

A Study on the Market Management for Textbook and Reference Books of the Elementary Schools and Junior High Schools as well as Applicability of the Fair Trade Law to the Selling Behavior of Textbook and Reference Book Markets

Abstract

The deregulation of textbook editing by private sector for the compulsory education commenced in Taiwan since 1996, and the competent education authority terminates issuing compulsory education textbooks in 2002. The textbook adoption brings a lot of peculiar benefit to publishers since it initiates a lot of reference books purchase. Lecturers and students are hard to transfer to different publisher's reference books if they use a specific publisher's textbook. Thus, the adoption of textbooks dominates the outcome of the publisher's profit. The expectation to the upcoming commercial benefit from the deregulation of the compulsory education textbook editing makes some publishers integrate together and drives the textbook publishing industry oligopoly.

Due to the publishing industry's oligopolistic characteristics, the textbook publishers in Taiwan have strong market power in textbook market, and those major publishers contend with each other in a diversified promotion activities except price competition. Publishers may influence the decision process of textbook adoption by providing different format of teaching tools and material with (a lot of) peculiar value to some schools and some specific lecturers. Although the compulsory education units like the elementary schools or junior high schools could make the final decision of the textbook's adoption, the collective textbook purchasing committee which organizes all the compulsory education units in every county born a little of countervailing power to drive publishers to lower their textbook prices. However, publishers could compensate their loss from textbook sales by means of raising the price of reference books, which is a complementary material of textbooks.

Based on the above-mentioned phenomenon, we would like to propose the following suggestions to the Fair Trade Commission and the competent educational authority.

Regarding to the Fair Trade Commission, there are five suggestions:

First, modification of Article 47 of the Copy Right Act.

Second, taking the lock-in effect into consideration between textbooks and reference books markets, the Fair Trade Commission should regulate the raise of prices of textbooks.

Third, the essential facility doctrine provides the Fair Trade Commission the legal position to deliver the following message to the competent education authority: “When they permit the publication of a textbook, it should force its publishers to allow other publisher(s) to publish its reference book in some legal licensing contracts, since it helps the reference book market competes efficiently.”

Fourth, the Fair Trade Commission should prohibit all possible side payments from publishers to lecturers, schools or the textbook adoption committee.

Fifth, the Fair Trade Commission should make sure if the organized collective purchase behavior breaks the Fair Trade Law or not.

There are three ways concerning what the competent educational authority should do.

First, the competent educational authority should introspect its leading collective bargaining mechanism, which might arouse possible doubts concerning violation of Fair Trade Law due to the limitation of collective behavior and the soaring price of the textbook market causing by its collective purchasing behavior. The competent educational authority ought to face this problem and figure out the best solutions. For example, the competent educational authority could purchase textbooks by proposing projects and dispense them to students under compulsory education to dissolve the uncertain doubts concerning breaking Fair Trade Law.

Second, it is essential that the competent educational authority be aware of the probability of the textbooks published by certain publishers could monopolize the

textbook market as a result of the textbook permission committee. The competent educational authority should clearly state in the verifying procedure that any approved and examined textbook ought to allow others to edit and publish reference books on its basis, in order to advance the constructive competition of the reference book market.

Third, the competent educational authority should propose projects positively to enable competent authorities, city or county governments to purchase tools that help improving teaching effects such as teaching materials, teaching tools, teachers' manuals etc, by collective purchase and dispensing to each school, teachers could avoid misleading links with publishers.