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TAIWAN FTC NEWSLETTER

2024.4

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Yeezen General Hospital and Ten-chen General Hospital Engaged in a Concerted Action in Violation of the Fair Trade Act


Registration fees are necessary administrative expenses that people must pay when seeking medical care at clinics and hospitals and increases in such fees have an effect on people's interests. The FTC launched an investigation after receiving complaints that Yeezen General Hospital and Ten-chen General Hospital jointly raised their outpatient registration fees on Sep. 1, 2022. The findings showed that the two hospitals not only simultaneously increased the outpatient registration fees, but they had also raised their emergency registration fees earlier on Jan. 1, 2022.

Yeezen General Hospital and Ten-chen General Hospital were both located in Yangmei District, Taoyuan City and were not far from each other. Ten-chen General Hospital learned about Yeezen General Hospital's intention to raise its emergency and outpatient registration fees. The FTC compared related documents and discovered that information or files about the price increases had been passed between the two hospitals before they established a mutual understanding to raise emergency and outpatient registration fees on the same dates. Therefore, the FTC decided at the Commissioners' Meeting on Nov. 15, 2023 that the decision of the two hospitals was a concerted action forbidden by the Fair Trade Act and imposed fines of NT\$900,000 on Yeezen General Hospital and NT\$700,000 on Ten-chen General Hospital. The fines totaled NT\$1.6 million.

Many hospitals have faced pressure from rising commodity prices and personnel cost hikes as a result of the pandemic over the

past few years. They could thus determine their charges according to their cost structures and business conditions instead of achieving a mutual understanding with other hospitals to jointly raise their prices.

The FTC would like to remind concerned businesses not to reach agreements with competitors on joint price increases. If any businesses have already

participated in an illegal concerted action, they can apply to the FTC for a fine reduction or exemption in accordance with the leniency policy. Meanwhile, the FTC has increased concerted action reporting rewards by a larger margin to encourage people to report illegal concerted actions to help maintain fair competition and trading order. 

Five Beauty Businesses Adopted Illegitimate Practices to Market Beauty Products in Violation of the Fair Trade Act

Case background

The FTC received consumer dispute appeal cases transferred from county and city governments as well as complaints from a number of consumers accusing five beauty businesses of engaging in deceptive and obviously unfair conduct in violation of Article 25 of the Fair Trade Act by adopting illegitimate practices to market beauty products.

The findings of the FTC's investigation showed that these businesses adopted interrelated practices in different stages, from contacting consumers, pushing products (services), signing contracts and making payments to obstructing contract cancellation, and made particular arrangements designed specifically for male consumers to entice them to take out money and make purchases step by step.

Step 1 Using friendship apps to get customers hooked:

Beauticians used friendship apps to get to know consumers and invite them to go to the shop for a facial or massage. Some businesses intentionally gave the wrong address or shop name to prevent consumers from searching online for the shop's ratings in advance and taking precautions. Some beauticians used the excuse of offering beverages or asking consumers to pay a friendly visit to the shop where making friends was a pretext applied to push the business's products.

Step 2 Asking consumers to make purchases while receiving beauty care services:

Once consumers arrived at the shop, they were taken

to the beauty room for a facial or massage. While it was inconvenient for them to stand up, beauticians pushed them to purchase long-term beauty services. Even after consumers expressed that they did not need or could not afford such services, the beauticians carried on pushing. Some beauticians would use the excuse that frequent visits for a facial or massage could increase the opportunity to see each other, forcing consumers to make transaction decisions in a hurry without much thinking.

Step 3 Consumers realized what they had bought only after making purchases:

When giving the facial treatment or massage service, beauticians chatted with customers to find out how much they could spend each month and then offered various combinations of products. Some of them would emphasize that consumers could enjoy long-term facial or massage services by spending a few thousand dollars each month. Beauticians eloquently misled consumers to believe they were buying beauty services. If they did not use the services in the future, the contract could be cancelled and the money could be returned. As a consequence, consumers agreed to sign the contract and make purchases.

Step 4 Payment by installments with hidden tricks:

Beauticians emphasized that payment by installments was acceptable and it would be only a few thousand dollars each month. In fact, however, the business worked with finance companies but did not explain this to the consumers. Moreover, such businesses often made consumers sign the payment by installments application from a finance company immediately after

they experienced the service. Consumers did not have time to clearly see the content of the application which included a promissory note section. As a result, they unknowingly signed the promissory note as well and became liable for payment. Even if consumers demanded contract cancellation, they could not refuse to pay the finance company and subsequent refunding became more complicated.


Step 5 Consumers were guided to unpack products making refunding impossible:

Such businesses used the excuse of checking for defects and guided consumers to unpack the products. When consumers made requests for contract cancellation and refunding, they found out that what they had purchased were products and the beauty services were freebies coming with the products. However, the products had been unpacked and they could not be returned, while contract

cancellation would cost them thousands or even tens of thousands to pay for breaches of contract.

The FTC thought the marketing approaches of the five businesses were illegitimate sales practices intentionally planned and organized, and all of them happened to adopt similar practices which had a critical influence on trading order in the beauty market and also harmed consumer interests in violation of Article 25 of the Fair Trade Act. Therefore, the FTC made the decision to impose a total fine of NT\$11 million on the five businesses.

Conclusion

Network applications are rather advanced nowadays. The FTC would like to remind concerned businesses that whatever channels they adopt to attract customers, they should never apply any deceptive or obviously unfair practices that are able to affect trading order. 


Uniq-chain Illegitimately Used SEO Techniques in Violation of the Fair Trade Act

The FTC decided at the Commissioners' Meeting on Oct. 18, 2023 that Uniq-chain Enterprise Co., Ltd. (hereinafter referred to as Uniq-chain) had violated Article 25 of the Fair Trade Act by illegitimately using the text in the trademark of a competitor in marketing copy and placing it in Google search. Consumers clicking on the text would get directed to the company's website. The practice was obviously unfair conduct that exploited the fruit of the work of another and was able to affect trading order. The FTC imposed an administrative fine of NT\$50,000 on the company.

Search engine optimization (SEO in short) involves the adjustment of website content according to the search engine's operating rules to move up a website's search result ranking. Writing the web page title and outline is the basic SEO practice used to increase website traffic and attract target customers.

The FTC's investigation revealed that Uniq-chain adopted the e-commerce management system on its company website and applied SEO techniques to design the copy of the "OO' series recommended – myBRA supporting your beauty with good underwear" by using related character strings that had been

searched for on its website. The copy was then integrated in Google search. When consumers keyed in the character string of "sexy in shape," for example, the search result would display the text of "sexy in shape" which was part of a competitor's trademark. Meanwhile, the advertising copy for Uniq-chain's products and the brand name "myBRA" would also appear in the same search result. In particular, the copy would show the wording "recommended by competitors." Consumers clicking on the search result would be directed to the website of Uniq-chain. It could easily mislead consumers into thinking that both Uniq-chain and the competitor were the same business entity, used the same business symbol, marketed products in the same series or had a certain cooperative relationship. The obviously unfair conduct of exploiting the fruit of the work of another could reduce the competitor's opportunities to contact potential customers and was able to affect trading order in violation of Article 25 of the Fair Trade Act.

The FTC would like to remind concerned businesses to evaluate their programming approaches and avoid displaying competing brands together when using SEO techniques to do online marketing in order not to mislead consumers and break the law. 

Taipei Oxygen and Gas Co. and Tai Da Gas Corp. Jointly Increased Medical Oxygen Prices in Violation of the Fair Trade Act

Medical oxygen can be used to treat hypoxia and save lives at the earliest time. It is an essential medicine in the medical field. If the market lacks competition and businesses jointly raise their prices, it can have an effect on the interests of patients and increase people's financial burden. For this reason, when receiving complaints from private citizens that medical equipment stores and suppliers in Taichung City had jointly raised the prices of medical oxygen, the FTC launched an investigation right away.

To fully understand the situation, the FTC investigated the medical equipment stores, distributors and medical oxygen suppliers in the Taichung area layer by layer to get to the source. The findings showed that Tai Da Gas Corp. and Taipei Oxygen and Gas Co. as upstream providers were the cause of the problem. The two companies increased the prices of bottled medical oxygen between Aug. and Oct. 2022. Before the price adjustment, the prices given to distributors were rather dispersed. After the adjustment, however, the prices were almost consistent. There was no reasonable explanation for the cause of the price consistency and the two companies claimed that it was a coincidence.

The FTC made comparisons and discovered that the prices of both companies had gone up by a large margin, far greater than the prices of other suppliers and the two companies' own cost increases. Tai Da Gas Corp. had a smaller market share but made the price increase first without worrying about the

risks of customer loss and competitors following suit. It was against common sense. Taipei Oxygen and Gas Co. even gave its distributors a lowest-price guarantee and made the promise to consult with some of the distributors of Tai Da Gas Corp. to reduce the incentive for price competition and solidify the concerted action of both companies. Therefore, after consolidating the evidence collected through the investigation, the FTC concluded that Taipei Oxygen and Gas Co. and Tai Da Gas Corp. had indeed achieved a mutual understanding on the joint price increase and decided at the 1676th Commissioners' Meeting on Nov. 22, 2023 that the joint increase in medical oxygen prices by the two companies had affected the supply-demand function in the market. Hence, the FTC imposed administrative fines of NT\$900,000 on Taipei Oxygen and Gas Co. and NT\$200,000 on Tai Da Gas Corp. The fines totaled NT\$1.1 million.

The FTC would like to remind concerned businesses to determine their price strategies in accordance with their management condition and not to engage in joint price increases with other businesses. In order to encourage people to provide evidence of illegal activities, the FTC has increased whistleblower rewards by a large margin. Meanwhile, enterprises participating in illegal activities can also make use of the leniency policy and apply to the FTC for a fine reduction or exemption




False Advertising for Printers was Posted on pchome.com.tw in Violation of the Fair Trade Act

The FTC decided at the 1660th Commissioners' Meeting on Aug. 2, 2023 that PChome Online and HP Taiwan had violated Article 21 (1) of the Fair Trade Act by posting the wording "Printing one page in black costing less than NT\$0.1, cutting printing costs again and again...*purchasing the 959XL super-high yield black ink cartridge necessary" to market the HP OfficeJet Pro 8730 top-notch flagship printer for offices on pchome.com.tw, but in fact the printer could not achieve the cost effectiveness advertised. Therefore, the claim was a false and misleading representation with regard to quality of product and could also affect transaction decisions. The FTC imposed an administrative fine of NT\$100,000 on each company.

The HP printer was marketed on pchome.com.tw, which was managed by PChome Online. The advertisement claimed "Printing one page in black costing less than NT\$0.1, cutting printing costs again and again...*purchasing the 959XL super-high yield

black ink cartridge necessary." It made consumers believe that the cost of printing one page in black with the HP printer using a specific ink cartridge would be less than NT\$0.1. The FTC's investigation revealed that the advertisement was produced and provided by HP Taiwan, but the data on the company's website indicated that the cost of printing one page in black with the 959XL super-high yield black ink cartridge was about NT\$0.69 (NT\$2,078/3,000 pages). HP Taiwan also admitted it had no data to support the claim. In other words, the advertisement was inconsistent with the facts in violation of Article 21 (1) of the Fair Trade Act.

The FTC would like to remind concerned businesses once again that they should pay attention to the authenticity of claims in advertisements posted to market products in order not to violate Fair Trade Act regulations. Thus, consumer interests can be protected. 


iROO International Violated the Fair Trade Act by Posting False Advertisements to Market Colorful Clothing Series

The FTC decided at the 1667th Commissioners' Meeting on Sep. 20, 2023 that the claim "noticeable sun-screening effects ...UPF50+ masks to fight skin darkening at any time" posted by iROO International Co., Ltd. (hereinafter referred to as iROO International) to market the Colorful Clothing Series on the company website was false advertising because the masks of six of the clothing items could not achieve the UPF50+ (ultraviolet protection factor) performance. The FTC imposed an administrative fine of NT\$100,000 on the company.

Between Jul. 1, 2021 and Sep. 16, 2022, iROO International marketed the Colorful Clothing Series on its website and posted the claim "noticeable sun-screening effects ...UPF50+ masks to fight skin darkening at any time." Overall, the wording gave people the impression that the products in question had the UPF50+ sun-screening function and that the anti-ultraviolet performance was rather decent.

However, the FTC discovered during the investigation that when ten items of the Colorful Clothing Series

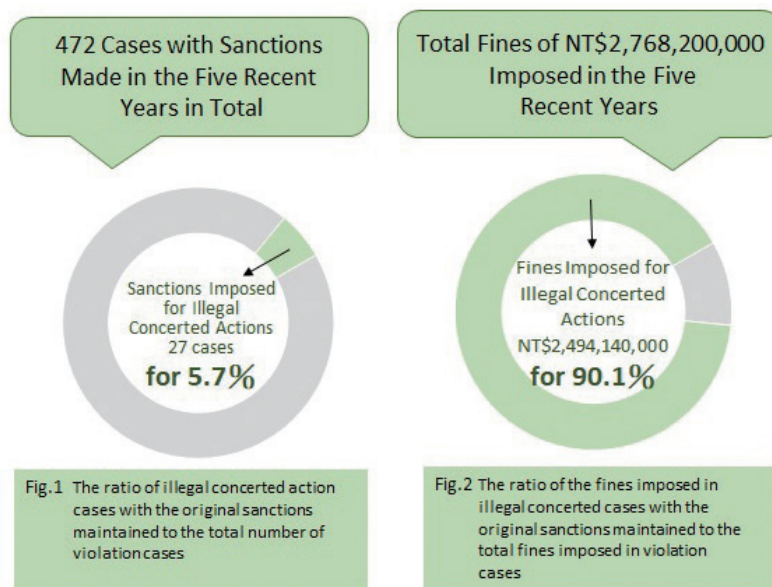
were sent to be tested by SGS Taiwan Ltd., the results indicated that the masks of six of the items failed to achieve UPF50+ performance. Furthermore, iROO International also admitted that the sun protection factor of the masks of some products sold after Jul. 2021 was inadequate because the manufacturer did not use a specified material when making additional products. Apparently, the claim "noticeable sun-screening effects ...UPF50+ masks to fight skin darkening at any time" was inconsistent with the facts because some of the products could not achieve the UPF+ performance as advertised. The wording could have caused the general public to have wrong perceptions regarding the quality of the products in question or make wrong decisions. It was thus in violation of Article 21 (1) of the Fair Trade Act.

The FTC would like to remind concerned businesses to make sure that the specific effects they claim in advertisements are consistent with the facts in order not to break the law and be penalized. 

Statistics on Cases Involving Illegal Concerted Actions

It is stipulated in the Fair Trade Act that no enterprises may, by means of contract, agreement or any other form of mutual understanding, jointly determine the price, quantity, technology, products, equipment, trading counterparts, or trading regions with respect to goods or services, or engage in any practices that restrict each other's business activities and affect market functions with respect to production, trade in goods or the supply of and demand for services. The FTC pays close attention to cases involving enterprises imposing restrictions on competition. In Nov. 2011, the Commission established the leniency clause (Article 35 of the Fair Trade Act) aiming at monopolization and concerted actions and also increased the upper limit of administrative fines (Paragraph 2 of Article 40 of the Fair Trade Act) to deter illegal concerted actions likely to affect market competition and order or damage the overall economy and public interest.

Statistics show that the FTC issued dispositions/warning letters) in 472 cases between 2019 and Jan. 2024 (hereinafter referred to as the five recent years), including 27 concerted action cases, or 5.7%, with sanctions upheld (averaging 5.3 cases per year), and sanctioning 127 enterprises (averaging 4.7 enterprises per disposition). The fines amounted to NT\$2,494,140,000 (each enterprise NT\$19,639,000 on average), accounting for 90.1% of the total fines of NT\$2,768,200,000 imposed, mainly because of four big illegal concerted cases in which sanctions were handed down. The decisions made in these concerted action cases included imposing more appropriate penalties on two capacitor enterprises, sanctioning three hard drive suspension assembly companies, penalizing two colon cancer drug makers, and fining eighteen ready mixed concrete businesses (Fig. 1, Fig. 2, Table 1).



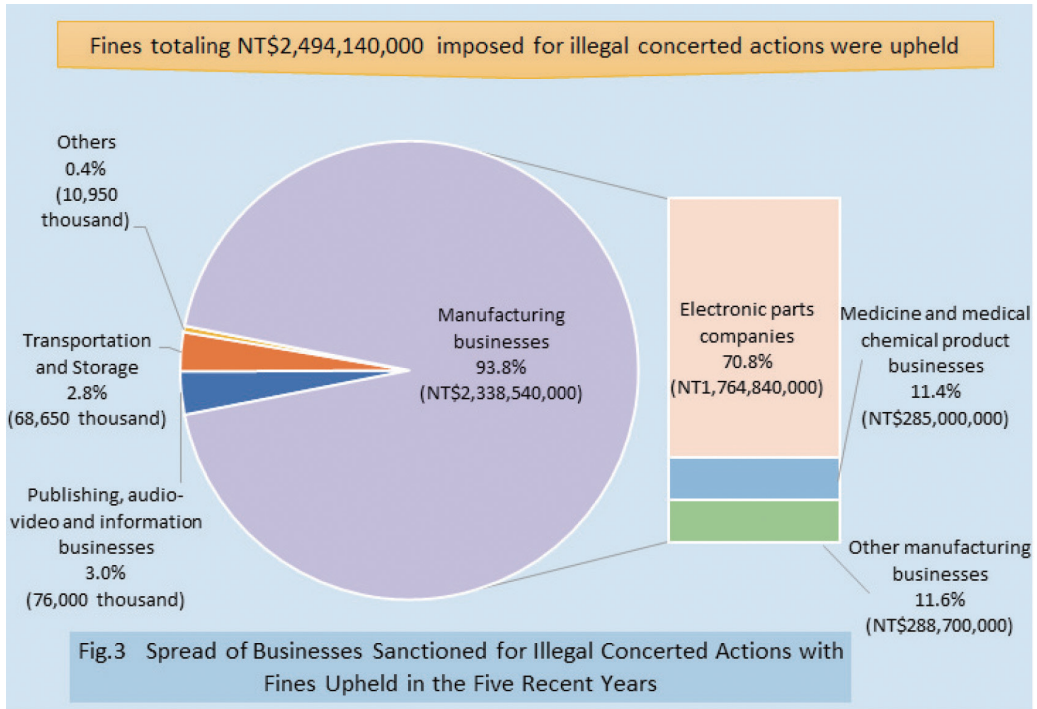
Fines totaling NT\$2,494,140,000 imposed for illegal concerted actions were upheld in the five recent years. Judged by the spread of the fines, there were twelve cases (44.5%) in which the fine was less than NT\$1 million. If divided by the number of businesses, the 8.8 enterprises receiving fines of more than NT\$10 million but less than NT\$100 million formed the largest group. There were only five cases (18.5%) in which the fine imposed exceeded NT\$100 million, but the fines totaled NT\$2,247,050,000, accounting for 90.1% (Table 1).

Table 1 Illegal concerted action cases – Breakdown by fine amount
Between 2019 and Jan. 2024

Fine Amount	Number of Cases		Number of Companies		Fine Amount (10 thousand NT\$)		Average Number of Companies Per Case	Average Fine Per Company (10 thousand NT\$)
	(a)	Percentage (%)	(b)	Percentage (%)	(c)	Percentage (%)	(b)/(a)	(c)/(b)
Total	27	100.0	127	100.0	249,414	100.0	4.7	1,963.9
Less than NT\$1 million	12	44.5	27	21.3	435	0.2	2.3	16.1
NT\$1 million ~ NT\$10 million	5	18.5	32	25.2	1,170	0.5	6.4	36.6
NT\$10 million ~ NT\$100 million	5	18.5	44	34.6	23,104	9.2	8.8	525.1
NT\$100 million and above	5	18.5	24	18.9	224,705	90.1	4.8	9,362.7

Notes: 1. Penalties maintained for cases include unconfirmed cases that are still in administrative litigation.
2. This table includes cases where no fines were imposed, and where fines were imposed per disposition by interval.

Judged by industry, the NT\$2,338,540,000 imposed on manufacturing businesses accounted for 93.8% and topped the list, followed by the NT\$76,000,000 (3%) imposed on publishing, audio-video and information businesses. If manufacturing businesses are further divided, the NT\$1,764,840,000 imposed on electronic parts companies accounted for 70.8% of the fines imposed for concerted actions, followed by the NT\$285,000,000 (11.4%) imposed on medicine and medical chemical product businesses (Fig. 3).



Activities in January and February 2024

- ▲ On Jan. 19, the FTC held a Fair Trade Commission Operations Workshop.
- ▲ On Jan. 24, the US Taiwan Business Council called on the FTC.
- ▲ On Jan. 25, the FTC held a workshop on a Draft Partial Amendment to the Fair Trade Act.
- ▲ From Feb. 27 to Mar. 5, the FTC attended APEC's CPLG Workshop and Economic Committee meeting in Lima, Peru.



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1. The FTC holding a Fair Trade Commission Operations Workshop
2. The US Taiwan Business Council calling on the FTC
3. The FTC holding a workshop on a Draft Partial Amendment to the Fair Trade Act
4. The FTC attending APEC's CPLG Workshop and Economic Committee meeting in Lima, Peru

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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