

The Philips CD-R Case in Taiwan: A Study and Review

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Abstract

This article examines the 1999-2017 Philips CD-R case in Taiwan. The study analyzes all decisions and the issues surrounding such decisions by the Taiwanese competition law authorities. The article splits the case into three primary stages. In Stage One (1999–2009), the authorities realized that joint licensing was not equivalent to a concerted action. In Stage Two (2009–2014), the authorities realized that the case might not be one of a monopoly abusing market power, specifically when patentees refused to provide license information and included a non-assertion clause in agreements after a technology standard was formulated. In Stage Three (2014–2017), the authorities confirmed that the case was one of a monopoly improperly maintaining prices, specifically when patentees could not afford negotiation opportunities and did maintain the identical royalty calculation method, following the formulation of the standard and the change in the market situation. The article also reviews the case with respect to defining the relevant market, deciding the monopolistic enterprises, intervening in the market price, and retracing the judicial process. Based on judicial practice and comparative analysis, this review aims to furnish suggestions and serve as a reference for the relevant authorities in the future.

Keywords: Philips CD-R Case, Concerted Action, Monopolistic Enterprises, Abuse of Market Power, Improper Maintenance of Prices.

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