the household blood glucose meter market were inconsistent. Abbott even requested that distributors check, handle the matter and report the result to the company after finding out that a retailer was selling FreeStyle Optium blood glucose test strips at a low price.

The household blood glucose meter product resale price restriction that Abbott imposed on trading counterparts would weaken price competition between retailers while the justifiable cause of promoting market competition did not exist. The practice was in violation of Article 19 (1) of the Fair Trade Act.

The FTC would like to remind concerned businesses that imposing restrictions on resale prices would make it impossible for retailers to determine their prices in accordance with the competition they face and their cost structures. Such conduct is forbidden by the Fair Trade Act. Enterprises should abide by related regulations in the Fair Trade Act in order not to break the law.



Farcent Posted False Ads to Market Garbage Bags in Violation of the Fair Trade Act

The FTC decided at the 1656th Commissioners' Meeting on Jul. 5, 2023 that Farcent Enterprise Co., Ltd. (hereinafter referred to as Farcent) had violated Article 21 (1) of the Fair Trade Act by displaying on product packaging, the Internet and sales outlet cardboard signs the wording "8-fold bursting resistance passing SGS tests" and "SGS mechanical and physical tests proving tear resistance 8 times the standard value" when marketing "Quchenshi brand eco-friendly garbage bags – lavender/lemon fragrance." The claim was false. The FTC ordered Farcent to cease the unlawful act and correct the ads within a given period and also imposed an administrative fine of NT\$400,000 on the company.

The standard value in SGS mechanical and physical tear resistance tests that Farcent mentioned referred to the value of tear resistance specified in CNS 12987. As for the "8 times," this was established by dividing the horizontal average tear resistance value of 5.35N obtained from the tests performed by SGS Taiwan Ltd. (hereinafter referred to as SGS) with the horizontal specified value 0.66N for Type 2 garbage bags as specified in CNS 12987. The horizontal tear resistance was indicated as achieving 8 times the specified value in the SGS test report provided by Farcent. However, according to the Bureau of Standards, Metrology and Inspection, garbage bag tear resistance tests

included vertical and horizontal values and the vertical tear resistance of the two products was only 5.5 times the specified value, and not 8 times. In addition, the bureau also commented that normally it was not appropriate to calculate the multiple of tear resistance by dividing the test result by the specified value. People using garbage bags would take both horizontal tear resistance and vertical tear resistance into consideration. For this reason, the claim that bursting resistance achieved 8 times the standard value was a false and misleading representation in violation of the aforesaid regulation in the Fair Trade Act. After assessing the business scale and sales of Farcent and the fact that the horizontal and vertical test results both complied with the specified values in spite of the vertical tear resistance of both products failing to achieve 8 times the specified value, the FTC imposed an administrative fine of NT\$400,000 on the company.

The FTC would like to remind concerned businesses to make sure that the presentation and claims comply with the facts when making ads to attract consumers to purchase products. They should avoid misleading consumers into having wrong perceptions in order to maintain trading order and protect consumers' interests.




Heqian Construction and Heyi Marketing Violated the Fair Trade Act by Posting False Ads to Market Presale HomesTrade Act

The FTC decided at the 1677th Commissioners' Meeting on Nov. 29, 2023 that Heqian Construction Co., Ltd. (hereinafter referred to as Heqian Construction) and Heyi Marketing Co., Ltd. (hereinafter referred to as Heyi Marketing) had violated Article 21 (1) of the Fair Trade Act by claiming that the land above the construction site was "land reserved for a park" when marketing the "Heqian Fei Shi Dai" presale home project located in Danshui District, New Taipei City. In fact, the land was reserved for a school; therefore, it was false advertising. The FTC imposed an administrative fine of NT\$800,000 on Heqian Construction and NT\$400,000 on Heyi Marketing.

Heqian Construction and Heyi Marketing posted the ad at the reception center and on 591.com and indicated that the land above the construction site was "reserved for a park." The claim gave the impression that the housing project was near a piece of land reserved for a park and the park would be open to public access in the future. According to the competent authority in the New Taipei City Government, however, that piece of

land was reserved for a school and not a park. At the time, Danshui District Office was busy with the soccer field construction project, and there was no plan to build a park or green space. Land reserved for a park and land reserved for a school involved different usages and homebuyers with different preferences had dissimilar needs which would be considerations influencing consumers' transaction decisions. Under such circumstances, the inconsistency between the claim and the fact could cause consumers to have wrong perceptions or make wrong decisions. Therefore, the practice was in violation of the above-mentioned regulation in the Fair Trade Act.

The FTC would like to remind concerned businesses that housing project information on real estate websites and in ads at reception centers are a main approach for consumers to know the usages of housing projects. They should make sure that the representations in ads are consistent with the facts in order not to get fined for posting false ads. 

Amendment to the Principles of the Fair Trade Commission Regarding the Definition of Relevant Markets

Background of amendment

The FTC announced the White Paper on Competition Policy in the Digital Economy in Dec. 2022 and pointed out that the new ways of interaction and transactions between consumers, enterprises and platforms in the digital economy were different from those under one-sided market structures in the traditional economy. This could bring many challenges to the original analytic methods of market definition. As a consequence, the FTC examined the tendencies of competition law legislation in other countries and related domestic cases and started to review and amend the Principles of the Fair Trade Commission Regarding the Definition of Relevant Markets (hereinafter referred to as the principles). The amendment was completed and announced to take effect on Nov. 22, 2023.

Key revisions

The principles had been implemented for over eight years after they were announced on Mar. 6, 2015 and this was the first amendment. The key revisions are as follows:

1. Point 2 of the principles is revised. The definition of a multi-sided market in Subparagraph 6 and the definition of indirect network effects in Subparagraph 7 are added. The digital platform economy has become more prominent in recent years and is gradually replacing the transaction models in the traditional economy. In the past, traditional markets were mostly one-sided, whereas the platform economy involves two-sided or multi-sided markets. Transactions and interactions between consumers and enterprises

through platforms can lead to indirect network effects. In turn, the scope of market definition can be affected. For this reason, the definitions of related terms are added.

2. Point 4 of the principles is revised. Factors to be considered in product market definition, such as the price structure, influence on transaction behavior, compatibility and complementarity taking form between product technologies, specifications or standards, management models of platform operators, and transaction relations between user groups, are added. Under the multi-sided market structure in the digital economy, the management models of different platform operators, the charging standards and the services offered are all likely to have an effect on the intensity of indirect network effects and the scope of the product market. In addition, some products may develop compatibility or complementarity as a result of the technologies, specifications or standards involved and form a digital ecological system which consequently affects the definition of a product market. Therefore, the aforementioned factors are added.

3. Point 5 of the principles is revised to include market definition considerations such as the language used as to where the products are and the local culture. In the digital economy, consumers can easily make purchases on the Internet. This has an effect on the regional substitutability of traditional physical stores and weakens geographical borders. The scope of the geographic market that a product encompasses may cross cities or countries. For this reason, the considerations of the language used as to where the

products are and the local culture are added.

4. Point 9 of the principles is revised to include consideration of indirect network effects when using the Hypothetical Monopolist Test under a multi-sided market structure. If the price is zero, quality or cost can be selected to replace price changes in the analysis. In a multi-sided market environment, the prices of some products can be zero, such as when a platform operator allows consumers to use the platform free of charge. In this situation, price can not be adopted as a parameter to test the market

definition. Therefore, the regulation is added.

Conclusion

In the Laws and Regulations section on its website, the FTC has posted a general description of the amendment, a contrast table and Q&A about the Principles of the Fair Trade Commission Regarding the Definition of Relevant Markets. It is hoped that these documents can enable people to have a better understanding of this amendment. 

Amendment to the Fair Trade Commission Disposal Directions (Guidelines) on Cases of Real Estate in Advertising

Background of Amendment

Real estate transactions involve large amounts of money. If a real estate business posts false advertisements, it can cause huge harm to public welfare and seriously damage the interests of consumers and law-abiding enterprises. Therefore, after examining the law enforcement experience in recent years, related building regulations and terminology, Article 47-5 of the Equalization of Land Rights Act, and the conclusion of administrative consultations with the Ministry of the Interior, the FTC comprehensively reviewed the violation patterns, revised the content of the disposal directions and announced the result on Nov. 15, 2023.


Key revisions

1. Point 3 (List of real estate advertising violation patterns) is revised to integrate various violation patterns and give examples by listing the violation types, describing the violations and comprehensively rearranging related the texts of all the subparagraphs. At the same time, the sequence of the subparagraphs is adjusted in accordance with the violation types and the process of completion of housing projects.

2. Point 4 is added (Preliminary review by the Ministry of the Interior to determine whether advertisement types are in violation of the Equalization of Land Rights Act). As stipulated in Paragraph 1 of Article 47-5 of the Equalization of Land Rights Act, no one may engage in any action to push up real estate prices. On Apr. 11, 2023, the FTC consulted with

the Ministry of the Interior on the division of labor in the enforcement of the regulation in the aforesaid article and reached a conclusion. If a case is price- or quantity-related (such as publicizing the limitation of quantity, preferentially low prices, return on investment and the promotional pricing being inconsistent with the content of the advertisement or it is associated with the building permit (such as misleading consumers to believe the building permit is already acquired and the use of the building and land being inconsistent with the statutory usage), such false real estate advertising is to be reviewed by the Ministry of the Interior first to determine whether it has any effect on real estate transaction prices or on market order. If it does not, the case is to be handled by the FTC. For this reason, Point 4 is added to list examples to distinguish the violation patterns belonging to the jurisdiction of the FTC from the ones to be reviewed by the Ministry of the Interior. See the attachment for the details of Points 3 and 4 of the Fair Trade Commission Disposal Directions (Guidelines) on Cases of Real Estate Advertising.

Conclusion

The FTC has established the Disposal Directions (Guidelines) on Cases of Real Estate Advertising to list out various violation patterns for real estate businesses to follow. The intention is to prevent false real estate advertising from misleading consumers and creating unfair competition so that trading order can be protected and consumers' interests safeguarded. 

Appendix

3. (Type 1 of untrue, false or misleading representations or symbols)

Real estate advertisements may not contain the following untrue, false or misleading representations or symbols:

(1) Building locations: The building location indicated in the advertisement is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(2) The real estate area:

A. The total area of the building or land is inconsistent with the area indicated on the land ownership certificate.

B. The total area of the building or land is consistent with the area indicated on the land ownership certificate, while one of the following situations exists:

a. Use of “usable area,” “common area,” “interior area,” “beneficiary area,” “common facilities,” “beneficiary certification,” or other non-legal terms to be the representation or symbol of the building area in the advertisement without indication of the actual area included in a proportionate font on a conspicuous spot that causes misconceptions about the size of area.

b. Use of “gross floor area,” “site area,” “main building area,” “auxiliary building area,” “shared area” or other legal terms to be the representation of the building area with the size of the area indicated being inconsistent with the area represented in legal terms or registered, and the general or concerned public finds it difficult to accept the difference.

c. The percentages of common facilities in the building indicated in the advertisement are inconsistent with the ones in the completed building and the general or concerned public finds it difficult to accept the difference.

(3) Mezzanine design: The advertisement indicates the building has a high ceiling in texts, pictures, the layout and floor plan, sectional elevations, or a model home is applied to indicate there is a mezzanine design or more usable space than the original building design, and one of the following situations exists:

A. The description in the advertisement is inconsistent with what is indicated in the shop or as-built drawings.

B. The advertisement does not indicate the restrictions of building regulations on mezzanine construction (such as the floor level, area, materials, floor ratio control, etc.)

C. The mezzanine is confirmed by the building authority as an illegal structure.

(4) Internal layout of the building:

The internal layout of the building (such as the balcony, machine room and awning positions) is inconsistent with the shop or as-built drawings and it is confirmed by the building authority as illegal or its design change application is denied.

(5) Hot spring facility: The advertisement indicates there is a hot spring facility, but the claim is inconsistent with related regulations in the Hot Spring Act.

(6) The appearance, design and shared areas of the building:

A. The appearance, design and shared areas (such as the reading room, lounge, gym, etc.) are inconsistent with the descriptions in the advertisement or are as advertised but inconsistent with the shop or as-built drawings, and it is confirmed by the building authority as illegal or its design change application is denied.

B. Facilities or services that are not part of the performance of the contractual obligations or subordinated performance are advertised as part of the performance of the contractual obligations or subordinated performance to mislead the general or concerned public.

(7) Parking space: The parking space indication in the advertisement is inconsistent with the shop or as-built drawings, and the parking space arrangement is confirmed by the building authority as in violation of building regulations.

(8) Public facilities or roads:

A. The public facilities indicated (such as schools, parks, stadiums, government agencies, etc.) in the advertisement are inconsistent with the objective condition when the advertisement is posted or the actual condition when the construction is completed, and the general or concerned public finds it difficult to accept the difference.

B. Uncompleted public facilities or roads are used as representations or symbols in the advertisement to mislead the general or concerned public that such structures are completed.

C. The traffic condition, transportation time or distance indicated in the advertisement is not calculated according to regular road conditions.

(9) External landscape and environment: The surrounding environment, views and landscape

indicated in the advertisement are inconsistent with facts and the general or concerned public finds it difficult to accept the difference.

(10) The builder or building project receiving awards: The record of award reception indicated in the advertisement is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(11) The management performance of the realtor: The management performance of the realtor indicated in the advertisement (such as transaction record, number of branches, and number of buyers or sellers, etc.) is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

4. (Type 2 of untrue, false or misleading representations or symbols)

Real estate advertisements may not contain the following untrue, false or misleading representations or symbols:

(1) Claim of rarity: Use of untrue claim of rarity to increase the willingness of potential buyers to check out the units and prompt them to make purchase decisions.

(2) Low price offers: Use of a small number of public relations customers to mislead the public to believe the sales are the final prices.

(3) Promotional offers: The special offers advertised are inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(4) Return on investment: The return on investment in a certain period indicated in the advertisement is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(5) Building permit: The building permit is not yet issued, but the representation in the advertisement misleads people to believe it is already issued.

(6) Building or land usage: The usage of building or land advertised is inconsistent with the statutory usage in land use zoning which cannot be changed. In consequence, such a representation can mislead people to believe the building or land can be used for residential or other non-statutory purposes, such as a piece of land statutorily defined as for industrial use:

A. The advertisement does not indicate the construction site is statutorily defined as for industrial purposes or a piece of Type D building land; or it is

indicated, but the indication is inadequate, compared to other descriptions in the advertisement.

B. The advertisement does not clearly point out the building is for industrial purposes.

C. Images of regular residential equipment are displayed in the advertisement, or texts are shown to imply the building is suitable for residential purposes.

The conditions described in the subparagraphs of the preceding paragraph shall be handled in accordance with the Conclusion of Consultation between the Fair Trade Commission and the Ministry of the Interior on Handling of Property Hype.



Statistics on Merger Cases

Business mergers can enhance effectiveness in the utilization of resources and consolidate the strengths of merging parties to increase competitiveness. Meanwhile, the purpose of merger control is to prevent business mergers from causing market structures to become excessively concentrated or form monopolization and, in turn, weakening market competition and damaging consumer interests. Therefore, it is stipulated in the Fair Trade Act that a merger between enterprises reaching certain business scales must be filed with the FTC in advance. The FTC announced the amendment to “Merger Types to Which Paragraph 1 of Article 11 of the Fair Trade Act Does Not Apply” and the amendment to the “Fair Trade Commission Disposal Directions (Guidelines) on Handling Merger Filings” on Jun. 28 and 30, 2023, respectively. The revisions included the addition of merger types that need not be filed and expansion of the scope of application of the simplified operating procedure to alleviate the burden of enterprises filing mergers and shorten the time needed to review mergers to help enterprises grasp fleeting business opportunities.

Between Jan. and Nov. 2023, 34 mergers were filed, decreasing by 50.7% compared to the same period the year before. The FTC closed 45 merger cases which were 31.8% less than the previous year mainly because of the addition of the aforementioned regulations that merging enterprises not engaging in economic activity in the country do not need to file. Meanwhile, 299 mergers were filed from 2019 to the end of Nov. 2023 (hereinafter referred to as the five recent years). The FTC closed 305 cases. 145 mergers (47.6%) were approved. Review was suspended in 159 cases (52.1%) and one merger (0.3%) was prohibited (Table 1).

Table 1 Statistics on Merger Cases

Unit: Case

Year	No. of filings	No. of closed cases					
			Merger not prohibited	Merger prohibited	Review suspended	Extraterritorial mergers not within jurisdiction	Filing not needed
Total (2019- Nov. 2023)	299	305	145	1	159	114	25
2019	64	60	26	1	33	22	5
2020	65	62	35	-	27	19	6
2021	62	69	32	-	37	28	5
2022	74	69	22	-	47	32	8
Jan.-Nov. 2022	69	66	20	-	46	31	-
Jan. -Nov. 2023	34	45	30	-	15	13	1

Analyzed by merger type (cases in which two or more merger types applied were calculated repeatedly), the ranking order in the five recent years was as follows. There were 129 mergers as described in Subparagraph 2, Paragraph 1 of Article 10 of the Fair Trade Act “where an enterprise holds or acquires the shares or capital contributions of another enterprise to an extent of more than one third of the total number of voting shares or total capital of such other enterprise,” 117 mergers as specified in Subparagraph 5 “where an enterprise directly or indirectly controls the business operation or the appointment or discharge of personnel of another enterprise,” 48 mergers as stated in Subparagraph 4 “where an enterprise operates jointly with another enterprise on a regular basis or is entrusted by another enterprise to operate the latter’s business,” 11 mergers as stipulated in Subparagraph 3 “where an enterprise is assigned by or leases from another enterprise the whole or the major part of the business or assets of such other enterprise,” and 7 mergers as prescribed in Subparagraph 1 “where an enterprise and another enterprise are merged into one.” (Table 2)

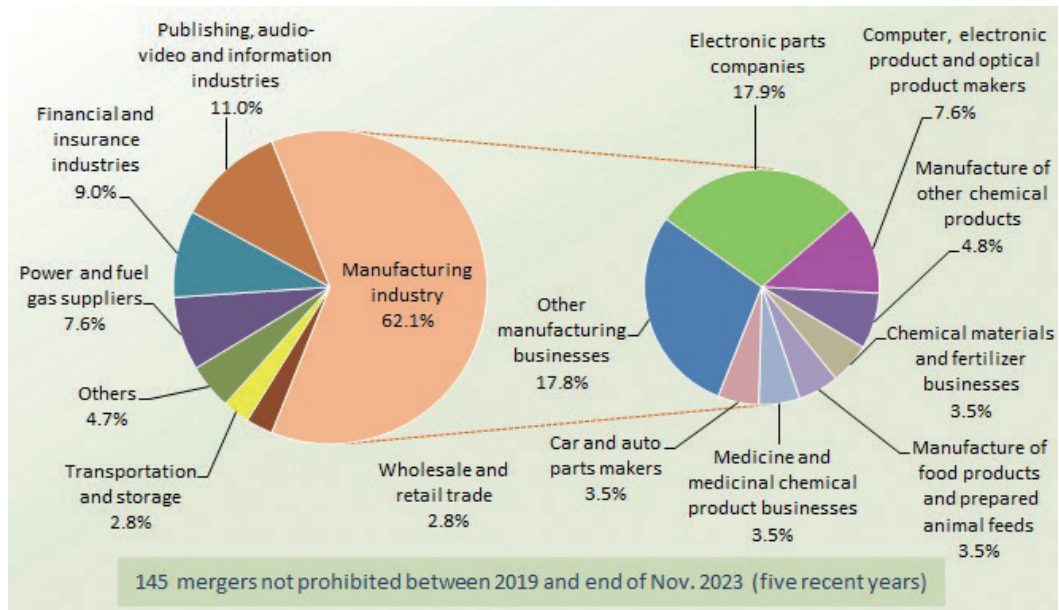
Table 2 Statistics on Not Prohibited Mergers – by Merger Type

Unit: Case

Year	No. of mergers not prohibited	Distinguished by Merger Type – Paragraph 1 of Article 10 of the Fair Trade Act				
		Subparagraph 1	Subparagraph 2	Subparagraph 3	Subparagraph 4	Subparagraph 5
Total (2019- Nov. 2023)	145	7	129	11	48	117
2019	26	2	22	4	8	17
2020	35	-	35	-	9	31
2021	32	2	26	5	10	25
2022	22	-	21	2	8	19
Jan.-Nov. 2023	30	3	25	-	13	25

Judged by industry, the 145 mergers not prohibited in the five recent years included 90 cases (62.1%) from the manufacturing industry, 16 cases (11.0%) from publishing, audio-video and information industries, and 13 cases (9.0%) from financial and insurance industries. The three groups together accounted for over 80%. When divided further, among the manufacturing enterprises, 26 mergers (17.9%) were filed by electronic parts companies, 11 mergers (7.6%) were filed by computer, electronic product and optical product makers, and 7 mergers (4.8%) were filed by manufacture of other chemical products (Fig. 1)

Fig. 1 Statistics on Not Prohibited Mergers – by Industry



FTC Activities in November and December 2023

- ▲ On Nov. 1, the FTC held a presentation on “Selecting textbooks in May – small objects can cause a big storm” in Taoyuan City.
- ▲ On Nov. 7, 14 and 21, the FTC conducted the “2023 Fair Trade Act and Cases Workshop for the Southern Elite” in Kaohsiung City.
- ▲ On Nov. 12 and 24, the FTC held the “Fair Trade Act and Multi-level Marketing Supervision Act Training Camp” respectively at the Department of Health Management and Enhancement of the Open University of Kaohsiung and the Student Living Services Division of National Donghwa University.
- ▲ On Dec. 1, the FTC conducted the 2023 “Fair Trade Act and Multi-level Marketing Supervision Act Training Camp” at the Department of Gerontological and Long-term Care Business of Fooyin University.
- ▲ On Dec. 8, the teachers and students of the Department of Law of Ming Chuan University attended the “Fair Trade Act and Multi-level Marketing Supervision Act Training Camp” at the FTC.
- ▲ On Dec. 12, the FTC held the 30th “Competition Policy and Fair Trade Act Seminar.”
- ▲ On Dec. 19, the FTC held a legal seminar entitled “Artificial Intelligence and Competition Law Workshop” at the Evergreen International Convention Center.



1. The FTC conducting the “2023 Fair Trade Act and Cases Workshop for the Southern Elite” in Kaohsiung City
2. The teachers and students of the Department of Law of Ming Chuan University attending the “Fair Trade Act and Multi-level Marketing Supervision Act Training Camp” at the FTC
3. The FTC holding the 30 th “Competition Policy and Fair Trade Act Seminar”
4. The FTC holding a legal seminar entitled “Artificial Intelligence and Competition Law Workshop” at the Evergreen International Convention Center

FTC International Exchange Activities in November and December 2023

- ▲ On Nov. 15, the FTC attended the ICN 2023/2024 Kick-off Webinar.
- ▲ On Nov. 29, the FTC attended the ABA 2023 Tokyo Antitrust Global Seminar in Tokyo.
- ▲ From Dec. 4 to 8, the FTC attended the OECD Competition Committee December Routine Meeting and the Global Forum on Competition in Paris, France.
- ▲ On Dec. 12, the FTC attended the Stanford University Computational Antitrust 3rd Annual Conference through videoconferencing.



1. The FTC attending the ICN 2023/2024 Kick-off Webinar
2. The FTC attending the ABA 2023 Tokyo Antitrust Global Seminar in Tokyo



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. It would be appreciated if you could please directly fill in the questionnaire at the website (<https://www.ftc.gov.tw>). Thank you for your assistance and cooperation.

Regards
Fair Trade Commission

Taiwan FTC Newsletter Reader's Survey

■ Nationality : _____

■ Category of your organization

☐ Government ☐ Private Corporation ☐ Embassy ☐ NGO ☐ Media ☐ Scholars

☐ 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 favorite one?

☐ Selected Cases ☐ 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 : _____

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