

## Paradigm Change, Law Enforcement Review and Prospect of a Business Merger

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### Abstract

It has been more than 30 years since the Fair Trade Act came into effect on February 4, 1992. Although there have been eight amendments during this period, 4 of them are related to business merger regulations. The purpose of the Fair Trade Act in relation to business merger regulations is to avoid improper concentration of economic power and to prevent the possibility of a substantial impairment of market competition by businesses using mergers to improperly obtain or strengthen their market positions. Basically, the higher the concentration of the market before the business merger, or the more the market concentration increases due to the business merger, the greater the suspicion that competition will be restricted. There are many uncertain legal concepts in the business merger norms of the Fair Trade Act, such as “material business or assets,” “operates jointly,” “entrusted management,” “direct or indirect control,” “business operation or the appointment or discharge of personnel,” “overall economic benefit” and “disadvantages resulted from competition restraint.” In addition to clarifying its connotation through traditional legal interpretation methods, how to establish clear legal application standards by formulating various administrative rules, administrative interpretations or other methods to avoid law enforcement disputes and illegal situations, and then improve the normative system for business mergers, is a subject to which attention must continuously be paid.

From a legal perspective, this article begins by sorting out the legal evolution of business merger regulation, in order to grasp the context of changes in the paradigm of business mergers in Taiwan, and then reviews the content, disputes, and practical cases of the current business merger regulation from the perspective of legal interpretation. Besides, in coinciding with the 30th anniversary of the Fair Trade Act, this article will not only analyze the current law enforcement of the Fair Trade Commission on business merger regulations, but will also examines three representative and important cases, and make

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specific recommendations as a reference for future amendments to business merger regulations and enforcement.

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