

**An Analysis of the Conditions Constituting Article 24 of the Fair Trade Law
— Adjudication Cases of the Supreme Administrative Court**

Shih, Chin-Tsun*

Kuo, Kuan-Chang

Abstract

This paper aims to analyze the conditions constituting Article 24 of the Fair Trade Law through cases adjudicated by the Supreme Administrative Court. The study refers to previous related documents in constructing the conditions constituting Article 24, namely, affecting trading order, deceptive practices, and obviously unfair practices. The paper regards the composition variables of the constituting conditions on a case analysis basis. A research sample of 7 cases of the Fair Trade Commission losing a lawsuit in relation to Article 24 of the Fair Trade Law which was adjudicated by the Supreme Administrative Court over the period from 1994 to 2013 is considered. These cases involve disputes over the conditions constituting Article 24 and other articles of the Fair Trade Law, and a case content portrayal as well as a case analysis of the constituting conditions are also performed. The results confirm that for the variables affecting trading order, the overall trading order is the most common one. As to the composition variables related to deception, the hiding of important trade information is the most common one. As to the cases involving obviously unfair behavior, the abuse of relative competitive advantage and the warning letter in relation to intellectual property rights are adopted the most frequently. The findings can serve as valuable reference for the Competition Law authority and for businesses when dealing with related cases and when considering future revisions to the rules for handling Article 24 of the Fair Trade Law.

Keywords: Fair Trade Law Article 24, Supreme Administrative Court, Affect Trading Order, Deceptive Practice, Obviously Unfair Practice

Date submitted: October 4, 2013

Date accepted: September 26, 2014

* Shih, Chin-Tsun, Professor, Department of Business and Entrepreneurial Management, Kainan University (Corresponding Author); Kuo, Kuan-Chang, Assistant Professor, Marketing & Distribution Management, National Pingtung Institute of Commerce.