

公平交易統計年報

STATISTICAL YEARBOOK OF FAIR TRADE COMMISSION

中華民國 99 年

2010

行政院公平交易委員會編印

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Explanatory Notes

1. The Statistical Year Book of the Fair Trade Commission is designed to provide a general statistics on conditions and achievements of enforcing the Fair Trade Act. In order to facilitate international exchange, the Yearbook is written on a Chinese-English bilingual basis except Appendix 2~5.
2. The Yearbook consists of four parts:
 - Organization & duty of the Fair Trade Commission.
 - Summary Analysis : Processing of cases, Regulation of multi-level sales Enterprises, Commissioners Meeting and consulting service & policy implementation.
 - Statistical Tables.
 - Appendix: major statistical terminologies, list of decision rulings, list of mergers not prohibited, list of concerted actions approved, and important measures of the FTC.
3. Sources, notes, remarks for data are shown below the tables.
4. In this Yearbook, “year” refers to the calendar year. Data are measured by “case” & “NT dollar” unless otherwise specified.
5. The following symbols are used for tables:
 - None
 - Meaningless
 - ... Not available
 - 0 Less than half unit
6. The figures given in this issue may not be the same with the corresponding figures in the previous issue due to the corrections and revisions made in exchange of base.
7. The data of this Yearbook can be found on the “statistics” / “Yearbook” of the homepage of the Fair Trade Commission (<http://www.ftc.gov.tw/>). For any request or advice, please e-mail to : ftcpub@ftc.gov.tw.

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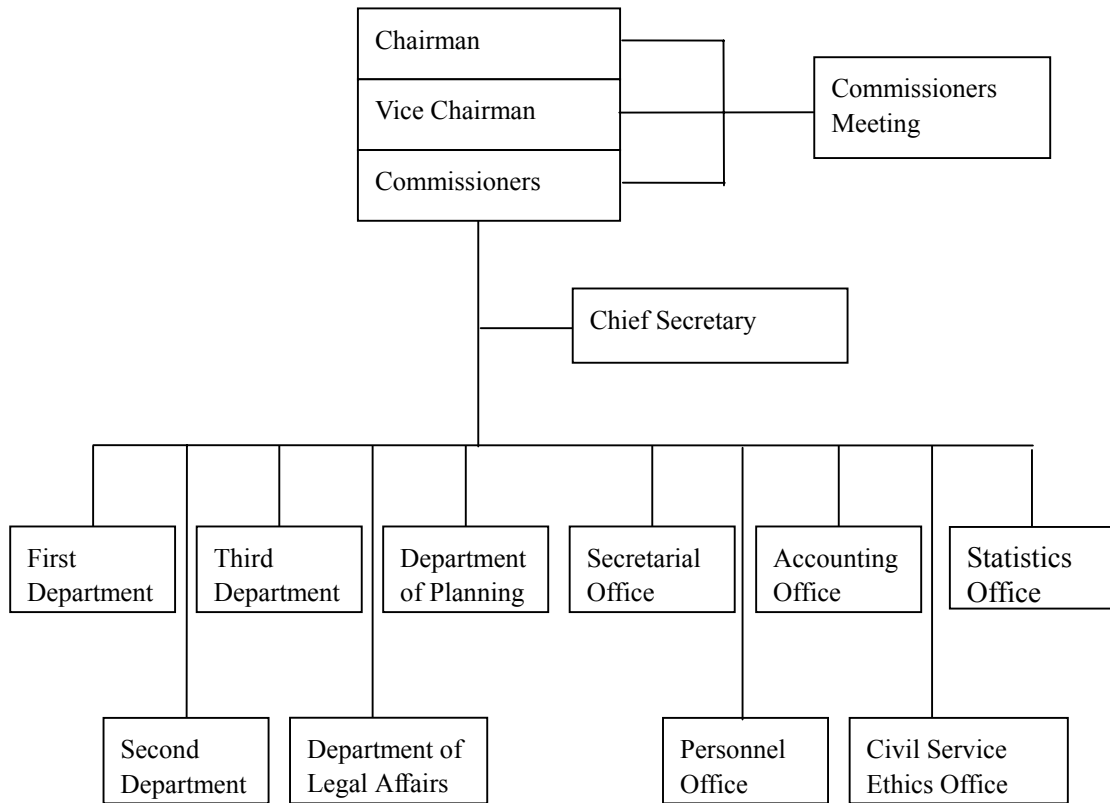
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I. Organization and Duty of Fair Trade Commission

Organization Chart



Departments and Responsibilities

1. The Commissioners Meeting

The highest decision-making organ of the FTC; it shall be charged with the disposition of matters regarding the following:

- (1) the review of fair trade policies;
- (2) the deliberation over and review of the administration of fair trade programs;
- (3) the review of cases related to the public notice, approval, and disposition under the Fair Trade Act;
- (4) the deliberation over matters arising under the Fair Trade Act and regulations;
- (5) the review of proposals presented by any of the Commissioners; and
- (6) other matters requiring resolution at Commissioners meetings as prescribed by law.

2. First Department

The First Department shall investigate and process matters relating to monopolies, mergers, and concerted actions by enterprises in the following sectors:

- (1) agriculture, forestry, fishery, animal husbandry, and hunting businesses;
- (2) commercial business;
- (3) transportation, warehousing, and communications businesses;
- (4) finance, insurance, real-estate, and industrial/commercial services; and
- (5) social and personal services.

3. Second Department

The Second Department shall investigate and process matters relating to monopolies, mergers, and concerted actions by enterprises in the following sectors:

- (1) mining and earth/gravel excavating businesses;
- (2) manufacturing business;
- (3) water, electricity, and fuel gas businesses;
- (4) construction business; and
- (5) other related or non-classifiable businesses.

4. Third Department

The Third Department shall be charged with investigating and processing the following:

- (1) restrictions on resale prices;
- (2) hindrance on fair competition;
- (3) counterfeiting;
- (4) false, untrue or misleading presentations and advertisements;
- (5) acts causing injury to another business' reputation;
- (6) multi-level sales; and
- (7) matters related to deceptive or obviously unfair acts that affect trading order.

5. Department of Planning

The Department of Planning shall be charged with the following matters:

- (1) preparing and formulating fair trade policies;
- (2) issuing public notices under the Fair Trade Act;
- (3) conducting research/development and controlling or reviewing matters related to fair trade;
- (4) collecting domestic and foreign fair trade information and rendering economic analysis; and
- (5) handling other matters related to the planning of fair trade.

6. Department of Legal Affairs

The Department of Legal Affairs shall be charged with the following matters:

- (1) preparing and formulating fair trade rules and regulations and amendments thereof;
- (2) consulting laws and regulations related to fair trade;
- (3) studying and researching legal systems related to fair trade;
- (4) execution of fines; and
- (5) referral of criminal offenders for prosecution.

7. Secretarial Office

The Secretarial Office shall be charged with meetings, clerical matters, use of the official seal, receipts and disbursements, general affairs, and public relations as well as matters not relating to other Departments.

8. Personnel Office

The Personnel Office administers personnel affairs.

9. Accounting Office

The Accounting Office administers the annual budget and accounting affairs.

10. Statistics Office

The Statistics Office administers statistical affairs and establishes and maintains the information systems.

11. Civil Service Ethics Office

The Civil Service Ethics Office administers civil service ethics matters.

II. Summary Analysis

Processing of Cases

1. Cases Received

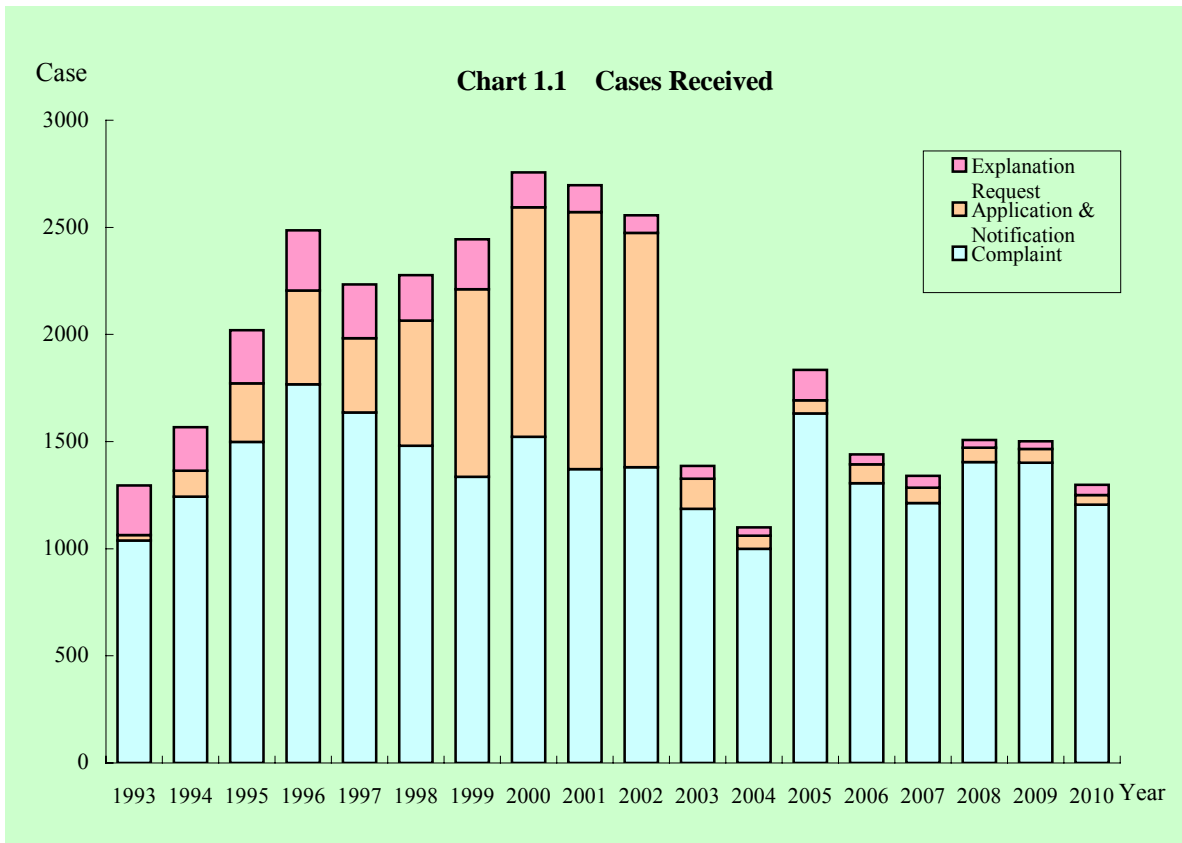
The Fair Trade Commission (hereinafter referred as the “FTC”) received 1,299 cases in 2010, 202 cases or 13.5% down from the preceding year. Under processing in 2010 were 1,500 cases (including 201 cases carried over from the preceding year). Of the total, 1,338 cases were closed, 215 cases or 13.8% down from the preceding year. Pending as of the end of 2010 were 162 cases. (Table 1.1)

Year	Cases under Processing		Cases Closed	Cases Pending at Year-end
	Carried Over from Preceding Year	Received in Current Year		
2008	329	1,507	1,583	253
2009	253	1,501	1,553	201
2010	201	1,299	1,338	162
% Change 10/09	-20.55	-13.46	-13.84	-19.40

By type of cases received in 2010, complaints decreased 196 cases or 14% from the preceding year to 1,206 cases, concerted action applications decreased 6 cases or 100% from the preceding year to 0 cases, merger notifications decreased 13 cases or 22.4% to 45 cases, and explanation requests increased 13 cases or 37.1% to 48 cases. By composition, complaints ranked the top, accounting for 92.8% of total cases received in 2010, followed by explanation requests, accounting for 3.7%. The cumulative total number of cases received by the FTC as of the end of 2010 was 34,889. (Table 1.2 and Chart 1.1)

Year	Total	Complaint	Concerted Action Application	Merger Notification	Request for Explanation
2008	1,507	1,404	6	61	36
2009	1,501	1,402	6	58	35
2010	1,299	1,206	-	45	48
% Change 10/09	-13.46	-13.98	-	-22.41	37.14
Year	Composition (%)				
2008	100.00	93.17	0.40	4.05	2.39
2009	100.00	93.40	0.40	3.86	2.33
2010	100.00	92.84	-	3.46	3.70
PP Change 10/09	--	-0.56	-0.40	-0.40	1.37

Note: PP stands for percentage point.



Of 1,500 cases processed in 2010, 1,338 cases were closed in the year. The case conclusion ratio in 2010 was 89.2%, 0.7 percentage point up from the preceding year. Cumulatively, from 1992 to the end of 2010, 34,727 cases were concluded, and the average case conclusion ratio was 99.5%. (Table 1.3)

Table 1.3 Case Conclusion Ratio

Unit: %

Year	Case Conclusion Ratio in Current Year				
	Total	Complaint	Concerted Action Application	Merger Notification	Request for Explanation
2008	86.22	85.62	83.33	95.59	97.30
2009	88.54	88.24	85.71	93.44	94.44
2010	89.20	88.79	100.00	89.80	100.00
PP Change 10/09	0.66	0.55	14.29	-3.64	5.56
Year	Cumulative Case Conclusion Ratio				
2008	99.21	98.93	99.34	99.95	99.96
2009	99.40	99.21	99.37	99.94	99.92
2010	99.54	99.39	100.00	99.92	100.00
PP Change 10/09	0.14	0.18	0.63	-0.02	0.08

Note: PP stands for percentage point.

1) Complaints

Complaints received in 2010 totaled 1,206 cases, 196 cases or 14% down from 1,402 cases in the preceding year. Under processing in 2010 were 1,400 complaints (including 194 cases carried over from the preceding year).

Of the total, 1,243 cases were concluded in 2010. By result of processing, decisions were made for 109 cases or 8.8% of total cases concluded in 2010, the number of cases subject to decision decreased 31 from the preceding year. No-action decision was set for 291 cases or 23.4% of total cases concluded, and the number of cases subject to no-action decision decreased 61 cases from the preceding year. The reasons for most no-action decision were that those cases did not meet the substantive criteria for decision. One case or a share of 0.1% was subject to administrative measurements, decreased 2 cases from the preceding year. These administrative measurements included: (1) recommending competent authorities to take measures in line with the Fair Trade Act, (2) advising enterprises in question to take corrective measures, and (3) issuing business warnings.

Review and processing were terminated for 793 cases or 63.8% of total cases under processing. For the reason of terminating processing, 15 cases or a share of 1.9% were involved in criminal charges, 140 cases or a share of 17.7% were involved in civil matters, and 323 cases or a share of 40.7% were outside the FTC's jurisdiction or were in other agencies'. Other 315 cases or a share of 39.7% of terminating processing didn't meet the procedural requirements, including complaints withdrawn, complainants not reachable, documents required not completed, or complaints reported anonymously. (Table 1.4)

Table 1.4 Results of Complaints

Unit: Case, %

Year	Cases Processed		Result of Processing						Pending at Year-end
	Carried Over from Preceding Year	Received in Current Year	Total	Decision	No-action Decision	Administrative Action	Review Terminated	Cases Consolidated	
2008	321	1,404	1,477	101	353	2	967	54	248
2009	248	1,402	1,456	140	352	3	909	52	194
2010	194	1,206	1,243	109	291	1	793	49	157
Year	% Change		Composition (%)						% Change
2008	-22.09	15.75	100.00	6.84	23.90	0.14	65.47	3.66	-22.74
2009	-22.74	-0.14	100.00	9.62	24.18	0.21	62.43	3.57	-21.77
2010	-21.77	-13.98	100.00	8.77	23.41	0.08	63.80	3.94	-19.07

Complainants and complained entities could be classified into categories as the general public, business firms, foundations, trade associations, elected representatives, government agencies, and cooperatives. In 2010, of 1,243 cases of complaints concluded, 79.7% filed by the general public formed the largest category, and the percentage share showed decreased 0.5 percentage points. Next was the business firms posting a share of 14.2%, 1.1 percentage points up from the preceding year. Of complained entity, business entities represented the largest category accounted for 88.3%, and the second largest was general public posting a share of 6.4%. (Tables 1.5)

Table 1.5 Composition of Complaints – By Complainant and Complained Entity

Unit: %

Year	Total	General Public	Business Firm	Foundation	Trade Association	Elected Representative	Government Agency	Others
2008	100.00	75.36	13.74	0.41	1.35	0.14	7.92	1.08
2009	100.00	80.22	13.12	0.21	1.51	0.07	2.88	0.99
2010	100.00	79.73	14.24	1.21	0.64	-	2.98	1.21
PP Change 10/09	--	-0.49	1.12	1.00	-0.87	-0.07	0.10	-0.78
Year	Total	General Public	Business Firm	Foundation	Trade Association	Cooperative	Government Agency	Others
2008	100.00	4.13	88.29	0.74	1.90	0.14	1.49	3.32
2009	100.00	5.70	88.46	0.34	1.03	-	1.37	3.10
2010	100.00	6.44	88.33	0.48	0.88	0.08	2.01	1.77
PP Change 10/09	--	0.74	-0.13	0.14	-0.15	0.08	0.64	-1.33

Note: PP stands for percentage point.

For cases concluded in 2010, to divide complained enterprises in terms of industry, wholesale & retail trade ranked the top, reporting 27% of the total complaints, which showed an increase of 0.4 percentage point from the preceding year. Manufacturing counting came next with a share of 14.1%, 3.4 percentage point up from the preceding year. Real Estate counting the third reported a share of 11.4%, 1.8 percentage point up from the preceding year. (Table 1.6)

Table 1.6 Industrial Classification of Complained Enterprises

Unit: %

Industry	2008	2009	2010	Change in PP
Total	100.00	100.00	100.00	--
Agriculture, Forestry, Fishing, Animal Husbandry & Mining and Quarrying	1.35	1.24	1.13	-0.11
Manufacturing	12.66	10.71	14.08	3.37
Electricity & Gas Supply	2.44	0.82	2.49	1.67
Water Supply & Remediation Services	0.20	0.21	0.24	0.03
Construction	2.17	2.54	2.65	0.11
Wholesale & Retail Trade	25.66	26.51	26.95	0.44
Transportation & Storage	1.69	2.20	1.37	-0.83
Accommodation & Food Services	2.57	4.19	3.78	-0.41
Information & Communication	12.25	12.02	11.10	-0.92
Finance & Insurance	9.61	8.59	5.63	-2.96
Real Estate	9.28	9.62	11.42	1.80
Professional, Scientific & Technical Services	0.81	0.62	0.88	0.26
Support Services	0.95	1.65	2.57	0.92
Public Administration and Defense; Compulsory Social Security	0.47	0.21	-	-0.21
Education	4.20	4.60	3.62	-0.98
Human health & Social Work Services	2.44	2.27	1.53	-0.74
Arts, Entertainment & Recreation	1.96	2.40	2.01	-0.39
Other Services	4.74	6.11	4.59	-1.52
Others	4.54	3.50	3.94	0.44

Note : Industries listed above is according to the Standard Industrial Classification of the ROC edited by the DGBAS.

In 2010, 401 complaints applicable to the Fair Trade Act were concluded. Other closed complaints were not within the FTC's jurisdiction, not in conformity with the required procedures, or in duplicate with other cases. By type of action involved, 59 cases or a share of 14.7% (of total cases) were anti-competitive practices, illegal concerted actions 27 (6.7%) ranked the top, and 20 impeding fair competition conducts (5%) came next. Three hundred and nineteen cases or a share of 79.6% (of total cases) were unfair trade practices, including 228 (56.9%) false, untrue or misleading advertisements, 68 (17%) deceptive or obviously unfair conducts, and 20 (5%) counterfeiting symbols of goods or services cases. Twenty-three cases or a share of 5.7% were illegal multi-level sale practices. (Table 1.7)

In 2010, 109 complaints or 27.2% of total complaints were decided to be against the FTA. Following statistics included the multiple charges: on the top there were 87 (79.8%) unfair trade practices (67 cases were false, untrue or misleading advertisements, and 22 deceptive or obviously unfair conducts), 12 (11%) illegal multi-level sale practices, and 9 (8.3%) anti-competitive practices (5 impeding fair competition, 3 illegal concerted actions and 1 improper merger). (Table 1.8)

Table 1.7 Cases of Complaints Concluded – By FTA-regulated Action

Unit: Case

Year	Total	Anti-competitive Practice	Monopolies	Mergers	Concerted Actions	Resale Price Maintenance	Impeding Fair Competition
			(Article 10)	(Article 11)	(Article 14)	(Article 18)	(Article 19)
2008	456	54	3	4	23	1	23
2009	495	71	8	4	26	6	27
2010	401	59	6	2	27	4	20
% Change 10/09	-18.99	-16.90	-25.00	-50.00	3.85	-33.33	-25.93
Year	Unfair Trade Practice	Counterfeiting Symbols of Goods or Services	False, Untrue or Misleading Advertisement	Damage to Business Reputation	Deceptive or Obviously Unfair Conducts	Improper Multi-level Sales	Others
		(Article 20)	(Article 21)	(Article 22)	(Article 24)	(Articles 23 & 23-1-23-4)	(2nd Part of Article 41 & Article 43)
2008	340	17	198	10	115	44	18
2009	392	22	293	5	72	29	3
2010	319	20	228	3	68	23	-
PP Change 10/09	-18.62	-9.09	-22.18	-40.00	-5.56	-20.69	-

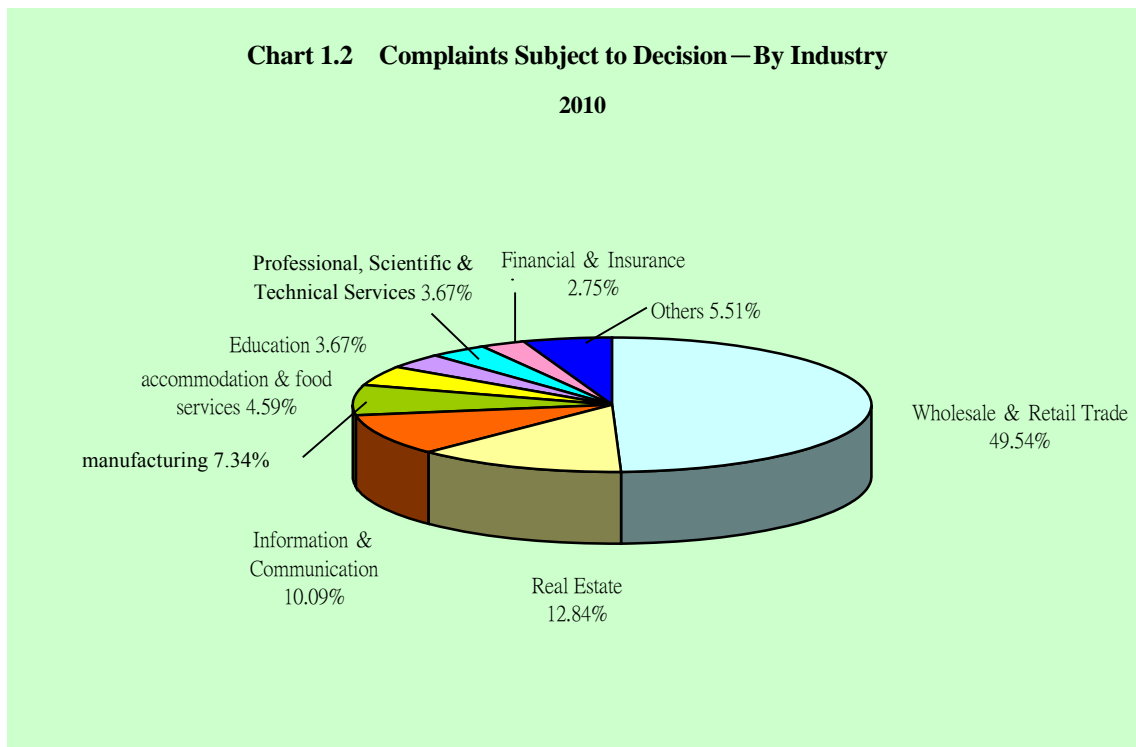
Table 1.8 Complaints Subject to Decision Ruling – By Action against Fair Trade Act

Unit: Case

Year	Total	Anti-competitive Practice	Monopolies	Mergers	Concerted Actions	Resale Price Maintenance	Impeding Fair Competition
			(Article 10)	(Article 11)	(Article 14)	(Article 18)	(Article 19)
2008	101	8	-	3	3	-	2
2009	140	10	-	1	4	3	2
2010	109	9	-	1	3	-	5
Year	Unfair Trade Practice	Counterfeiting Symbols of Goods or Services	False, Untrue or Misleading Advertisement	Damage to Business Reputation	Deceptive or Obviously Unfair Conducts	Improper Multi-level Sales	Others
		(Article 20)	(Article 21)	(Article 22)	(Article 24)	(Articles 23 & 23-1-23-4)	(2nd Part of Articles 41 & 43)
2008	77	1	57	-	23	15	1
2009	119	1	93	4	27	11	1
2010	87	-	67	-	22	12	1

Note : Illegal actions adding up may exceed the total case of complaints subject to decision ruling because a complaint may involve more than one illegal action.

By major division of industrial classification of enterprises subject to decision, wholesale & retail trade ranked the top, accounting for 49.5% , real estate came next, accounting for 12.8% and information & communication accounting for 10.1% taking the top three. Sum of them was 72.4%. (Chart 1.2)



2) Explanation Requests

The Fair Trade Act is a set of economic codes regulating both restricting competition and improper competition behaviors. It covers a scope running wide and deep. However, the actions regulated and the contents of the law itself leave ample room for explanation. To ensure smooth enforcement of the FTA and give a clear direction for enterprises to follow, the FTC has, since its establishment, been devoting to publish explanation statements and to issue guidelines for enterprises. The enterprises can therefore better understand the FTC's positions and enforcement direction and adjust their business conducts to be in line with the spirit of free and fair competition.

In 2010, the FTC received 48 explanation requests, showing increase of 13 requests or 37.1% from 35 requests in the preceding year. For 34 of 50 requests concluded in 2010, the FTC had come up with explanation statements, responded with established precedents, or replied according to clear-cut provisions of laws. The other 16 requests were not answered because they were outside the FTC's jurisdiction or their submissions were not in the proper procedure. (Table 1.9)

Table 1.9 Results of Explanation Requests

Unit: Case

Year	Processing of Case		Results of Case Processing				Pending at Year-end
	Carried Over from Preceding Year	Received in Current Year	Total	Explanation & Reply	Review Terminated	Cases Consolidated	
2008	1	36	36	29	7	-	1
2009	1	35	34	25	9	-	2
2010	2	48	50	34	16	-	-
% Change 10/09	100.00	37.14	47.06	36.00	28.57	-	-

By identification of explanation applicants, the business firm was the largest category, which accounted for 44% of total applicants. Following was general public with a share of 36%. (Table 1.10)

Table 1.10 Explanation Requests—By Identification Classification of Applicants

Unit: %

Year	Total	General Public	Business Firm	Foundation	Trade Association	Government Agency	Others
2008	100.00	22.22	36.11	-	13.89	25.00	2.78
2009	100.00	29.41	38.24	2.94	8.82	17.65	2.94
2010	100.00	36.00	44.00	4.00	6.00	6.00	4.00

3) Mergers

By merger, an enterprise may expand its business scale to enhance the efficiency of operation and gain advantages from the economy of scale. However, expanding the scale of an enterprise might raise concentration of a market to the extent that weakens or even impedes free competition. To avoid the undesired results, the Fair Trade Act required that once a merger reaches certain thresholds, the parties shall apply for the FTC's prior approval. In February 2002, to respond to Taiwan's economic development and international trend, the "pre-merger approval application" regulations in the Fair Trade Act was amended to the "pre-merger notification" scheme, merger threshold was restricted and changed into a dual model, in terms of financial sectors and non-financial sectors.

In 2010, a total of 45 mergers were notified to the FTC, showing a decrease of 13 cases or 22.4% from the preceding year. In 44 merger notifications reviewed in 2010, 19 were not prohibited, 24 were terminated due to non-notifiable nature or incomplete documentation, and 1 was prohibited. (Table 1.11)

Table 1.11 Merger Notifications

Unit: Case

Year	Cases under Processing		Results of Case Processing	
	Carried Over from Preceding Year	Received in Current Year	Total	Merger not Prohibited
2008	7	61	65	36
2009	3	58	57	27
2010	4	45	44	19
Year	Results of Case Processing			Cases Pending at Year-end
	Merger Prohibited	Termination of Review	Cases Consolidated	
2008	2	27	-	3
2009	2	28	-	4
2010	1	24	-	5

Nineteen mergers were not prohibited in 2010 under the FTC's review. By types of merger (which falls into more than one type will be included in the classification categories accordingly), 15 cases or a share of 78.9% were holding or acquiring shares or capital contribution of another enterprise (per Sub-paragraph 2, Paragraph 1, Article 6 of the FTA) ranking the top. Ten cases or a share of 52.6% were directly or indirectly controlling business operation or personnel change of other enterprise (per Sub-paragraph 5), 3 cases or a share of 15.8% were assigned by or leases from another enterprise the whole or the major part of the business or properties of such other enterprise (per Sub-paragraph 3), 2 cases or a share of 10.5% were operated jointly with another enterprise on a regular basis (per Sub-paragraph 4). Please refer to Appendix 3 for merger notifications not prohibited in 2010. (Table 1.12)

Table 1.12 Mergers Not Prohibited

Unit: Case

Year	Numbers of Mergers Notified	By Type of Merger Pattern (Per Paragraph 1, Article 6, Fair Trade Act)				
		Subpara. 1	Subpara. 2	Subpara. 3	Subpara. 4	Subpara. 5
2008	36	2	29	4	4	14
2009	27	7	20	3	-	13
2010	19	-	15	3	2	10
% Change 10/09	-29.63	-100.00	-25.00	-	200.00	-23.08

Note: Figures adding up may exceed the total because a merger might be classified into more than one category.

4) Applications for Concerted Action

To prevent concerted action conducted by enterprises in the same line of business from impeding the market function and jeopardizing consumers' interests, the Fair Trade Act specifically prohibits horizontally concerted actions which damage the market function in such aspects as production, merchandise trade, and servicing demand and supply. However, 7 types of concerted action listed in per Subparagraph 7, Article 14 of the FTA, considered advantageous to the economy and in the interests of the public, can be exempted from the prohibition provided that prior-approval is obtained from the FTC.

There was no application for concerted action in 2010. An application for taking joint acts to import foreign goods for strengthening trade concluded received approval in 2010 in line with the Subparagraph 5, paragraph 1, Article 14 of the Fair Trade Act. (Table 1.13 · Table 1.14)

Year	Cases under Processing		Results of Processing					Cases
	Carried Over from Preceding Year	Received in Current Year	Total	Approved	Rejected	Partially Approved	Termination of Review	Pending at Year-end
2008	-	6	5	5	-	-	-	1
2009	1	6	6	6	-	-	-	1
2010	1	-	1	1	-	-	-	-

Year	Concerted Action Approved	By Type of Concerted Action (Per Paragraph 1, Article 14, Fair Trade Act)		
		Subpara. 1	Subpara. 2	Subpara. 5
2008	5	1	-	4
2009	6	2	-	4
2010	1	-	-	1

Note: Figures adding up may exceed the total because a concerted action may be classified into more than one category.

Eleven concerted actions approved by the FTC remained effective as of the end of 2010. Seven of them were joint purchases and imports of bulk cargoes such as wheat, barley, soybean, and corn, and most enterprises participating in the concerted actions were food-manufacturing companies. Another one was joint shipping of materials and equipments purchased by government agencies and public owned enterprises. The applications were approved in the reason that they were expected to lower import costs, reduce required

capital funds, reduce procurement risks, and increase bargaining power and therefore were in the interests of the economy (per Subparagraph 5, paragraph 1, Article 14 of the FTA). Another one application concerned with IC card among financial institutions, 1 application regarding joint scheduling, joint ticketing and ticket sharing on Tungkang-Little Okinawa route between cruise liner companies, and 1 joint program of setting specifications for set-top box of cable-TV were all proved per Subparagraph 1, Paragraph 1, Article 14 of the FTA. (Table 1.15)

Table 1.15 Concerted Actions Remaining Valid

Until the End of 2010

Concerted Action	Valid Period of Concerted Action	No. of Enterprises	Applicable FTA Article
1. Joint shipping of barley under extended joint procurement program	01/01/2009~ 12/31/2011	7	Subpara. 5, Para. 1, Article 14 & Para. 2, Article 15
2. Joint shipping of corn under extended joint procurement program (Feed League)	03/01/2009~ 02/28/2012	38	Subpara. 5, Para. 1, Article 14 & Para. 2, Article 15
3. Joint shipping of corn under extended joint procurement program(Great Wall League)	06/01/2009~ 05/31/2012	6	Subpara. 5, Para. 1, Article 14 & Para. 2, Article 15
4. Joint shipping of corn under extended joint procurement program (Uni-President League)	01/26/2010~ 01/25/2013	19	Subpara. 5, Para. 1, Article 14 & Para. 2, Article 15
5. Joint shipping of soybean under joint extended procurement program	09/01/2009~ 08/31/2012	8	Subpara. 5, Para. 1, Article 14 & Para. 2, Article 15
6. Joint shipping of wheat under joint extended procurement program	10/01/2009~ 09/30/2012	38	Subpara. 5, Para. 1, Article 14 & Para. 2, Article 15
7. Joint shipping of soybean under joint procurement program	03/13/2008~ 03/12/2011	5	Subpara. 5, Para. 1, Article 14
8. Joint IC card businesses among financial institutions under extended joint program	01/01/2010~ 12/31/2012	26	Subpara. 5, Para. 1, Article 14 Para. 2, Article 15
9. Joint shipping of materials and equipments for government agencies and public owned enterprises under extended joint carriage program	09/29/2008~ 09/28/2011	14	Subpara. 5, Para. 1, Article 14 Para. 2, Article 15
10. Joint scheduling, joint ticketing and ticket sharing on Tungkang-Little Okinawa route	07/02/2009~ 07/01/2012	5	Subpara. 1, Para. 1, Article 14 Para. 2, Article 15
11. Joint setting specifications for set-top box of cable-TV under joint program	07/26/2008~ 07/25/2011	28	Subpara. 1, Para. 1, Article 14

2. FTC Self-initiated Investigations

Since its establishment, the Fair Trade Commission has dedicated itself to establish a fair and reasonable market order. It has not only carefully handled all kinds of complaints but actively taken initiative to conduct special investigation on matters which are governed by the Fair Trade Act and which may damage the public interests. The FTC initiated 139 investigation cases in 2010. The cumulative number of investigation activities initiated by the FTC as of the end of 2010 totaled 1,505 cases. Of the total, 1,450 cases were concluded and the remaining 55 cases were under processing. For 122 cases concluded in 2010, the FTC had devoted 2,914 persons in manpower and investigated 1,744 enterprises. By processing result, decision ruling was handed down for 44 cases due to violation against the FTA. A total of 46 decision statements were issued for 65 enterprises. Seventy-one cases were found not violating the FTA, or not subject to the FTC's jurisdiction, or simply required attention to their development, and 7 cases referred by other government agencies or reported by the general public were in duplicate with other cases. (Table 1.16)

Table 1.16 FTC Self-initiated Investigation

Unit: Case

Year	Cases Subject to Decision			No-action Decision	Administrative Action	Investigation Terminated	Others
	Initiated Cases	Decision Statements	Firms Subject to Decision				
2008	61	68	93	27	1	21	5
2009	42	43	103	31	2	25	68
2010	44	46	65	41	2	28	7

Note : 1. The number of decision statement and firms subject to decision excluded cases also been complained.

2. "Others" means same cases referred by different agencies or cases consolidated due to duplicated complaints.

Among concluded self-initiated cases in 2010, 22 false, untrue or misleading advertisements ranked the top. Deceptive or obviously unfair conducts & improper multi-level sales were 10 respectively came next. (Table 1.17)

Table 1.17 Decision for FTC Self-initiated Investigations—By Pattern of Action against FTA

Unit: Case

Year	Case of Decision for FTC Self-initiated Investigation	Anti-competitive Practice	Monopolies	Mergers	Concerted Actions	Resale Price Maintenance	Impeding Fair Competition
			(Article 10)	(Article 11)	(Article 14)	(Article 18)	(Article 19)
2008	68	7	-	1	6	-	-
2009	43	8	1	3	4	-	-
2010	46	3	-	-	3	-	-
Year	Unfair Trade Practice	Counterfeiting Symbols of Goods or Services (Article 20)	False, Untrue or Misleading Advertisement (Article 21)	Deceptive or Obviously Unfair Conducts (Article 24)	Improper Multi-level Sales (Articles 23 & 23-1-23-4)	Others	
						(Latter Part of Articles 41 & 43)	
2008	41	-	36	5	17	3	
2009	28	-	27	1	7	-	
2010	32	-	22	10	10	1	

Note : The discrepancy between the cases of decision ruling and the number of illegal actions was caused by a fact that a case might involve more than one illegal action.

3. Decision Rulings for Fair Trade Act Enforcement

In 2010, decision rulings of complaints and FTC self-initiated investigation were set for 155 cases, 28 cases or 15.3% down from the preceding year. A case of complaint or investigation may involve more than one illegal action. Following analysis is based on the number of illegal actions. By type, 7.7% of total illegal actions were an anti-competitive practice, 76.8% unfair trade practice, and 14.2% improper multi-level sale practices. (Table 1.18)

Table 1.18 Decision Ruling by FTC – By Illegal Action

Unit: Case

Year	Cases of Decision	Anti-competitive Practice	Monopolies	Mergers	Concerted Actions	Resale Price Maintenance	Impeding Fair Competition
			(Article 10)	(Article 11)	(Article 14)	(Article 18)	(Article 19)
2008	169	15	-	4	9	-	2
2009	183	18	1	4	8	3	2
2010	155	12	-	1	6	-	5
Year	Unfair Trade Practice	Counterfeiting	False, Untrue or Misleading	Damage to Business	Deceptive or Obviously Unfair	Improper Multi-level Sales	Others
		Symbols of Goods/Services (Article 20)	Advertisement (Article 21)	Reputation (Article 22)	Conducts (Article 24)		
2008	118	1	93	-	28	32	4
2009	147	1	120	4	28	18	1
2010	119	-	89	-	32	22	2

Note: The number of illegal actions may exceed the cases of decision ruling because a case may involve more than one illegal action.

Table 1.19 Composition of Decision Ruling Cases – By Industry

Unit: %

Year	Total	Agriculture, Forestry, Fishing, Animal Husbandry, Mining & Quarrying	Manufacturing	Electricity & Gas Supply	Water Supply & Remediation Services	Construction	Wholesale & Retail Trade
		2008	100.00	0.59	8.28	-	-
2009	100.00	0.55	9.84	-	-	0.55	39.89
2010	100.00	0.65	7.74	1.94	-	0.65	50.32
Year	Transportation & Storage	Accommodation & Food Services	Information & Communication	Finance & Insurance	Real Estate	Professional, Scientific & Technical Services	Support Services
		2008	1.18	2.96	8.88	3.55	18.93
2009	1.09	7.10	4.37	2.19	18.03	2.73	1.64
2010	0.65	8.39	7.74	1.94	11.61	2.58	0.65
Year	Public Administration, Defense; Compulsory Social Security	Education	Human Health & Social work Services	Arts, Entertainment & Recreation	Other Services	Others	
		2008	-	1.78	1.18	1.18	2.96
2009	-	3.28	1.09	3.28	3.83	0.55	
2010	-	2.58	-	0.65	1.29	0.65	

Among decision rulings in 2010, by division of industry, wholesale and retail trade ranked the top, accounting for 50.3% of total cases of decision ruling and 10.4 percentage point up from the preceding year. The next was real estate reported a share of 11.6%, 6.4 percentage point down from the preceding year. By division of various wholesale and retail trades, retail trade ranked the top, accounting for 46.5% of total cases of decision ruling (including non-store retailing accounting for 25.8%). (Table 1.19)

Total of 216 firms were subject to the decision ruling for breaching the Fair Trade Act in 2010, showing a decrease of 122 firms or 36.1% from the preceding year. A firm may involve in more than one illegal action. Following analysis is based on the duplicate calculation. By type of illegal action, under the category of anti-competitive practice, 41 firms committed concerted action ranked the top. Under the category of unfair trade practice, 112 firms committed false, untrue or misleading advertisement, 32 firms committed deceptive or obviously unfair conducts. 22 firms committed improper multi-level sales practices. (Table 1.20)

Table 1.20 Firms Subject to Decision Ruling by FTC—By Illegal Action

Unit: Firm

Year	Business Subject to Decision	Anti-competitive Practice						Impeding Fair Competition (Article 19)
		Monopolies (Article 10)	Mergers (Article 11)	Concerted Actions (Article 14)	Resale Price Maintenance (Article 18)			
2008	239	41	-	7	17	-	17	
2009	338	126	3	5	113	3	2	
2010	216	49	-	2	41	-	6	
Year	Unfair Trade Practice					Deceptive or Obviously Unfair Conducts (Article 24)	Improper Multi-level Sales (Articles 23 & 23-1~23-4)	Others (Latter Part of Articles 41 & 43)
		Counterfeiting Symbols of Goods or Services (Article 20)	False, Untrue or Misleading Advertisement (Article 21)	Damage to Business Reputation (Article 22)				
2008	162	1	132	-	33	32	4	
2009	194	1	166	5	29	18	1	
2010	142	-	112	-	32	22	3	

Note: Firms may add to exceed total because one firm may commit more than one illegal action.

An analysis of penalties (duplicate calculation adopted for an illegal action liable to more than one penalty) showed that in 2010, 148 cases were ordered to stop illegal actions or take corrective measure, 1 case of them required by Article 13, 132 cases required by Article 41, and 16 cases required by Article 42 of the FTA. There were 140 cases imposed of administrative fines, including 1 cases under Article 40, 118 cases under the former part of the Article 41, 5 cases under the paragraph 2, Article 42, 17 cases fined for improper multi-level sales according to paragraph 3, the Article 42, FTA. The fines totaled NT\$ 65.84 million. (Table 1.21)

Table 1.21 Penalty under Decision Ruling by FTC

Unit: Case

Year	Cases of Decision	Ordered to Stop or Correct Action			Fined		
		Article 13	Article 41	Article 42	Article 40	Former Part of Article 41	Latter Part of Art. 41
2008	169	4	130	13	4	124	1
2009	183	4	161	11	4	140	1
2010	155	1	132	16	1	118	-

Year	Fined				Operation Suspended (Article 42)	Ordered to Close Business (Article 42)
	Article 42			Article 43		
	Para. 1	Para. 2	Para. 3			
2008	-	-	32	3	-	-
2009	-	4	15	-	-	-
2010	-	5	17	-	-	-

Note: Cases of penalties may not add up to the number of decision ruling because one decision may involve more than one penalty.

4. Decisions Repealed

A decision made by the Fair Trade Commission in 2010 was repealed by appeals or administrative proceedings. The cumulative number of decisions made by the FTC as of the end of 2010 totaled 3,339 cases. Of the total, 132 decisions were repealed or partially repealed, 3,227 decisions were sustained or partially sustained, accounted 96.6% of all decisions. (Table 1.22)

Table 1.22 Decisions Repealed – By Type of Illegal Actions

Unit: Case

The year decisions made	Number of decisions repealed	Monopolies (Article 10)	Mergers (Article 11)	Concerted Actions (Article 14)	Impeding Fair Competition (Article 19)	False, Untrue or Misleading Advertisement (Article 21)	Improper Multi-level Sales (Art. 23, & 23-1~23-4)	Deceptive or Obviously Unfair Conducts (Article 24)
2008	10	-	1	-	1	5	1	2
2009	-	-	-	-	-	-	-	-
2010	1	-	-	1	-	-	-	-

Notes: 1. Number of decisions repealed includes decisions repealed and partially repealed.

2. Number of decisions repealed is not the same with illegal actions due to some cases involved with more than one action or decisions repealed for reason other than the actions involved. (e.g. penalties repealed)

5. Appeals

The Fair Trade Commission has authority to impose administrative penalty on enterprises violating the Fair Trade Act. To protect the rights of the penalized enterprises, in accordance with the Appeal Act effective on July 2000, enterprises concerned can raise appeal to the Executive Yuan. There were 101 appeal cases received in 2010, 73 appeal cases not concluded yet by the end of 2009, 144 cases were concluded in 2010, 100 of them were rejected, one original decision was repealed, 15 appeals were not accepted, 28 appeals

were partially rejected and partially not accepted. From July 2000 to the end of 2010, the cumulative number of appeal cases reached 1,672. The number of appeal cases concluded was 1,642. (Table 1.23)

Table 1.23 Results of Appeal

Unit: Case

Year	Case Received		Cases Concluded		
	Carried Over from Preceding Year	Received in Current Year	Total	Rejected	Original Decision Repealed
2008	51	143	149	117	14
2009	45	164	139	122	3
2010	73	101	144	100	1

Year	Cases Concluded					Case Pending
	Not Accepted	Withdrawn	Partially Rejected, Partially Not Accepted	Partially Rejected, Original Decision Partially Repealed	Original Decision Partially Repealed	
2008	11	-	-	2	5	45
2009	12	2	-	-	-	73
2010	15	-	28	-	-	30

From July 2000 to the end of 2010, a cumulative 688 cases of administrative petition raised to the High Administrative Court were closed. Sixty-seven cases were rejected due to not in conformity with the law, and 499 cases were rejected due to unreason. For 57 cases, original decisions and decisions of a ppeal were repealed. For 2 cases, decisions of appeal, decisions of re-appeal, and original decisions were repealed. For 1 case, decisions of appeal, decisions of re-appeal, and original decisions were partially repealed. For 22 cases, decision of a ppeal and original d ecision were partially repealed. For 2 c ases, decisions of appeal were repealed and other charges were rejected. For 3 cases, original decisions were partially repealed and other charges were rejected. Twenty-eight cases were withdrawn and 7 cases were other results.

The S upreme Administrative C ourt has f inalized 3 30 Fair Trade Act ad ministrative pet itions. Ninety-four ca ses were re jected due to not in con formity with th e law , 1 81 cas es were rejected due to unreason, and 1 case was withdrawn. For 1 case, original decision, decisi on of appeal a nd decision of re-appeal were all repealed. For 45 cases, the original judgments were abolished and the cases were returned to the High Administrative Court for reviewing. For 5 cases, the original judgments were abolished and the Supreme Ad ministrative C ourt had made its own j udgments. For 1 case, partial ori ginal ju dgment was abolished and returned to the High Administrative Court for reviewing and partial re-appeal was rejected. And 2 cases were others results.

6. Court Cases

According to the statistics of the Judicial Yuan, in 2010, the district criminal courts concluded 15 first trial Fair Trade Act cases, 12 defendants were involved. Divided by behaviors, defendants suspected violating multi-level sales provisions rank top. According to the judgments, 101 defendants were sentenced to fixed-term imprisonment, 1 was not accepted, 16 were not guilty, 2 were free from charge and 1 was listed as wanted. (Table 1.24)

Table 1.24 Judgments of the First Trial Fair Trade Act Cases by the District Criminal Courts

Unit: Defendant, Case

Year / Illegal Practices	Case Closed	Defendants			
		Total	Guilty	Not guilty	Free from charge
2008	16	50	32	2	1
2009	8	25	16	7	1
2010	15	121	101	16	2
Business Disparagement	--	7	2	4	-
Illegal Multi-level Sales	--	112	99	12	-
Others	--	2	-	-	2

Year / Illegal Practices	Defendants				
	Not Accepted	Wrong Jurisdiction	Listed as Wanted	Withdrawn	Others
2008	8	3	1	3	-
2009	1	-	-	-	-
2010	1	-	1	-	-
Business Disparagement	1	-	-	-	-
Illegal Multi-level Sales	-	-	1	-	-
Others	-	-	-	-	-

Source : Statistics Department, Judicial Yuan

In 2010, the High Courts concluded 7 second-trial Fair Trade Act cases, 24 defendants were involved. Twenty-three defendants charged violating the multi-level sales provisions rank top. According to the judgments, 1 was not guilty 23, and 23 defendants were judged guilty (22 were sentenced to fixed-term imprisonment and 1 was put in detention). (Table 1.25)

Table 1.25 Judgments of the Second Trial Fair Trade Act Cases by the High Criminal Courts

Unit: Defendant, Case

Year / Illegal Practices	Case Closed	Defendants			
		Total	Guilty	Not-guilty	Withdrawn
2008	7	31	30	-	1
2009	3	13	2	11	-
2010	7	24	23	1	-
Business Disparagement	--	1	1	-	-
Illegal Multi-level Sales	--	23	22	1	-
Others	--	-	-	-	-

Source : Statistics Department, Judicial Yuan

Regulation of Multi-level Sales Enterprises

1. Recordation

Enterprise engaged in multi-level sales is required by the Supervisory Regulations Governing Multi-level Sales to report to the Fair Trade Commission for recordation before commencing the business. In 2010, 98 enterprises completed the required recordation, and 141 enterprises withdrew their recordation. The cumulative number of enterprises reported to the FTC was 359 by the end of 2010, 43 enterprises or 10.7% less than that of 2009. (Table 2.1)

Table 2.1 Recordation of Multi-level Sales Enterprises

Unit: Enterprise

Year	Enterprises Recordation at End of Preceding Year	Enterprises Recordation in Current Year	Enterprises Withdrawing Recordation	Enterprises Recordation at End of Current Year
2008	720	124	448	396
2009	396	122	116	402
2010	402	98	141	359

By location, the number of enterprises in Taipei City ranked the top, reported 158 enterprises or 44% of total recorded enterprises. Coming next was Taichung City reported 66 enterprises or a share of 18.4%, and Kaohsiung City reported 41 enterprises or a share of 11.4%. These three cities accounted for 73.8% of total recorded enterprises. The distribution of enterprises implied multi-level sales enterprises prefer to locate in cities with high density of population. (Table 2.2)

Table 2.2 Location of Multi-level Sales Enterprises

Unit: Enterprise

Area	Number of Enterprises		Area	Number of Enterprises		Area	Number of Enterprises	
	2010	2009		2010	2009		2010	2009
Total	359	402						
*New Taipei City	28	34	Miaoli County	2	2	Penghu County	-	-
Taipei City	158	160	Changhua County	2	2	Keelung City	2	2
*Taichung City	66	71	Nantou County	1	1	Hsinchu City	3	4
*Tainan City	16	8	Yunlin County	3	2	Chiayi City	1	1
*Kaohsiung City	41	34	Chiayi County	-	-	* Taichung County	-	-
Yilan County	2	2	Pingtung County	2	4	* Tainan County	-	10
Taoyuan County	27	39	Taitung County	-	-	* Kaohsiung County	-	10
Hsinchu County	4	3	Hualien County	1	3	Kinmen & Matsu	-	10

Note: In 2010, Taipei County was renamed as New Taipei City. Number of enterprises in Taichung City, Tainan City, and Kaohsiung City included numbers in Taichung County, Tainan County and Kaohsiung County respectively in respond to restructuring of relevant local governments.

2. Review of Operation

The Fair Trade Commission adopts “full-scale review” and “prevention in advance” ways to monitor the multi-level sales operation in order to effectively prevent them turning in to illegal pyramid selling schemes. If an enterprise’s recorded materials are found against regulations, the enterprise is required to correct prior to a set date. In addition, the FTC staff reviews multi-level sales enterprises on an irregular basis to check on the spot if they keep and display the written statements as required by law and if business actions conform to what they have reported. The purpose is to uncover problems and prevent them from occurring beforehand.

The FTC has conducted 56 times such review in 2010 in response to complaints or on its own schedule. Of the total, 17 times or 30.4% complied with the regulations, 13 times or 23.2% advised enterprises for minor issues, 14 times or 25% failing to comply with regulations and open investigations. By types of the enterprises failing to comply with regulations included: 8 firms failed to report to the FTC regarding its changes of previous recordation (57.1%) ranked the top, 7 firms’ written contracts were different from their recordation (50.0%), 6 firms failed to display required documents at place of business (42.9%) . (Tables 2.3 and 2.4)

Table 2.3 Inspection of Multi-level Sales Enterprises

Unit: Enterprise

Year	Enterprises Inspected	Results of Inspection					
		Complying with Regulations	Not Complying with Regulations	Advising for Minor Issues	Not in Operation	Operation Suspended	Location Unknown
2008	51	40	8	...	1	1	1
2009	51	15	12	20	-	4	-
2010	56	17	14	13	-	8	4

Note: In 2007 & 2008 Enterprises complying with regulations included which had corrected minor violations after receiving inspection.

Table 2.4 Inspection of Multi-level Sales Enterprises—By Cause of Violation

Unit: Enterprise

Year	Enterprises against Regulations	Causes for Violation		
		Failure to Disclose Adequate Information to Participants	Written Contract Inconsistent with Recordation	Procedure for Returning Products against Regulations
2008	8	1	1	-
2009	12	-	2	2
2010	14	1	7	2

Year	Causes for Violation			
	Failure to Display Relevant Documents at Place of Business	Violating Fair Trade Act	Operation without Reporting in Advance	Changes of Recordation without Reporting in Advance
2008	2	2	1	1
2009	2	4	1	7
2010	6	2	2	8

Note: Figures may add up to exceed the total because an enterprise may commit more than one irregularity.

3. Decision Ruling on Multi-level Sales Enterprises

In 2010, the Fair Trade Commission set decision rulings for 22 multi-level sales practices, which showed an increase of 4 from the preceding year. Among 22 multi-level sales enterprises penalized, divided by provisions of violations, 18 cases violated the Supervisory Regulations Governing Multi-level Sales. Among them, 9 cases failed to report to the FTC regarding its changes of previous recordation violated Article 7 of the Regulation ranking the top, 5 cases violated Article 5 coming next. Fines in 2010 totaled NT\$ 2.7 million. By the end of 2010, the cumulative cases of decision ruling reached 454, and the multi-level sales enterprises subject to such ruling totaled 496 firms. (Tables 2.5 and 2.6)

Table 2.5 Illegal Multi-level Sales Actions

Unit: Case

Year	Case of Decision	Article 23	Article 23-1	Article 23-2	Article 23-3	Article 23-4 Supervisory Regulations Governing Multi-level Sales
2008	32	-	-	1	-	31
2009	18	-	-	3	1	15
2010	22	-	1	5	1	18

Note: Some cases violate both of the Fair Trade Act and the Regulations for Multi-level Sales.

Table 2.6 Decision Ruling for Multi-level Sales Enterprises – By Articles of Supervisory Regulations Governing Multi-level Sales Violated

Unit: Case

Year	Cases of Decision	Article 5	Article 7	Article 11	Article 12	Article 13	Article 14	Article 15
2008	31	3	14	-	8	1	2	7
2009	15	5	6	-	3	3	3	2
2010	18	5	9	-	4	-	-	4
Year	Article 16	Article 17	Article 18	Article 19	Article 20	Article 22	Article 23	
2008	1	4	3	-	-	1	-	
2009	1	-	2	-	-	-	1	
2010	1	1	-	-	-	1	-	

Note: Figures may add up to exceed the total because violation may consist of more than one article of the FTA.

Commissioners Meeting

1) Deliberation

The decision-making body of the Fair Trade Commission is the Commissioners Meeting which functions through gathering of commissioners to deliberate and decide the FTC's major administrative programs. There are six main responsibilities of the FTC's Commission Meeting in accordance with the provisions of Article 14 of the Organic Statute of the Fair Trade Commission. They are: (1) deliberating fair trade policies; (2) deliberating and evaluating administration plans relate to fair trade; (3) assessing public notices, approvals, and disposition related to the enforcement of the Fair Trade Act; (4) deliberating laws and regulations related to fair trade; (5) deliberating proposals by commissioners; (6) deliberating other matters as provided by law.

The FTC held 53 Commissioners Meetings to review 512 submissions in 2010. The submissions included 168 discussions (32.8%) and 344 reports (67.2%). On the average, each time the Commissioners Meeting heard 9.7 submissions, including 3.2 discussions and 6.5 reports. (Table 3.1)

Table 3.1 Submissions to the Commissioners Meeting

Unit: Case, %

Year	Total		Report		Discussion	
	Case	% of Total	Case	% of Total	Case	% of Total
2008	618	100.00	322	52.10	296	47.90
2009	576	100.00	342	59.38	234	40.63
2010	512	100.00	344	67.19	168	32.81

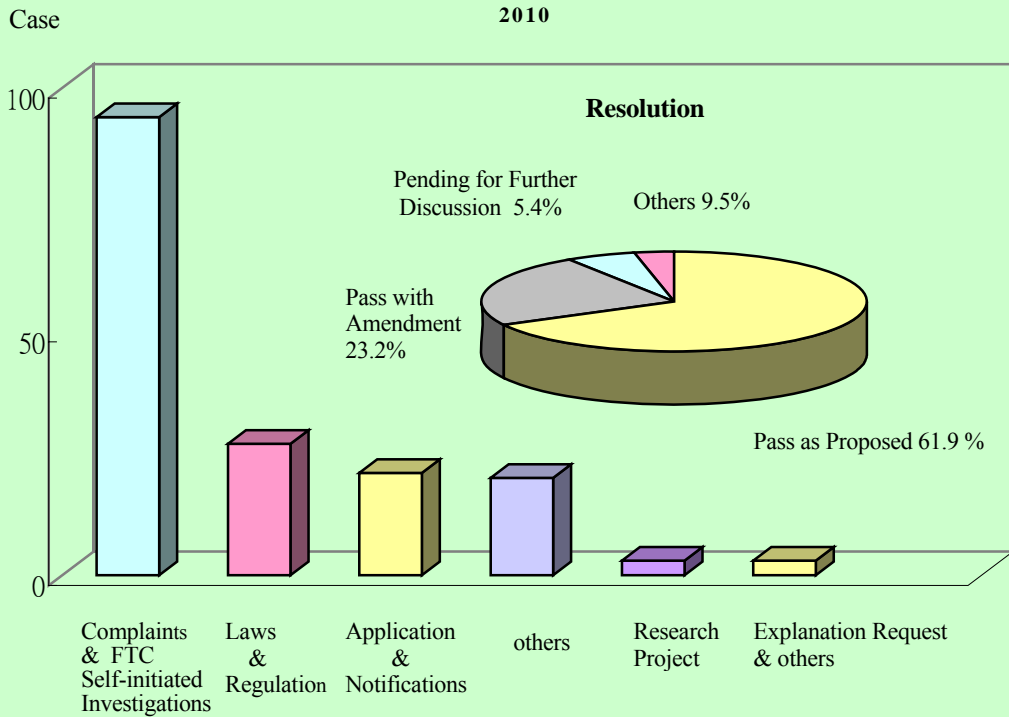
The 168 discussions reviewed in 2010 included 94 complaints and self-initiated investigation cases, 27 draft amendments of laws and regulations, 21 applications & notifications, 3 request of explanation of laws, 3 research projects, and 20 other issues. Results of the deliberation showed that of total review cases, 104 cases or 61.9% were passed as proposed, 39 cases or 23.2% were passed with amendments, 9 cases or 5.4% pending for further discussion, and 16 cases or 9.5% with other results. (Table 3.2 and Chart 3.1)

Table 3.2 Discussions by Type

Unit: Case,%

Year	Total	Laws & Regulations	Project Proposals	Complaints & Self-initiated Investigations	Applications & Notifications	Requests for Explanation	Research Projects	Others
2008	296	20	1	218	36	1	7	13
2009	234	17	2	156	30	6	2	21
2010	168	27	-	94	21	3	3	20
Year	Ratio							
2008	100.00	6.76	0.34	73.65	12.16	0.34	2.36	4.39
2009	100.00	7.26	0.85	66.67	12.82	2.56	0.85	8.97
2010	100.00	16.07	-	55.95	12.50	1.79	1.79	11.90

Chart 3.1 Deliberation on Discussions



2) Meeting Time

On the average, each Commissioners Meeting in 2010 spent 2 hours and 20 minutes, showing an increase of 30 minutes from 2009. By time used per meeting, less than 2 hours and 2-3 hours ranked the top, accounted for 34% respectively, and the followings were 3-4 hours for 32.1%. (Table 3.3)

Table 3.3 Time Spent by FTC Commissioners Meeting

Time	2010		2009	
	No. of Meeting	% of Total	No. of Meeting	% of Total
Total	53	100.00	52	100.00
Less than 2 hours	18	33.96	34	65.38
2 – 3 hours	18	33.96	14	26.92
3 – 4 hours	17	32.08	4	7.69
4 – 5 hours	-	-	-	-
5 – 6 hours	-	-	-	-
more than 6 hours	-	-	-	-

Consulting Services and Policy Implementation

1. Consulting Services

1) Service Center

Both the Fair Trade Commission and its southern Taiwan branch set up service centers to provide enterprises and the general public with consulting services, answer questions concerning the Fair Trade Act and administrative projects. Services provided by the centers, according to the operation guidelines, can be classified into four categories: (1) explanation of the Fair Trade Act; (2) provision of educational materials; (3) explanation of Applied Item; and (4) Acceptance of Complaints. The aforementioned services totaled 10,655 cases in 2010, 12.1% down from the preceding year. The services provided were mainly explanation of the Fair Trade Act and relevant regulations. (Table 4.1)

Year	Total	Explanation of Fair Trade Act	Provision of Educational Materials	Explanation of Applied Item	Acceptance of Complaints
2008	12,208	10,698	519	373	618
2009	12,120	10,468	440	533	679
2010	10,655	9,004	429	590	632

2) Supporting Activities by Local Governments

The Fair Trade Commission has authority and responsibility to instruct and supervise local governments in enforcing Fair Trade Act related matters, and to entrust the local governments to provide supportive services. Supporting activities provided by local governments in 2010 were 970 cases, included 406 cases in providing forms and information, 117 cases in referring cases, 23 cases in holding educational programs, 73 cases in collecting evidences, 54 cases in checking matters, 19 cases in collecting industrial data, 8 cases in Ad hoc survey, 270 cases in other matters. (Table 4.2)

Table 4.2 Supporting Activities of Local Governments

2010						Unit: Case
Agencies	Total	Providing Forms & Data	Delivering Case Document	Conducting Educational Program	Collecting Evidence	
Total	970	406	117	23	73	
New Taipei City Gov't	107	7	12	1	19	
Taipei City Gov't	304	263	15	1	1	
Taichung City Gov't	77	26	9	1	22	
Tainan City Gov't	72	-	20	2	6	
Kaohsiung City Gov't	51	28	16	1	-	
15 County/City Gov'ts	331	72	43	15	21	
Kingmen County Gov't	27	10	2	1	4	
Lien-chiang County Gov't	1	-	-	1	-	
Agencies	Checking Matters	Collecting Industrial Data	Ad hoc survey	Others		
Total	54	19	8	270		
New Taipei City Gov't	25	4	-	39		
Taipei City Gov't	2	1	2	19		
Taichung City Gov't	10	4	-	5		
Tainan City Gov't	4	-	1	39		
Kaohsiung City Gov't	-	-	-	6		
15 County/City Gov'ts	13	10	5	152		
Kingmen County Gov't	-	-	-	10		
Lien-chiang County Gov't	-	-	-	-		

3) Competition Policy Information and Research Center

The Fair Trade Commission set up the Competition Policy Information and Research Center (CPIRC) in January 1997. The CPIRC is designed to provide domestic and foreign users with services on competition policy and laws as well as research and training services. Achievements of the CPIRC in 2010 were as follows:

1. Collection and maintenance of competition policy information, provision of professional consultant services: collecting competition policy data, including more than 20,000 volumes of books, more than 100 periodicals, Westlaw laser diskette database, and updating monthly the competition law newspaper clipping system and the APEC Competition Policy and Law Database which consists of data of the 21 APEC members.

2. Building of competition policy research environment to facilitate professional research: Holding “The 18th Seminar on Competition Policy and Fair Trade Act” on November 30, 2010, in which 8 papers presented and 250 persons attended.
3. Provision of competition policy training services to promote competition policy concepts: (1) Inviting experts and scholars majoring in competition law to give lectures. In 2010 there were 12 lectures with more than 500 attendees. (2) Holding the Fair Trade Act Training Program for universities and colleges students, there were 500 attendees in 2010.
4. Publication of competition policy and law related materials to facilitate academic research and information sharing internationally: In 2010 FTC publicized the “Competition Policy Newsletter” bi-monthly in Chinese and English versions, the “Gazette of Speeches in the Competition Policy Information and Research Center, Fair Trade Commission, 2009”, the proceedings of “The 17th Seminar on Competition Policy and Fair Trade Act”. The publications were provided to libraries of universities, colleges, and research institutions domestic and overseas.

2. Public Education and Issuing Guidelines

1) Public Education and Training

To help the business community in general to understand the Fair Trade Act, the FTC has actively engaged in publicity works and designed tailor-made contents for the business in general, sector-specific practitioners, and young students. In 2010 there were 114 seminars, including 56 seminars held by the FTC, 23 seminars by the contracted local governments, and 35 seminars supported by the FTC lecturers. (Table 4.3)

Table 4.3 Fair Trade Act Public Education Programs and Seminars

Unit: Session					
Year	Total	Conducted by FTC	Conducted by Contracted Local Governments	Conducted by Contracted Industrial Associations	Lectures on Fair Trade Act
2008	122	63	23	-	36
2009	116	68	25	-	23
2010	114	56	23	-	35

2) Issuing Guidelines

To enhance the transparency and effectiveness of the enforcement work, the Fair Trade Commission

has been issuing guidelines in line with its own enforcement experiences, international trend of competition laws development, and legislation and enforcement of various countries. In 2010 the FTC issued and revised guidelines as follows:

1. Issued the “Fair Trade Commission Guidelines on the Reviewing of Cases Involving Payment by Big Enterprises to Small Enterprises”;
2. Issued the “Fair Trade Commission Guidelines on Handling Promotional Advertisement”;
3. Issued the “Fair Trade Commission Guidelines on Handling Comparative Advertisement”;
4. Revised the “Fair Trade Commission Guidelines on the Reviewing of Cases Involving Enterprises Issuing Warning Letters for Infringement on Copyright, Trademark, and Patent Rights”;
5. Revised the “Fair Trade Commission Guidelines on Handling Cases Governed by Article 20 of the Fair Trade Act”;
6. Revised the “Fair Trade Commission Guidelines on Investigations in Multi-levels Sales Cases”;
7. Revised the “Fair Trade Commission Guidelines Handling Cases Governed by Article 21 of the Fair Trade Act”;
8. Revised the “Fair Trade Commission Policy Statements on Use of Endorsements and Testimonials in Advertising”;
9. Revised the “Fair Trade Commission Policy Statements on the Business Practices of Financial Industry”.
10. Revised the Table 2, Article 17 of the “Fair Trade Commission Guidelines Handling Cases Governed by Article 21 of the Fair Trade Act”;
11. Abolished “The List of Comparative Advertisements violating the Fair Trade Act”.

3. Revision of the Fair Trade Act

The amendment of the Article 21 of the Fair Trade Act was enacted by the Presidential Decree on June 9, 2010 to hold testimonial provider providing misleading testimonials liable with the advertiser for damages arising therefrom.

The Fair Trade Act was promulgated on February 4, 1991 and then came into force on February 4, 1992. Since then it has been amended for 4 times. In February 1996, the OECD recommended the FTC to implement leniency program and raise its ceiling of fine for hard core cartel members during its peer review exercise. Considering foreign legislations requiring competition authorities to issue penalties for different violation in accordance with different regulations, the Administrative Penalty Act came into force on February 5 1996, the Fair Trade Act shall be thoroughly reviewed to revise its penalties for administrative and criminal responsibility. The FTC had drafted the amendments of the Fair Trade Act and negotiated it with relevant government agencies. The major aspects included:

- (1) revising the definition of enterprise (amendment Article 2), and abolishing all provisions regarding the multi-level sales in the view of drafting the Multi-level Sales Management Act;
- (2) revising the criteria for defining monopolistic enterprise (amendment Article 8);
- (3) adding the definition of relevant market (amendment Article 5);
- (4) adding the criteria for exemption of concerted actions (amendment Article 15);
- (5) adding the legal consequence of violating condition of approval for concerted action (amendment Article 17);
- (6) defining the effect of resale price maintenance (amendment Article 19);
- (7) abolishing the provision on unfair competition by acquiring trade secret (amendment Article 20);
- (8) abolishing the current Article 20 on trade mark protection;
- (9) revising the scope of handling untrue advertisement (amendment Article 21);
- (10) adding the FTC's power to search and seize when investigating anti-competitive practice (amendment Article 26);
- (11) adding the FTC's power to request result of statistical survey conducted by other government agency (amendment Article 27);
- (12) expanding the limits of accessing files by parties for the administrative proceedings purpose (amendment Article 28);
- (13) adding the leniency program for concerted action (amendment Article 42);
- (14) revising the punishments for violating provisions of merger control, anti-competition, unfair competition and obligation of cooperation with investigation (amendment Article 40, 41, 43);
- (15) adding the remedy procedures and making the Appeal Act not applicable to the FT Act case (amendment Article 48).

4. Drafting the Multi-level Sales Management Bill

The management of multi-level sales relies on Article 23 to Article 23-4 of the Fair Trade Act and the Supervisory Regulations Governing Multi-level Sales. Considering the management of multi-level sales is different from the regulation of anti-competitive behaviors and unfair competition practices in nature, it is necessary to have a separate multi-level sales management law. To build a comprehensive multi-level sales management law, enhance management and supervisory of multi-level sales enterprises, the Fair Trade Commission drafted the Multi-level Sales Management Bill and negotiated with relevant government agencies. The FTC finalized its negotiation process on May 6, 2000 and sent the Bill to the Executive

Yuan on January 4, 2011 for deliberation. The major aspects included:

- (1) the legislative purpose, the competent authority, and the definitions (Bill Article 1 to Article 5);
- (2) the announcement of recordation, revision of recordation, and termination of multi-level sales businesses, the obligation to notice participants, written contract with participants, breach of operational rules or plan of participants and the method for handling request by that participant to return goods in such events (Bill Article 6 to Article 15);
- (3) the limitation of incapacitated person and limited incapacitated person to be participants, the content of contract, and the obligation to disclose financial statement (Bill Article 16 to Article 17);
- (4) the prohibition of illegal multi-level sales and certain behaviors of participants (Bill Article 18 to Article 19);
- (5) the legal conditions for participants returning goods arising from rescinding the contract or terminating the contract, and the right and obligation therefrom (Bill Article 20 to Article 21);
- (6) the multi-level sales enterprises may neither claim damages or levy penalties against participants for exercising the right to rescind or terminate the agreement, nor improperly hindering participants from returning goods or services arising from rescinding or terminating the contract. (Bill Article 22 to Article 24);
- (7) the legal ground for the competent authority to inspect the materials specified, the procedure to issue penalty, and the scope of materials or files for access for administrative proceedings purpose (Bill Article 25 to Article 30);
- (8) the claim for damage for breaching the law and the time limitation, the criminal penalty, administrative penalty and disposition (Bill Article 31 to Article 40);
- (9) the current relevant provisions stipulated in the Fair Trade Act regarding the multi-level sales will cease to be applicable once the Bill comes into force (Bill Article 41 to Article 42).

5. Enhancing International Cooperation

1) Developing Bilateral Co-operation Relationships with Other Competition Authorities

Following the pace of globalization of economy, there is a trend of cross-border anticompetitive and unfair trade practices. In response, the FTC actively seeks opportunities to cooperate with foreign competition authorities. After finalizing co-operation arrangements counterparts in Australia, New Zealand, France, Mongolia, and Canada, the FTC signed a co-operation arrangement with the Office for the Protection of Competition of the Czech Republic in 2010. In addition to mutual visits by senior officials, the

visits by and exchange of working level staff are also held on periodical basis to enhance enforcement. In 2010, the Vice Chairperson Shih of the FTC led a delegate to attend the 6th Seoul International Competition Forum and the 6th East Asia Top Level Officials' Meeting on Competition Policy in Seoul, and held bilateral meetings with head of competition authorities of Korea and Japan during the conferences respectively. The FTC held the first working level meeting between staff of Taiwan and Japan's competition authorities in Taipei in December 2010 to share development of competition law and policy. The FTC also conducted an on-going staff exchange program with the Australian Competition and Consumer Commission during September to December 2010 to enhance relationship between the agencies and to facilitate international cooperation and coordination in law enforcement issue. The FTC will keep enhancing mutual understanding and building long-term friendship with foreign competition authorities for the foundation of future cooperation and support for international activities.

2) Building Partnership with the International Organizations

To learn experience and exchange legislation and enforcement from the more advanced countries through participating in international activities can contribute a lot to internalize international trend into the FTC's daily enforcement work. In 2010, the FTC kept attending international meetings on competition held by the OECD, ICN, and APEC. The Vice Chairperson Shih of the FTC led a delegate to attend the 6th Seoul International Competition Forum and the 6th East Asia Top Level Officials' Meeting on Competition Policy in Seoul. The FTC staff also participated in the 9th Annual Conference of the ICN in Turkey, the ICN Cartel Workshop in Japan, the ICN Unilateral Conduct Workshop in Italy, as well as the 1st SOM Meeting and the 2nd EC Meeting of the APEC, three OECD Competition Committee meetings in February, June, and October. These participations helped building partnership between the FTC and competition authorities around the world, as well as enhancing visibility of the FTC.

3) Facilitating New Competition Authorities to Improve Legislation

The FTC has been providing technical assistances to developing countries in the neighboring region or with close trade relationship. In 2010, the FTC provided technical assistances to Mongolia and the Indonesia through seminars held in Taiwan to build capacity in competition law enforcement. In addition, the FTC sent staff as lecturer for training course jointly held by Japan FTC and JICA for developing countries. In addition, to pursue capacity building of competition authorities in East Asia, a seminar on Cartel Enforcement and Cooperation among Competition Authorities was held in Jakarta, Commissioner Sun and lecturers from the OECD, Australia and Japan provided experiences to attendees from Hong Kong, the Indonesia, India, Malaysia, Mongolia, the Philippines, Singapore, and Vietnam. The technical assistance programs signified the major role of the FTC in this region.