



NO 110 TAIWAN FTC NEWSLETTER

2023.4

► Selected Cases

- Great Wall Enterprise in Violation of Fair Trade Act for Not Filing Merger According to Law
- The FTC Received Complaints about ihungrybear Website Plagiarizing and Using Dining Notes from ifoodie Website in Violation of the Fair Trade Act
- Concerted Action of Three Makers of Ice for the Fishing Industry in Penghu County in Violation of the Fair Trade Act
- Merger of eTreego and Three Other Companies to Create a Joint Venture to Manage an Electric Vehicle Charging Service Not Prohibited
- Yuan True Health Violated the Multi-level Marketing Supervision Act for Failing to Process Participant Withdrawal and Returned Goods According to Law
- Zhu Feng Construction and Da Yuan Advertising Posted False Advertisements in Violation of the Fair Trade Act

► FTC Statistics

Statistics on Ex Officio Investigation Cases

► FTC Activities

Activities in January and February 2023

Great Wall Enterprise in Violation of Fair Trade Act for Not Filing Merger According to Law


Before merging, enterprises should be aware of the merger-filing regulations in the Fair Trade Act in order to avoid being penalized for not filing the merger.

The FTC's investigation revealed that Great Wall Enterprise Co., Ltd. (hereinafter referred to as Great Wall Enterprise) had gradually acquired through enterprises it controlled the shares of British Cayman Islands company Food China Inc. (hereinafter referred to as FCI) in 2020. The shares obtained increased to 34.14% in Aug. and then went up to more than 50% in Nov. the same year. Since FCI held 100% of the shares of FoodChina Company, it could be considered that Great Wall Enterprise had thus gained direct or indirect control of the management and personnel appointment and dismissal of FCI and FoodChina Company. The condition complied with the merger patterns described in Subparagraphs 2 and 5, Paragraph 1 Article 10 of the Fair Trade Act.

Besides merger pattern compliance, if the sales or market shares of the merging parties achieved the filing thresholds, the merger had to be filed with the FTC. The investigation showed that Great Wall Enterprise's filing-threshold calculation was erroneous and it caused the company to think that the acquisition did not achieve the filing threshold. As a consequence, the company did not file the merger. However, according to the FTC's calculation, the acquisition did achieve the filing threshold. Great Wall Enterprise should have filed the merger but did not. It was in violation of Paragraph 1, Article 11

of the Fair Trade Act. Therefore, the FTC imposed an administrative fine of NT\$600,000 on the company.

Due to management considerations, enterprises are likely to make share acquisition or merger plans. When this happens, they should be aware of the merger-filing regulations in the Fair Trade Act,

especially large corporations. If enterprises are not sure whether they should file, they are welcome to use the pre-merger filing counseling service launched in Aug. 2021. The service can offer concrete suggestions regarding whether an intended merger should be filed with the FTC. 


The FTC Received Complaints about ihungrybear Website Plagiarizing and Using Dining Notes from ifoodie Website in Violation of the Fair Trade Act

The FTC decided at the 1614th Commissioners' Meeting on Aug. 31, 2022 that Playma Co., Ltd. had violated Article 25 of the Fair Trade Act by using the dining notes of its competitor the ifoodie gourmet website to be the content of its ihungrybear website and apps. The practice was obviously unfair conduct able to affect trading order. The FTC imposed an administrative fine of NT\$50,000 on the company.

Playma Co., Ltd. managed the ihungrybear website and offered apps for Internet users to obtain restaurant information and dining notes. The main source of revenue of the company was selling online ad slots to restaurants (or other advertisers) and participating in display networks to gain a share of the profit. ifoodie also offered restaurant information and dining notes and online advertising was its main source of revenue. Therefore, ihungrybear and ifoodie were competitors.

During the investigation, the FTC found out that the website building personnel of Playma Co., Ltd. started to gather the dining notes on ifoodie two months before the ihungrybear website was set up (in Feb.

2020) to be the website content. After the website and apps were ready, the company continued to collect and use dining notes from ifoodie. The dining notes were not removed from ihungrybear and the apps until Aug. 19, 2021.


The dining notes collected on ifoodie were hundreds of thousands of articles written by nearly one thousand people. Although ifoodie did not own the copyright of the dining notes, it had invested a lot of time, manpower and effort to collect and sort out the URLs of such dining notes and use hyperlinks to display the URLs on the web pages corresponding to different restaurants. Such information definitely had its economic value. Playma Co., Ltd. used the dining notes from ifoodie as the content of ihungrybear and the apps. The practice not only exploited the results of the efforts of another but also could reduce the visit rate, advertising income and other economic benefits of ifoodie. It was unfair competition to ifoodie and other competitors who adopted legitimate means to build up website content. The conduct was in violation of Article 25 of the Fair Trade Act. 

Concerted Action of Three Makers of Ice for the Fishing Industry in Penghu County in Violation of the Fair Trade Act

The demand for ice in the fishing industry escalates in summer. On Jul. 1, 2022, three makers of ice for the fishing industry in Penghu County raised their prices simultaneously. The FTC immediately launched an investigation. Based on the findings, the FTC decided at the 1617th Commissioners' Meeting on Sep. 21, 2022 in the same year that Jinhai Enterprise Co., Fengde Freezing Co., Ltd. and Northwest Ice-making Co., Ltd. had established a mutual understanding and increased the price of ice for the fishing industry. The practice was a concerted action as described in Article 15 of the Fair Trade Act. Therefore, the FTC imposed on the three businesses administrative fines that totaled NT\$300,000.

Ice for the fishing industry is used to refrigerate the catch on fishing boats. It is not edible. Each chunk weighs 135kg; therefore, ice makers require large freezers, special ice molds, cooling equipment, high voltage equipment and ice-sliding ramps as well as the ability to operate the equipment. The three ice makers had the aforesaid equipment and operating ability. All of them sold ice for the fishing industry. Their business scales were similar and they competed with one another. To find out whether the simultaneous price increase by the three businesses was a concerted action, the FTC immediately sent staff members to Penghu to investigate and collect evidence.

The FTC's investigation revealed that the market for ice for the fishing industry in Penghu County highly depended on Jinhai Enterprise Co., Fengde Freezing Co., Ltd. and Northwest Ice-making Co., Ltd. At present, the shares the three ice makers accounted for in the market for ice for the fishing industry in Penghu County were about the same. They knew one another and checked and balanced one another. If any one business increased the price, it would trigger price competition in the market. On Jul. 1, the three businesses used the excuse of Taiwan Power Company raising electricity prices and made the announcement to increase the price per chunk of ice to NT\$200. In fact, before making the price adjustment they used LINE to convey and confirm price increase information. In other words, they achieved a consensus on the price increase and raised the price simultaneously in violation of Article 15 of the Fair Trade Act.

The FTC would like to remind concerned businesses that product price and quantity are important secret weapons in competition. Even when businesses are familiar with one another, they should not pass price information to each other and end up selling their products at the same price in violation of the regulation against concerted actions in the Fair Trade Act. In particular, no enterprises should adopt the pretext of a cost increase and jointly make price adjustments. Once concrete evidence is found, the FTC will impose fines according to law. 


Merger of eTreego and Three Other Companies to Create a Joint Venture to Manage an Electric Vehicle Charging Service Not Prohibited

The FTC decided at the 1625th Commissioners' Meeting on Nov. 16, 2022 to cite Paragraph 1, Article 13 of the Fair Trade Act and approve the merger of eTreego Co., Ltd. (hereinafter referred to as eTreego), Hotai Motor Co., Ltd. (hereinafter referred to as Hotai Motors), He Jun Energy Co., Ltd. (hereinafter referred to as He Jun Energy) and Shihlin Electric & Engineering Corporation (hereinafter referred to as SEEC) to create a joint venture to manage an electric vehicle charging service.

eTreego and Hotai Motors would each hold over one third of the new business and control the management and personnel appointment and dismissal. As the condition met the filing threshold, the four enterprises filed a pre-merger notification with the FTC

The main business operations of the merging parties were respectively charging equipment production, auto sales, solar power generation, electrical parts production and charging service. The merger was a conglomerate one and vertical relations between upstream and downstream businesses also existed.

Acting in line with the government plan to achieve the goal of net zero emissions by 2050, the merging parties intended to enter a developing market to make electric vehicle charging more convenient and increase the number of users. The effect on buyers of electric vehicles and end users in the country would be positive. The FTC's assessment showed that the merger would not have any significant impact on competition in the electric vehicle charging service market and it was unlikely that foreclosure would be created as a result of the vertical merger between electric vehicle charging enterprises. In other words, the merger would not lead to significant competition restraints.

After reviewing the case, the FTC concluded that the merger would not lead to significant competition restraints and businesses should be encouraged to enter the electric vehicle charging industry. For this reason, the FTC approved the merger by citing Paragraph 1, Article 13 of the Fair Trade Act. 

Yuan True Health Violated the Multi-level Marketing Supervision Act for Failing to Process Participant Withdrawal and Returned Goods According to Law

The FTC decided at the 1618th Commissioners' Meeting on Sep. 28, 2022 that Yuan True Health Co., Ltd. (hereinafter referred to as Yuan True Health) had violated Paragraph 2 of Article 20 and Paragraph 2 of Article 21 of the Multi-level Marketing Supervision Act by failing to process participant withdrawal and returned goods within the statutory period and according to statutory calculation methods after contract cancellation or termination. The FTC imposed an administrative fine of NT\$200,000 on the company.

To protect the interests of participants, multi-level marketing businesses should give them sufficient time to consider and evaluate if they are suitable to engage in multi-level marketing. At the same time, if some people purchase products out of impulse, they should be allowed to withdraw from the scheme and return the products. This is why the Multi-level Marketing Supervision Act includes the stipulation that people join multi-level marketing organizations are entitled to a 30-day cooling-off period and after this period they still have the right to terminate the contract and withdraw from the multi-level marketing business. In the meantime, it is also specified that after receiving participant withdrawal applications and returned goods, multi-level marketing businesses are required to process the withdrawal and returned goods within the statutory 30-day period as well as calculate the refund in accordance with the statutory method.

The FTC's investigation showed that Yuan True

Health did not refund withdrawing participants within 30 days. The practice had an impact on the interests of participants. It was in violation of Articles 20 and 21 of the Fair Trade Act.

Meanwhile, to prevent multi-level marketing businesses from using various excuses to reduce the refund, it is specified in Article 21 of the Multi-level Marketing Supervision Act that multi-level marketing businesses are required to buy the goods returned by participants at 90% of the original purchase price. They may "deduct the bonuses or remuneration paid to the participant for the purchase" and "the amount of the decreased value of the goods." However, Yuan True Health deducted the Uniform Invoice tax and also subtracted the decreased value before buying back at 90% of the original purchase price. It was not the statutory calculation method; hence, the practice was in violation of Article 21 of the Multi-level Marketing Supervision Act.

The FTC would like remind participants that after realizing they are not suitable for multi-level marketing, they should present written applications to their multi-level marketing organizations for withdrawal and to return goods. The templates for such applications are available on the FTC website. Multi-level marketing businesses receiving such applications should be aware of the statutory period and the regulation with regard to refund calculation in order not to break the law.




Zhu Feng Construction and Da Yuan Advertising Posted False Advertisements in Violation of the Fair Trade Act

When seeing housing project advertisements claiming “hot sales” and “units about to be sold out,” homebuyers are likely to become tense and think they should “buy now or it will be too late” and make purchase decisions in haste. However, if the “hot sales” is a lie, such advertisements may be in violation of the Fair Trade Act.

The FTC decided at the 1623rd Commissioners’ Meeting on Nov. 2, 2022 that Zhu Feng Construction Co., Ltd. (hereinafter referred to as Zhu Feng Construction) and Da Yuan Advertising Co., Ltd. (hereinafter referred to as Da Yuan Advertising) had violated Paragraph 1, Article 21 of the Fair Trade Act by posting false advertisements to market the Zhu Feng Dun Hui housing project located in Songshan District, Taipei City. On Aug. 5, 2021, the wording of “Over 50% of Zhu Feng Dun Hui units sold within one month before announcement of Level 3 Pandemic Alert” and “Sales breaking 70% during June and July even after announcement of Level 3 Pandemic Alert” was posted in the Real Estate Market section of Hot News in the Liberty Times e-Paper. Nevertheless, the claim was untrue. Therefore, the FTC imposed an administrative fine of NT\$500,000 on each company.

The Zhu Feng Dun Hui housing project included 78 units. Da Yuan Advertising was delegated to

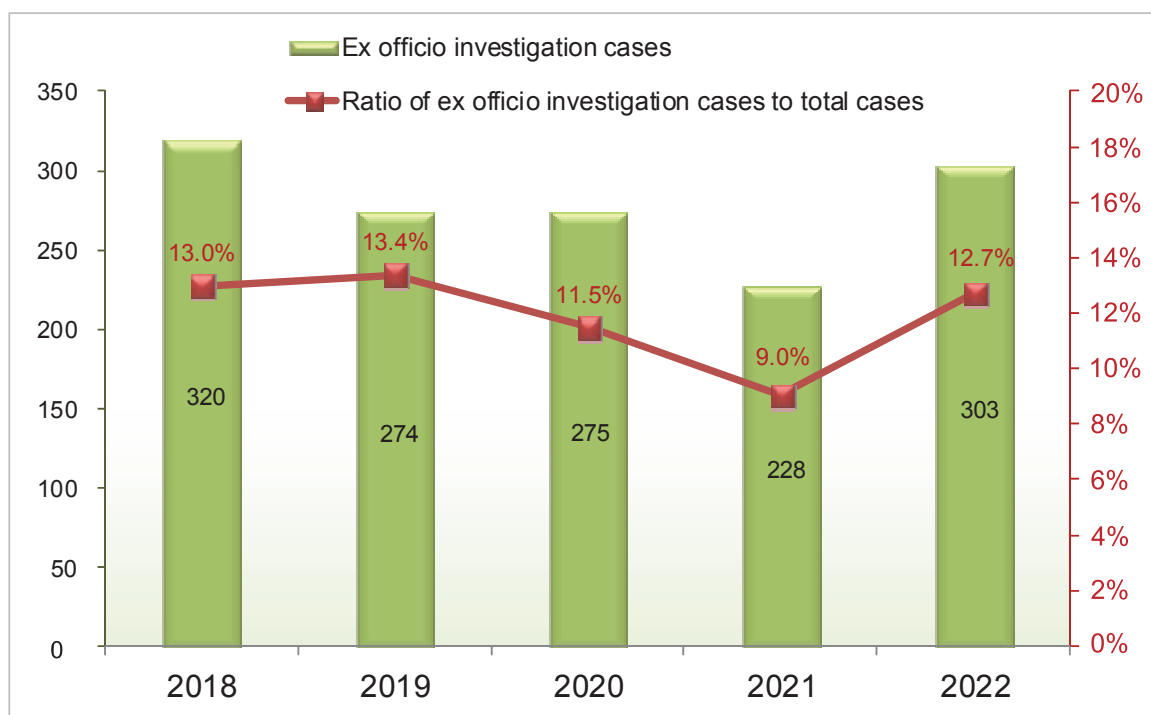
market 36 of them and signed 27 unit reservation agreements as of Jul. 2022. However, after the number of homebuyers renouncing their reservations was deducted, just ten of the 20 units reserved in the first month after official sales began were actually sold, and they only accounted for 27.78% of the 36 units. Then, by Jun. and Jul. the same year, sales accumulated to 19 units, 52.78% of the 36 units. The figures were inconsistent with the “50% sales and breaking 70%” claimed in the advertisement. Hence, the advertisement for the Zhu Feng Dun Hui housing project was a false and misleading representation with regard to sales and could also affect transaction decisions in violation of Paragraph 1, Article 21 of the Fair Trade Act.

When consumers sign unit reservation agreements but renounce the reservations later, the units in question become unsold. If real estate businesses calculate sales according to the number of unit reservation agreements signed, they ought to deduct the number of homebuyers giving up their reservations in order not to create the false impression of “hot sales.” The FTC would like to remind concerned businesses that when claiming the percentage of units sold, the information should not be false. The FTC will continue to keep a close watch to maintain competition order in the real estate market. 

Statistics on Ex Officio Investigation Cases

To maintain fair and reasonable competition order in the country, besides investigating cases of informed violations, reviewing concerted action applications and merger filings, and processing regulation interpretation requests, the FTC also initiates ex officio investigations into activities likely to violate the Fair Trade Act and the Multi-level Marketing Supervision Act and endanger the public interest. Statistics show that the FTC initiated ex officio investigations in 303 cases (accounting for about 13% of the total 2,384 cases) in 2022, and then 75 cases more than in 2021 and the largest number in the four recent years. The FTC reviewed 372 such cases (including 69 cases that remained unclosed at the end of 2021). From 2018 to 2022 (hereinafter referred to as the five recent years), there were 1,400 ex officio investigation cases in total. (Figure 1)

Figure 1 Ex Officio Investigation Cases in the Five Recent Years



Note: Total cases include cases of informed violations, concerted action applications, merger filings, regulation interpretation requests and ex officio investigation cases.

In 2022, the FTC closed 291 ex officio cases, making administrative sanctions in 73 of them, issuing 74 dispositions (warning letters), and imposing administrative fines in 57 cases to sanction 76 businesses. In the five recent years, the FTC processed and closed 1,412 ex officio investigation cases, making administrative sanctions in 285 of them, issuing 308 dispositions (warning letters), and imposing administrative fines in 289 cases to sanction 388 businesses. (Table 1)

In 2022, the FTC imposed a total of NT\$49.25 million on 76 businesses. Observed by type of violation, the 37 businesses sanctioned for posting false or misleading advertisements formed the largest group (48.7%) whereas the NT\$29.15 million imposed to fine businesses engaging in deceptive or obviously unfair

conduct was the largest amount (59.2%). In the five recent years, the FTC imposed a total of NT\$2.25094 billion in fines on 388 businesses. Observed by type of violation, the 175 businesses fined for posting false or misleading advertisements formed the largest group (45.1%), followed by the 140 businesses (36.1%) in violation of the Multi-level Marketing Supervision Act. In the meantime, the NT\$2.12379 billion imposed on businesses engaging in illegal concerted actions was the largest amount (94.4%). (Figure 2)

Table 1 Handling Results of Ex Officio Investigation Cases
in the Five Recent Years

Year	No. of cases closed	Administrative sanction				No Sanction	Suspension of an investigation	Consolidated cases	Others
		No. of Cases	No. of dispositions (letters) issued	Administrative fines imposed					
				No. of Cases	No. of Enterprises				
Total	1,412	285	308	289	388	279	770	72	6
2018	327	68	79	77	102	85	124	48	2
2019	262	47	51	51	58	63	147	4	1
2020	281	51	53	53	68	52	175	3	-
2021	251	46	51	51	84	50	140	13	2
2022	291	73	74	57	76	29	184	4	1

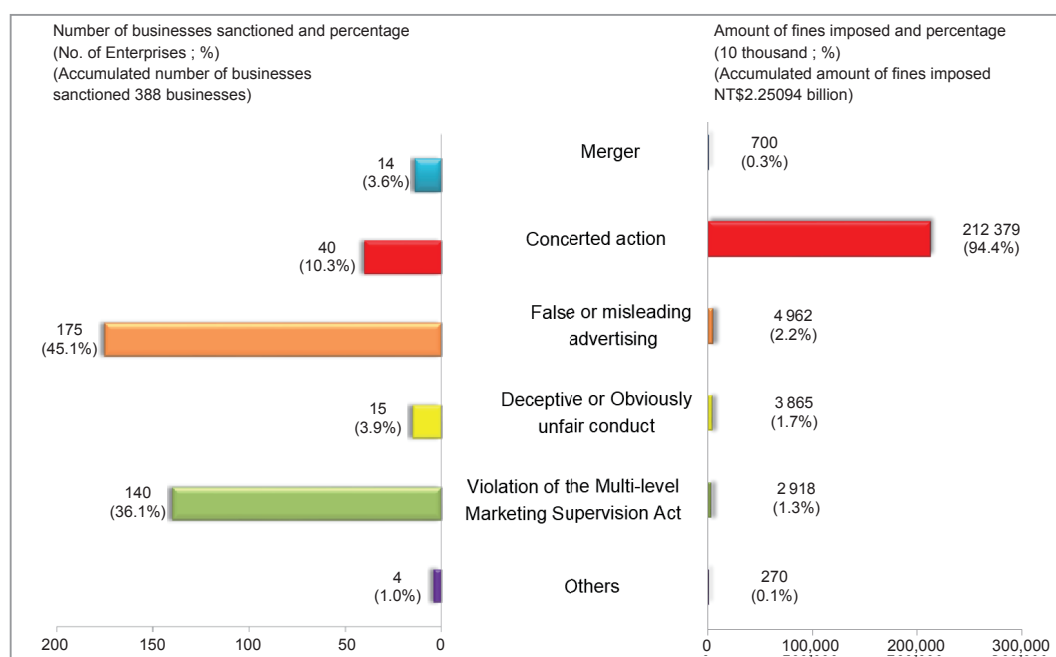
Notes:

1. Administrative sanction: The FTC concludes that the subject of investigation has violated a regulation or regulations under the jurisdiction of the FTC, makes the sanction decision and issues a disposition or a warning letter (which was a new addition in 2022).

2. Investigation suspension: The ex officio investigation launched by the FTC shows that the event or activity does not belong to the jurisdiction of the FTC; therefore, the FTC closes the case but keeps an eye on further developments.

3. Others: Including cases in which administrative disposals are decided and cases in which the investigation is suspended in accordance with Article 28 of the Fair Trade Act.

Figure 2 The Number of Businesses Sanctioned and the Amount of Fines Imposed in the Five Recent Years—According to Type of Violation



Activities in January and February 2023

- ▲ On Feb. 17, the FTC attended the 21st Competition Policy Research Center International Symposium – Metaverse and Antitrust Law/Competition Policy (videoconferencing).
- ▲ On Feb. 20 to 24, the FTC attended APEC's Competition Policy and Law Group (CPLG) Plenary, Capacity-Building Workshop on Effective & Efficient Competition Litigation and Regulatory Advocacy, and the First Meeting of the Economic Committee (EC1).
- ▲ On Feb. 22 to 24, the FTC attended the OECD Competition Open Day and related workshops (videoconferencing).



1. The FTC attending APEC's First Meeting of the Economic Committee (EC1)



2. The FTC attending the OECD Competition Open Day and related workshops (videoconferencing)

Taiwan FTC Newsletter

Publisher	Lee, May
Editor- in-Chief	Hu, Tzu-Shun
Co-editor	Sun, Ya-Chuan Chiu, Shu-Fen Wang, Yi-Ming Wu, Ting-Hung Chi, Hsueh-Li Chen, Yuhn-Shan Li, Yueh-Chiao Hsueh, Kuo-Chin
Publishers & Editorial Office	Fair Trade Commission, R.O.C. Address:12-14 F., No. 2-2 Jinan Rd., Sec. 1, Taipei, Taiwan, R.O.C. Website: https://www.ftc.gov.tw Telephone: 886-2-2351-7588 Fax: 886-2-2397-5075 E-mail: sweetcc331@ftc.gov.tw
Date of Publication	April 2023
First Date of Publication	February 2008
Frequency of Publication	Bimonthly(the Chinese language edition during odd-number month, and the English language edition during even-number month.)
Price	NT\$ 15 per single copy, NT\$ 180 per year (both Chinese version and English version) and NT\$ 90 per language version
Subscription Phone Line	886-2-2351-0022
Subscription Fax	886-2-2397-4997
Exhibition Place	Service Center on the 13th Floor of the Commission Telephone:886-2-2351-0022 Address:13 F, No. 2-2 Jinan Rd., Sec. 1, Taipei, Taiwan, R.O.C. Wunan Book Co., Ltd. Telephone: 886-4-2226-0330 Address: No. 85, Sec. 2, Taiwan Blvd., Taichung City, Taiwan, R.O.C. Government Publications Bookstore Telephone: 886-2-2518-0207 Address: 1F, No. 209, Sung Chiang Rd., Taipei, Taiwan, R.O.C.
Printer	Hon Yuan Printing Co., Ltd. Address: 9F-1, No. 602, Pa The Rd., Sec 4 Taipei, Taiwan, R.O.C. Telephone: 886-2-2768-2833



Attribution Non-Commercial No Derivatives (CC-BY-NC-ND) is released under the Creative Commons Attribution 2.5 License

An individual must attribute the work in the manner specified by the author or licensor, and may not use this work for commercial purposes, alter, transform, or build upon this work.



國 內
郵 資 已 付

台北郵局許可證
台北字第4682號
中華郵政台北雜字
第1309號執照
登記為雜誌交寄

雜誌

無法投遞請退回



FAIR TRADE COMMISSION, R.O.C.

12-14 F., No. 2-2 Jinan Rd., Sec. 1, Taipei, Taiwan, R.O.C.

Tel : 886-2-2351-7588

<https://www.ftc.gov.tw>

ISSN 2070124-1



9 772070 124009

GPN:2009700036

PRICE:NT\$15