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FTC International Exchanges in July and August 2013


Joint Price Increase by Hualien County Crane Truck Services in Violation of Fair Trade Act

The FTC decided at the 1115th Commissioners' Meeting on Mar. 20, 2013 that the crane truck services in Hualien County had violated Article 14 (1) of the Fair Trade Act by jointly increasing their lifting service prices. In addition to ordering the said services to cease the unlawful act, the FTC also imposed administrative fines of NT\$200,000 on each of San Tong Lifting Engineering Co., Ltd. and Tong Jie Mechanical Engineering Co., Ltd., NT\$150,000 on Chang Xiong Mechanical Engineering Co., and NT\$50,000 on each of Ju Ye Lifting Engineering Co., Ltd., Da Tong Lifting Engineering Co., Hong Wei Lifting Engineering Co. and Da Xiong Mechanical Engineering Co.

The FTC's investigation indicated that San Tong Lifting Engineering Co., Ltd. and the seven other crane services first met at a hotel in Apr. 2012 to discuss ways to cope with rises in fuel, tire, engine oil and hydraulic oil prices. In a subsequent meeting in early May 2012, the eight services arrived at a consensus to raise the first hour charge for cranes with the capacity to lift up to 25 tons to NT\$2,000 and the second hour charge to NT\$1,200, and also to raise the first hour charge for cranes with the capacity to lift up to 45 tons to

NT\$4,000 and the second hour charge to NT\$2,000.

If each of the eight services involved in the concerted action had made price changes in accordance with its cost considerations, the supply-demand condition in the market and its management strategy, its conduct would have been acceptable. However, the said businesses had chosen to jointly decide the prices and had thus caused competitors to follow suit. The


cranes owned by the eight businesses accounted for at least 74% of the total number of cranes in Hualien County. Therefore, their joint decision through meetings to raise prices and the restrictions imposed on the business activity of each other had the capacity to affect the supply-demand function of the lifting service market in Hualien County in violation of Article 14 (1) of the Fair Trade Act. 

High Prize Raffle Held by Shopping Mall in Violation of Fair Trade Act

The FTC decided at the 1124th Commissioners' Meeting on May 22, 2013 that Taipei Financial Center Corporation (hereinafter referred to as TFCC) had violated Subparagraph 3 of Article 19 of the Fair Trade Act by holding a high prize raffle to attract people to make purchases. The FTC imposed an administrative fine of NT\$100,000 on TFCC.

To prevent businesses from offering high prizes to attract consumers to make purchases, the FTC had established the Fair Trade Commission Disposal Directions (Guidelines) on Cases Concerning Promotion by Means of Gifts and Prizes for businesses to follow. According to the said Disposal Directions, the value of the highest prize could not exceed 120 times the minimum wage of the month announced by the Council of Labor Affairs. However, the highest prize of the raffle held by TFCC during the period from Sep. 12 to Oct. 7, 2012 for its anniversary

sale was an Audi A6 Hybrid Electric Vehicle worth NT\$2.89 million which was way above the highest prize amount prescribed in the aforesaid Disposal Directions (the minimum monthly wages at the time being NT\$18,780 and $18,780 \times 120 = 2,253,600$). To qualify for the raffle, a consumer had to make a single purchase of at least NT\$3,000 and it was very likely that some consumers made purchases up to the said amount in order to obtain a raffle ticket.


Being a celebrated landmark in the country, the use of such a high prize raffle by TFCC to lure consumers to make purchases was an act likely to lead to competition restrictions or impediments to fair competition in violation of Subparagraph 3 of Article 19 of the Fair Trade Act. Hence, after discussion, the FTC made the decision to order TFCC to cease the unlawful act and also imposed on it an administrative fine of NT\$100,000. 

Shang Xing Bird Shop in Violation of Fair Trade Act for Sending Patent Infringement Warning Letters without Justification

The FTC decided at the 1120th Commissioners' Meeting on Apr. 24, 2013 that Shang Xing Bird Shop had violated Article 24 of the Fair Trade Act for sending patent infringement warning letters without justification. The FTC imposed an administrative fine of NT\$50,000 on the shop and also ordered it to cease the unlawful act.

The FTC received a written complaint from Wang Ping Pet Co., Ltd. (hereinafter referred to as Wang Ping Co.) stating that the turning wheels in hamster cages had been basic accessories for over a decade and Wang Ping Co. had imported them for more than ten years. However, Shang Xing Bird Shop had sent emails respectively on Aug. 15 and 18, 2012 to warn Cool Bi Pet Supplies, Angel Cat Pet Shop and A Fei Pet Supplies that the wheels installed in hamster cages from Wang Ping Co. had infringed its patent and also requested that the warning letter recipients help identify the source and supplier of the products in

question as well as take the products off their shelves. Wang Ping Co. thought the offender had violated the Fair Trade Act by sending the warning letters without confirming the said patent infringement and therefore filed the complaint with the FTC.

The "hamster cage turning wheel" patent held by the offender was for a certain pet cage turning wheel structure but turning wheels were common accessories in such cages. The offender had made the patent infringement allegation merely based on pictures posted online and had not confirmed that infringement had really existed. Such conduct was an "abuse of rights." In addition, Cool Bi Pet Supplies, A Fei Pet Supplies, and Angel Cat Pet Shop had taken the products in question off their shelves for fear of involvement in patent infringement. Hence, the conduct of the offender had been obviously unfair and likely to affect trading order in violation of Article 24 of the Fair Trade Act. 

Nan Wu Enterprise Co. in Violation of Fair Trade Act for Forcible Installation of LPG Bottle Shockproof Devices

The FTC decided at the 1129th Commissioners' Meeting on Jun. 26, 2013 that the person in charge of Nan Wu Enterprise Co. had violated Article 24 of the Fair Trade Act. The company lured consumers with no intention to make purchases to attend product presentations by offering free gifts and made untruthful statements about product prices. The company's salespeople then followed people home and pushed them into making purchases. The overall sales approach was deceptive and obviously unfair conduct able to affect trading order. The FTC had fined the company NT\$600,000 on Dec. 5, 2012 for the same conduct. However, the person in charge did not cease the unlawful act and continued to adopt the same sales practice. Therefore, the FTC acted according to the second section of Article 41 (1) of the Fair Trade Act, ordered the company to immediately cease the said unlawful act, and also imposed on it an administrative fine of NT\$700,000.


To confirm that Nan Wu Enterprise Co. had failed to cease the unlawful act as indicated by consumers in their complaints, the FTC sent a written request for the person in charge of the company to present his statement at the FTC. The person in charge denied having engaged in any inappropriate practices to sell the shockproof devices and also filed for business suspension on May 1, 2013 in an attempt to evade administrative responsibility. However, in acting according to the evidence collected, related regulations in the Administrative Procedure Act and

the decisions of the Supreme Administrative Court in similar cases, the FTC considered a business that was a sole proprietorship to have no independent legal personality and the personnel in charge had to be subject to the rights of a natural person. Hence, sanctions for sole proprietorship businesses in violation of administrative regulations had to be imposed on the person in charge, even though the business had filed for a suspension (Supreme Administrative Court 2001 Pan-Zi Decision No. 1225, 2002 Pan-Zi Decision No. 1646). Therefore, since Nan Wu Enterprise Co. never ceased its unlawful act and the person in charge could not evade the responsibility by filing for business suspension, the FTC increased the penalty to NT\$700,000 on the said person in charge.

The FTC would like to remind consumers to protect their interests by clarifying the business represented and the purpose when receiving calls by salespeople to push LPG bottle shockproof devices as well as by assessing whether they really have a need for such devices. In case consumers make the wrong judgment and would like to return such goods, it is set forth in the Consumer Protection Law that door-to-door sales products can be returned or written notifications of contract termination for such products can be issued within 7 days of the purchase. There is no need to provide any explanation or incur any expense. Meanwhile, should LPG bottle shockproof businesses engage in any fraudulent practices and forcible

installation, consumers can call the police right away.

Once again, the FTC would like to remind consumers to assess whether they really have a need for the product when facing salespeople pushing LPG


bottle shockproof devices. If there is any fraudulent conduct or forceful installation, they can call the police immediately for protection of either their personal safety or property. 

Fubon Co. and Xin Yu Co. in Violation of Fair Trade Act for Posting False Kitchen Knife Ad

The FTC decided at the 1118th Commissioners' Meeting on Apr. 10, 2013 that Fubon Multimedia Technology Co. (hereinafter referred to as Fubon Co.) and Xin Yu Enterprise Co. Ltd. (hereinafter referred to as Xin Yu Co.) had violated Article 21 (1) of the Fair Trade Act for posting on the Momo TV Shopping channel and shopping website an advertisement for the "titanium-sharp all-purpose kitchen knife" that carried the wording of "no paint peeling and no rust for a whole life time." It was a false, untrue and misleading representation with regard to quality and content of product and the FTC therefore imposed administrative fines of NT\$1,000,000 and NT\$500,000 on Fubon Co. and Xin Yu Co., respectively.

The wording of "no paint peeling and no rust for a whole life time" in the advertisement for the "titanium-sharp all-purpose kitchen knife" posted by Fubon Co. and Xin Yu Co. gave the impression that the knife would never have paint peeling or rust because of the material it was made of. However, a business sought the advice of SGS Taiwan and SGS Taiwan indicated that there were many factors that could lead to erosion on the stainless steel or the finish,


including the environment, the material, the production process, and the user. Specialists from the Ministry of Economic Affairs also commented that stainless steel was an alloy steel that would not easily get oxidized or rusted in the air or environments where there was acid, alkaline or salt. The level of resistance to erosion depended on the composition of the material, processing method and how it was used. The product could be made of stainless steel and would not rust easily, but it all depended on the habits of users.

Meanwhile, according to the Ministry of Economic Affairs, the tests run by SGS were only conducted on the performance of the coatings. The results were not the same as from scratches or wear from use. Thus, the test report could not be adopted to support the claim of "no paint peeling and rust for a whole life time" in the advertisement. For this reason, the wording of "no paint peeling or rust for a whole life time" in the advertisement was a false, untrue and misleading representation with regard to quality and content of product in violation of Article 21 of the Fair Trade Act. 

You Dian Co. and Jie Lian Advertising Co. in Violation of Fair Trade Act for Posting False Mezzanine Design Ad

The FTC decided at the 1129th Commissioners' Meeting on Jun. 26, 2013 that the mezzanine design displayed in an advertisement for the "Zhong Zheng Yi Feng" pre-purchased homes posted by You Dian Construction Co., Ltd. (hereinafter referred to as You Dian Co.) and Jie Lian (hereinafter referred to as Jie Lian Advertising Co.) was a false, untrue and misleading representation with regard to content of product in violation of Article 21 (1) of the Fair Trade Act. The FTC imposed administrative fines of NT\$400,000 on You Dian Co. and NT\$200,000 on Jie Lian Advertising Co.

When marketing the "Zhong Zheng Yi Feng" housing project (hereinafter referred to as the housing project), You Dian Co. and Jie Lian Advertising Co. presented a "Unit B furniture arrangement reference" picture (hereinafter referred to as the advertisement) that had "Zhong Zheng Yi Feng" indicated in the top left corner and "furniture arrangement reference for Unit B on even number floors" in the top right corner. At the same time, two more floor plans for the lower level

and one for the upper level were also displayed. The said pictures could easily mislead consumers into believing that the mezzanine design of the housing project was legal and making their purchase decisions based on such perceptions. However, according to the Department of Urban Development of the Taipei City Government, the original blue print for the housing project had not included the mezzanine design. The design had been an unapproved change made after the acquisition of the use permit and had to be dismantled. Meanwhile, the offender You Dian Co. also admitted that the approved blueprint did not include the mezzanine design, which was therefore illegal. In other words, the content of the advertisement was obviously inconsistent with the actual condition and the difference was beyond what consumers could accept. It was a false, untrue and misleading representation that could result in consumers' wrong perceptions and decisions. Hence, it was in violation of Article 21 (1) of the Fair Trade Act. 

Statistics on Administrative Fines Imposed

In response to the rapid changes in the socioeconomic environment both in and out of the country, the Fair Trade Commission revised and announced on Nov. 23, 2011 the upper limit of administrative fines for specific conduct (Article 41 of the Fair Trade Act) and also established on Apr. 5, 2012 the “Regulations for the Calculation of Administrative Fines for Serious Violations of Articles 10 and 14 of the Fair Trade Act” (hereinafter referred to as the Regulations for the Calculation of Administrative Fines for Serious Violations) to deter intentions of unlawful acts that could have serious effects on market competition and order.

According to the statistics of the FTC, 146 cases were concluded as involving illegal activities between Jan. and Aug. this year (2013) and administrative fines were imposed in 143 cases (98%). The fines amounted to NT\$6,424,340,000 (including the aggregate of fines imposed in accordance with Article 41 and the Regulations for the Calculation of Administrative Fines for Serious Violations on nine independent power plants selling power to the Taiwan Power Company). From 1992 when it was created until the end of Aug. this year, the FTC reached decisions on 3,960 cases and administrative fines totaling NT\$9,753,120,000 were imposed in 2,502 cases (63%).

Table 1 Statistics on Cases with Decisions Made and Fines Imposed

Unit: case; business

Month/Year	Decision Made		Fine Imposed		
	No. of Cases	No. of Businesses	No. of Cases	No. of Businesses	Total Fines (NT\$10,000)
Total 1992-2013	3 960	5 824	2 502	3 711	975 312
2008	169	239	164	230	30 325
2009	183	338	162	316	20 198
2010	155	216	140	195	6 584
2011	272	356	243	323	23 311
2012	203	355	191	341	36 662
Jan.-Aug., 2013	146	230	143	227	642 434

Judging by the amounts of the fines imposed, in 130 (90.9%) of the 143 cases concluded between Jan. and Aug. this year the fine was less than NT\$1 million. There was one case in which the fine exceeded NT\$100 million; the total fine in this case was NT\$6,320 million (accounting for 98.4% of the total fines). Up until the end of Aug. this year, the FTC had made decisions on 2,502 cases since its creation in 1992, with the total fines reaching NT\$9,753,120,000. In 2,013 (80.5%) of these cases, the fine imposed was less than NT\$1 million. There were five cases in which the fine imposed exceeded NT\$100 million and the fines imposed in these cases came to NT\$7,103,650,000 (accounting for 72.8% of the total fines).

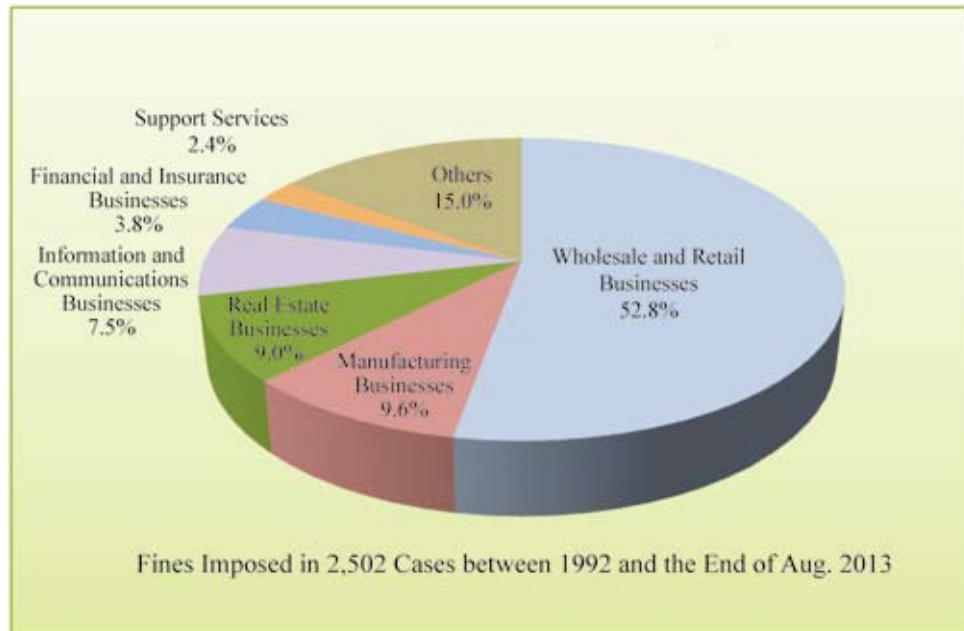
Table 2 Cases with Fines Imposed - Sorted by Amount of Fine

Unit: case

Month/Year Amount	Total 1992-2013	2008	2009	2010	2011	2012	Jan.-Aug, 2013
Total	2 502	164	162	140	243	191	143
Less than 1 million	2 013	109	127	122	207	164	130
One million to less than 10 million	431	49	33	17	28	21	11
10 million to less than 100 million	53	6	2	1	8	5	1
Over 100 million	5	-	-	-	-	1	1

As of the end of Aug. this year, the FTC had imposed fines in 2,502 cases. Judging by the type of business, 1,321 of them involved wholesale and retail businesses (52.8%), followed by 239 cases concerning manufacturing businesses (9.6%), 225 cases regarding real estate businesses (9.0%), 187 cases related to information and communications businesses (7.5%), and 94 cases associated with financial and insurance businesses (3.8%).

Fig. 1 Cases with Fines Imposed - Sorted by Industry



FTC Activities in July and August 2013

- ▲ On Jul. 2, Professor Liu Hanyu from the Department of International Business of the National Taipei College of Business gave a special topic speech on “Analysis of the Administrative Monopoly in the Antitrust Law of Mainland China” at the invitation of the FTC.
- ▲ On Jul. 5, the FTC staff members gave a presentation on the Fair Trade Act in Chiayi County.
- ▲ On Jul. 5, the FTC conducted the “Presentation on Countermeasures against Illegal Sales Practices by Gas Safety Equipment Businesses” in Taichung City.
- ▲ On Jul. 9, the FTC gave a presentation on “Antitrust Regulations and Law Observance by Enterprises”.
- ▲ On Jul. 15, 19 and 26, the FTC conducted the “Workshop on the Establishment of Projects for Training Service Industry Personnel to Develop Fair Competition Mechanisms” respectively in Tainan City, Taichung City and Kaohsiung City.
- ▲ On Jul. 16, Vice President of Fu Jen Catholic University Chen Ronglong gave a special topic speech on the “International Competitiveness of Taiwan’s Secured Transactions Laws” at the invitation of the FTC.
- ▲ On Aug. 1 and 13, the FTC conducted the presentation on “Different Aspects of Transaction Traps” respectively at Taitung City Office and the Haikou Resident Management Association in Donggang Town, Pingtung County.
- ▲ On Aug. 6, the FTC held the “Presentation on the Fair Trade Commission Directions (Guidelines) on Real Estate Advertising Practices” in Tainan City.
- ▲ On Aug. 9, the FTC held the “Presentation on Agriculture and Competition” in New Taipei City.
- ▲ On Aug. 9, 19 and 23, the FTC conducted the “Workshop on the Establishment of Projects for Training Service Industry Personnel to Develop Fair Competition Mechanisms” respectively in Taipei City and Tainan City.
- ▲ On Aug. 26, the FTC conducted the “Presentation on Regulations on Multilevel Sales” for the indigenous people in Pingtung County at the Pingtung County Government.
- ▲ On Aug. 27, WISPRO CEO Jou Yanpeng gave a special topic speech on “The Effect of the Fair Trade Act on Intellectual Property – from the Aspect of Technical Criteria and Patent Pools” at the invitation of the FTC.



1. The FTC conducting the "Presentation on Countermeasures against Illegal Sales Practices by Gas Safety Equipment Businesses" in Taichung City
2. The FTC giving the "Presentation on Antitrust Regulations and Law Observance by Enterprises" in Tainan City
3. Vice President of Fu Jen Catholic University Chen Ronglong giving a special topic speech on the "International Competitiveness of Taiwan's Secured Transactions Laws" at the invitation of the FTC
4. The FTC holding the "Presentation on the Fair Trade Commission Directions (Guidelines) on Real Estate Advertising Practices" in Tainan City
5. The FTC holding the "Presentation on Agriculture and Competition" in New Taipei City
6. The FTC conducting the "Workshop on the Establishment of Projects for Training Service Industry Personnel to Develop Fair Competition Mechanisms" in Taipei City

FTC International Exchanges in July and August 2013

- ▣ On Jul. 10 and 16, the FTC attended the signature ceremony for the Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu on Economic Cooperation (ANZTEC), as well as the joint media conference and celebration cocktail party.
- ▣ On Jul. 18, the FTC attended the ICN Cartel Working Group teleconference.
- ▣ On Aug. 28 and 29, the FTC attended the 8th East Asian Conference on Competition Law and Policy and the 9th East Asia Top Level Officials' Meeting on Competition Policy.



The FTC Commissioner Tsai Huei-an (right in the back row) with President Aquino III of the Philippines during the 8th East Asian Conference on Competition Law and Policy and the 9th East Asia Top Level Officials' Meeting on Competition Policy



The FTC Commissioner Tsai Huei-an with the chairperson of Japan's Fair Trade Commission (right in the front row) during the 8th East Asian Conference on Competition Law and Policy and the 9th East Asia Top Level Officials' Meeting on Competition Policy



The FTC Commissioner Tsai Huei-an with a commissioner of Korea's Fair Trade Commission (second from right in the front row) during the 8th East Asian Conference on Competition Law and Policy and the 9th East Asia Top Level Officials' Meeting on Competition Policy

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