

NO **109**

TAIWAN FTC NEWSLETTER

2023.2

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Highwealth Corporation and Ju Feng Hotel Management Consultant Adopted Deceptive Means to Market Presale Homes in Violation of the Fair Trade Act

The FTC decided at the 1610th Commissioners' Meeting on Aug. 3, 2022 that Highwealth Corporation and Ju Feng Hotel Management Consultant Co., Ltd. had violated Article 25 of the Fair Trade Act by not providing homebuyers with the site plan, list of land ownership share for each unit, and presale home purchase agreement, all important presale home transaction information, when marketing the Bo Ai Yue (transliteration) presale home project. The practice was obviously unfair conduct able to affect trading order. The FTC imposed an administrative fine of NT\$1.2 million on Highwealth Corporation and NT\$400,000 on Ju Feng Hotel Management Consultant.

On Sep. 16, 2021, the Ministry of the Interior and concerned authorities inspected the reception center of the housing project and discovered that the site plan, list of land ownership share for each unit and presale home purchase agreement, all important transaction information, were not provided to be viewed by homebuyers. The FTC's investigation revealed that 50 units had been sold within less than one month from Aug. 25, when the sales began, to Sep. 16 in 2021. However, Highwealth Corporation and Ju Feng Hotel Management Consultant had never prepared the aforementioned important transaction information to be inspected by homebuyers.

Related drawings and texts for presale homes, the areas of the main building and ancillary structures of each unit and common properties, apportionment of the common area, and the standardized

contract specifying the rights and obligations of both the seller and the buyer are all important information able to affect consumers' transaction decisions. Builders are required to provide such information in writing to be viewed by homebuyers so that they can evaluate it carefully. Nevertheless, the builder and the sales agent in this case sold the units without providing such important transaction information. As most consumers did not have much experience in making real estate transactions, under information asymmetry they were likely to make purchase decisions without making sufficient assessments. The marketing practice not only created many victims, but was also unfair competition which could cause law-abiding competitors who would provide such important information to lose the opportunity to make

fair transactions. Therefore, it was obviously unfair conduct able to affect trading order in violation of Article 25 of the Fair Trade Act.

It is the dream of many people to possess a "home," but most people have rather limited experience as far as home purchasing is concerned. The FTC would like to urge all builders to have complete information ready before releasing presale homes so that consumers can give careful consideration before placing orders and purchasing the homes that they like. Builders should stick to the principle of disclosing information before contract signature, allowing homebuyers to read the purchase agreement, and marketing products lawfully without exaggeration. This is the only and the right way to sell presale homes. 

Domestic Bar Businesses Engaged in Concerted Action in Violation of the Fair Trade Act

Due to the pandemic, bars in the country suspended operation twice after 2020 and the impact on their incomes was rather huge. The FTC was informed that Long Chang (transliteration) Bar, Hao Men (transliteration) Bar, Hua Na (transliteration) Bar [Huang Guan (transliteration) Bar on the store sign] and Jin Chang (transliteration) Bar [Jin Cong (transliteration) Bar on the store sign] in Taipei City had simultaneously started to charge a NT\$500 fee per private room used by one to two persons and NT\$1,000 per private room used by three people or more on Feb. 1, 2021. It was a concerted action.

The FTC's investigation showed that many bars in Taipei City charged private room fees before the pandemic outbreak in 2020, but some of them stopped collecting the charges because it was hard to get customers. Later, due to the impact of the pandemic, bar operators began to collect the fees again to cope with management difficulties. Bar owners and related personnel often got together and visited each other's establishments to build up business relationships. The management styles of Long Chang Bar, Hao Men Bar, Hua Na Bar and Jin Chang Bar were similar and substitutability was high. In addition, their locations were close. Therefore, their management decisions had a considerable effect on one another.

In Jan. 2021, Hua Na Bar, Jin Chang Bar and Hao Men Bar announced that they would begin to

collect private room fees starting on Feb. 1, 2021 as a response to the policy of the hotel association. Long Chang Bar also made the same announcement soon afterwards. As a matter of fact, the four bars had passed the fee collection message when getting together or through their staff members. The FTC concluded that they confirmed each other's agreement on collecting private room fees through the aforesaid channels and established consensus. As a consequence, the four bars announced almost at the same time that they would begin to collect private room fees, NT\$500 per room used by one or two people and NT\$1,000 per room used by three people or more, on Feb. 1, 2021. The conduct was in violation of Article 15 (1) of the Fair Trade Act. Hence, the FTC decided to impose on the four bars administrative fines that totaled NT\$450,000 and issue an informer reward to the whistleblower.

Concerted actions are illegal conduct specifically forbidden by law. If businesses of the same profession find it hard to maintain normal operation during an economic depression and there is the need to engage in a concerted action due to one of the causes specified in the subparagraphs of the proviso set forth in Paragraph 1 of Article 15 of the Fair Trade Act, they can apply to the FTC for exceptional concerted action approval in advance in order not to break the law and get fined. 

Merger between Walsin Lihwa and Italian Company CAS Not Prohibited

The FTC decided at the 1618th Commissioners' Meeting on Sep. 28, 2022 to cite Article 13 (1) of the Fair Trade Act and approve the merger of Walsin Lihwa Corporation (hereinafter referred to as Walsin Lihwa), Luxembourgian company Walsin Lihwa Europe SARL and Luxembourgian company MEG S.A. with Italian company Cogne Acciai Speciali S.p.A. (CAS).

Through the newly-established Luxembourgian company Walsin Lihwa Europe SARL, Walsin Lihwa indirectly acquired more than one third of the shares and gained control of the management and personnel appointment and dismissal of CAS. Since the condition achieved the filing threshold, Walsin Lihwa filed a merger notification with the FTC.

Walsin Lihwa and CAS both produced and sold stainless steel billets, wire rods and straight rods. Hence, they were horizontal competitors. Moreover,

since billets were the principal material in the production of wire and straight rods whereas wire rods could also be used to manufacture straight rods, potential vertical relations also existed between the companies. As CAS mainly operated in the European market, the company did not sell any products to Taiwan. After the merger went through, the stainless steel billet, wire rod and straight rod business of Walsin Lihwa would not be affected while there would still be competition from other domestic and foreign enterprises. In other words, the merger was not going to have any impact on or lead to competition restraints in the stainless steel billet, wire rod and straight rod markets in the country.

After reviewing the case, the FTC concluded that the merger would raise no concern about competition restraints and, therefore, approved the merger by citing Article 13 (1) of the Fair Trade Act. 

Yongzu Development Posted False Advertisements in Violation of the Fair Trade Act

When shopping for a house, many people will probably see in advertisements a small area on the top floor that is referred to as part of the interior space. However, the use of this extra space on the rooftop is legal only when it complies with the use specified in the building permit. Homebuyers must check and confirm in order not to be cheated.

When marketing the “Shanghao Shijia (transliteration)” housing project located in Hemei Town, Changhua County, besides displaying the layout of a B2 unit in a post on Facebook, Yongzu (transliteration) Development Co., Ltd. also provided at the reception center advertising brochures which contained B2 and C2 unit layouts and the rooftop first level was referred to in the 5F floor plan as an interior space with workout equipment and sofas. It gave people the impression that the area could be used legally. Nevertheless, the FTC’s investigation revealed that the rooftop first level, as specified in the building

permit and building use permit, was meant to be a landing space and there was no record showing that the company had applied for permission to use the space for other purposes. Therefore, people living in this unit could not legally use the area as part of the interior space as suggested in the advertisements. Apparently, the advertising for the housing project was inconsistent with the fact. For this reason, the FTC decided at the 1601st Commissioners’ Meeting on Jun. 1, 2022 that the company had violated Article 21 (1) of the Fair Trade Act and imposed on it an administrative fine of NT\$400,000.

The FTC would like to remind consumers that rooftop levels can only be used for approved purposes. When seeing such areas indicated as to be used for other purposes in advertisements, they should double-check the legality of such uses in order not to violate building regulations. 

Greenleaf International in Violation of Multi-level Marketing Supervision Act

The FTC decided at the 1612th Commissioners' Meeting on Aug. 17, 2022 that Greenleaf International (Taiwan) Ltd., a multi-level marketing business, had violated Article 19 (1), Article 23 (1) and Article 25 (1) of the Multi-level Marketing Supervision Act, respectively, for inappropriately allowing participants to have two or more rights to promote multi-level marketing organizations, adopting illegitimate means to impede participants from returning goods in accordance with the Multi-level Marketing Supervision Act, and failing to keep marketing management documents in the main office. The FTC imposed an administrative fine of NT\$300,000 on the company.

After receiving complaints from private citizens, FTC staff members visited Greenleaf International to conduct business inspections and found out that a participant surnamed Wang had purchased considerable management rights and the company did not keep participation contracts in the main office. Therefore, the FTC launched an investigation.

The investigation revealed that Greenleaf International was well aware that the participant surname Wang had been given promotions quickly within a short period and had collected big bonuses and used the money to buy considerable management rights. The company not only had not refused, but had also agreed to handle the purchases by adopting unlawful means of creating specific corporate projects and establishing hand-written declarations to allow Mr. Wang and others to possess considerable management rights. The bonuses acquired by those individuals had not come from legitimate sales of products after assisting

other participants to set up multi-level marketing networks. In other words, participants purchased large quantities of products because they were enticed by bonuses and the prospect of obtaining sizable management rights. Moreover, in order to prevent Mr. Wang and other participants from regretting making the purchases, the company resorted to the unlawful means of signing with them special corporate project application affidavits in which they agreed not to withdraw or return goods. Thus, the participants were impeded from canceling or terminating contracts. The practice was in violation of Articles 19 (1) and 23 (1).

In addition, Greenleaf International did not keep the participation contracts and marketing management documents associated with Mr. Wang and others in the main office. It was in violation of Article 25 (1) of the Fair Trade Act.

In a multi-level marketing system, participants obtain reasonable profits by promoting and selling products and recommending others to join the organization and set up marketing networks through which more efforts are made to promote products and sell them to consumers. A multi-level marketing business should check the purchases made by participants and the management rights of participants from time to time to ensure that the operations do not deviate from the nature of multi-level marketing and the business's reputation is protected. The FTC would like to remind consumers to evaluate their management ability before purchasing management rights and to develop the marketing organization steadily. This is the correct way to make profits. 

Simplification of Administrative Procedures Amendment of the Instructions for Application for Concerted Action Permission and Permission Extension

Background description

In the past, enterprises filing merger notifications and applications for concerted action permission were requested to present hard copies of related documents. As a result of the digitization of papers and the tendency to simplify administrative procedures to make the application process more convenient, the FTC on Oct. 1, 2021 added uploading and querying functions to the System for Online Filing of Merger Notifications and Concerted Action Applications so that enterprises could upload merger notifications online. This time, in order to allow enterprises to apply for concerted action permission online as well as simplify the application procedure, the FTC amended the Instructions for Application for Concerted Action Permission and Permission Extension (hereinafter referred to as the Instructions).

Revisions made to allow online application

Before the amendment, applicants for concerted action permission were required to bind the application form and all documents into a booklet and submit it to the FTC as well as upload the electronic file to the System for Online Filing of Merger Notifications and Concerted Action Applications. To promote more comprehensive use of the online filing system, Point 3 was added in this amendment to enable applicants to choose between applying by submitting hard copies and applying online. Those opting to upload applications to the System for Online Filing of Merger

Notifications and Concerted Action Applications do not need to present hard copies except when the FTC finds it necessary to inspect them.

Since applicants can still choose to file applications by presenting hard copies, Point 2 was amended to include the regulation that those filing hard copies are still required to bind the application form and sheets in the A4 format, printed on both sides, into a booklet. They also have to provide the electronic file of the application form and attachments, but there is no regulation on how the electronic file is to be presented.

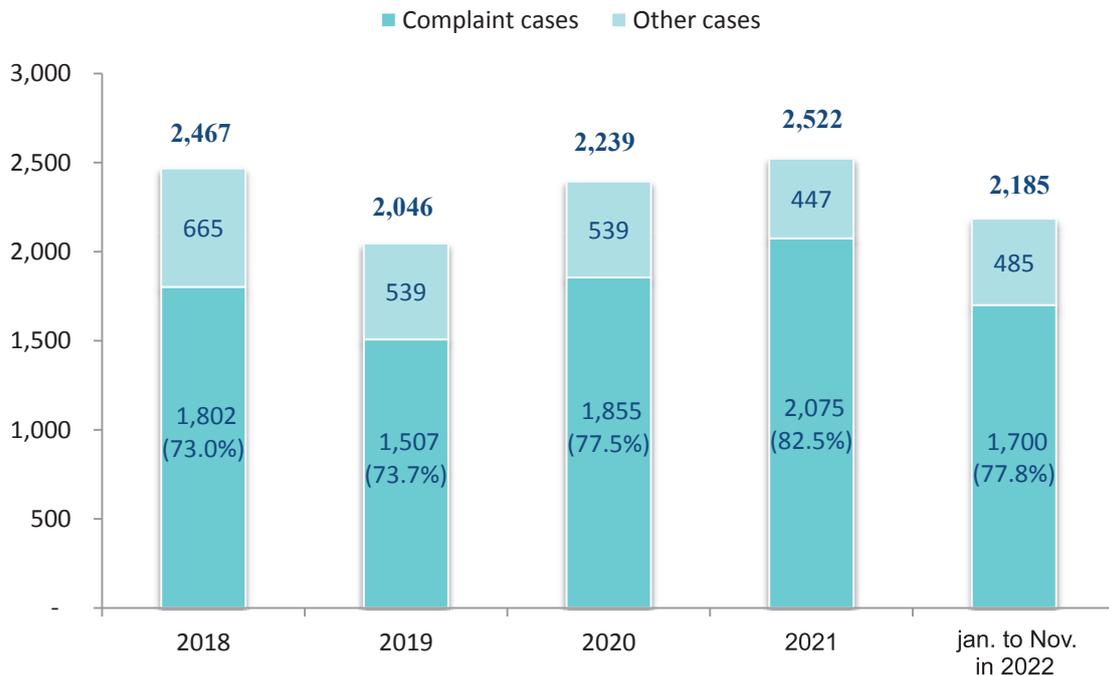
Simplification of application documents to expedite the process and make the procedure more convenient for applicants

The addition of participants is common after applications for concerted action permission are filed. However, when that happens, it is only the original applicant or applicants who are required to file the addition with the FTC for reference. No further review or competition analysis of the relevant market will be conducted. Hence, in this amendment, the regulation regarding the submission of the financial statement and business report for the preceding fiscal year and information concerning horizontal competition and the market structures of upstream and downstream businesses were deleted to simplify the application process and cut down on administrative costs. 

Statistics on Complaint Cases

Complaint cases received are cases in which informers present to the FTC personally signed written (including emails, faxes, etc.) or oral statements (which are filed as records or complaints) that describe concrete evidence of activities suspected of being in violation of the Fair Trade Act or the Multi-level Marketing Supervision Act or personally signed statements transferred from other agencies. According to statistics, the FTC filed 2,185 cases between January and November 2022, including 1,700 cases (78% of the total cases) that were handled after receiving complaints. The FTC reviewed 1,828 cases (including 128 cases which remained unclosed at the end of 2021). From 2018 to the end of November 2022 (hereinafter referred to as the five recent years), the FTC processed 8,939 complaint cases in total. (Figure 1)

Figure 1 Complaint Cases Processed in the Five Recent Years



Note: “Other cases” include concerted action applications, merger notifications, requests for interpretation and cases in which ex officio investigations were launched.

Between January and November 2022, the FTC handled and closed 1,674 cases, made sanctions in 34 of them, issued 37 administrative dispositions, and decided on non-disposition in 34 cases. Among the 8,898 complaint cases processed in the five recent years, the FTC handed down sanctions in 128 of them, issued 140 administrative dispositions, and decided on non-disposition in 327 cases. (Table 1)

Among the complaint cases handled between January and November 2022, the FTC made sanctions and issued administrative dispositions in 37 cases and the fines imposed and sustained in 31 cases amounted to NT\$27.73 million. Observed by type of violation, the NT\$14.35 million imposed for concerted actions formed the largest proportion (51.7%), followed by the NT\$5.98 million (21.6%) imposed for deceptive and obviously unfair practices. Among the complaint cases processed in the five recent years, the FTC gave sanctions and issued 140 administrative dispositions and the fines imposed and sustained in 131 cases amounted to NT\$119.98 million. Observed by type of violation, the NT\$75.35 million (62.8%) imposed for concerted actions was the highest, followed by the NT\$22.70 million (18.9%) imposed for false or misleading advertising. (Figure 2)

Table 1 Results of Complaint Cases Processed in the Five Recent Years

Unit: Case, %

Year	Number of closed cases	Sanctions Made		No Sanctions Made	Suspension of Review	Number of cases involving civil or criminal cases or the jurisdiction of other agencies	Consolidated cases	Others
		Number of cases	Number of dispositions issued					
Total	8,898	128	140	327	8,204	3,962	237	2
2018	1,782	35	36	81	1,617	739	49	-
2019	1,502	19	21	77	1,386	662	20	-
2020	1,815	13	13	58	1,692	809	50	2
2021	2,125	27	33	77	1,928	960	93	-
Jan. and Nov. in 2022	1,674	34	37	34	1,581	792	25	-

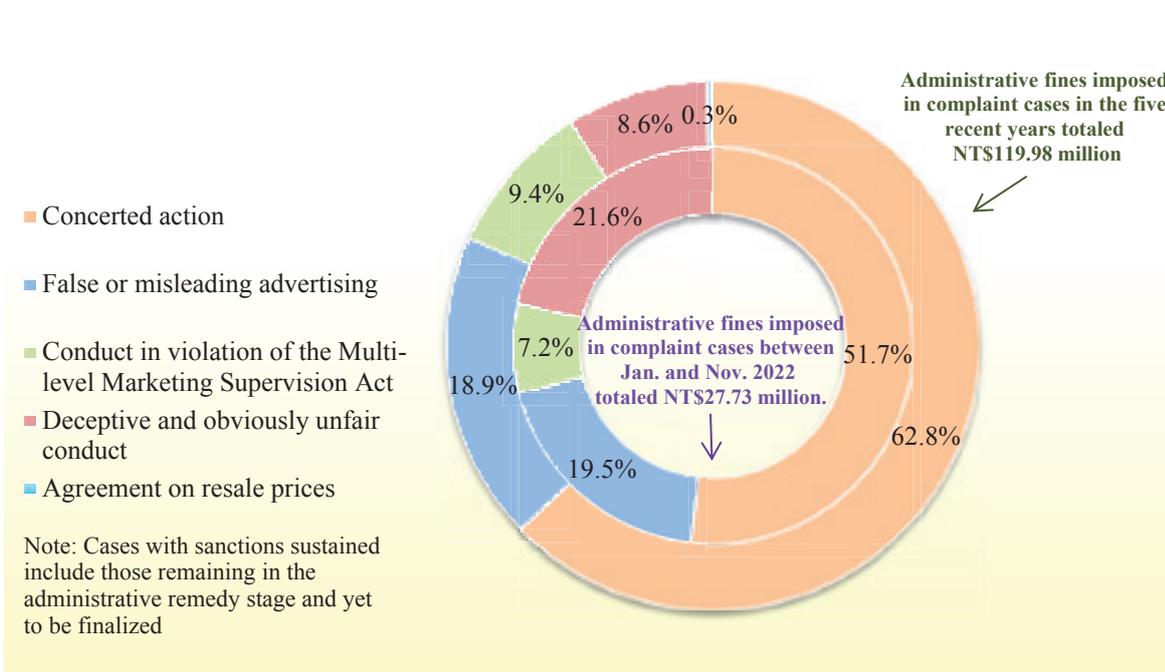
Notes:

1. Administrative sanctions: When an administrative sanction is made, it means that the FTC decides on sanctioning the offender and issues a disposition or a warning letter after concluding that the offender has violated regulations enforced by the FTC. Issuance of warning letters began in 2022.

2. Cases suspended include those involving criminal or civil cases, the jurisdiction of other agencies and procedural non-compliance.

3. Others: including cases in which administrative disposal was determined and cases in which the investigation was suspended according to Article 28 of the Fair Trade Act.

Figure 2 Complaint Cases with Administrative Fines Sustained in the Five Recent Years—by Type of Violation



Activities in November and December 2022

- 🚩 On Nov. 4, the FTC conducted a “Various Aspects of Trading Traps” activity at the Consumer Protection Officers Office, Department of Legal Affairs, Taipei City Government (videoconferencing).
- 🚩 On Nov. 7, 14 and 21, the FTC conducted the “2022 Workshop on the Fair Trade Act and Cases for Elites in Northern Taiwan in Taipei City.”
- 🚩 On Nov. 9, the FTC attended the APEC Workshop on Competition Policy and Sustainable Development (videoconferencing).
- 🚩 On Nov. 11, the FTC held a promotional presentation entitled “Analysis of International Antitrust Cases and an Overview of Economic and Trade Developments in Tainan City.”
- 🚩 On Nov. 16 and 17, the FTC conducted the Fair Trade Act and Multi-level Marketing Supervision Act Training Camp respectively at the Graduate School of Law of National Chung Hsing University and the College of Law of Tunghai University.
- 🚩 On Nov. 18, the FTC presented a special topic lecture entitled “Analysis of Fair Trade Act Cases and Explanation of the Latest Amendment to the Regulations on Payment of Rewards for Reporting of Illegal Concerted Actions in Kaohsiung City.”
- 🚩 From Nov. 28 to Dec. 2, FTC Vice Chairperson Chen Chih-min led a delegation to attend the November Routine Meeting of the OECD Competition Committee and the OECD Global Forum on Competition in Paris, France.
- 🚩 On Dec. 5, and 6, the FTC held the 29th Competition Policy and Fair Trade Act Seminar in Taipei City.
- 🚩 On Dec. 2, the FTC attended the CPRC 5th Osaka Seminar—A Conference on the Ecosystem of Digital Platforms (videoconferencing).
- 🚩 From Dec. 6 to 8, the FTC attended the ICN Cartel Workshop in New Zealand.
- 🚩 On Dec. 8 and 9, the FTC attended the ABA 2022 Antitrust in Asia held in Singapore.
- 🚩 From Dec. 12 to 16, the FTC attended the Economics Institute for Competition Enforcement Officials at George Mason University in the US.
- 🚩 On Dec. 22, the FTC conducted a “Various Aspects of Trading Traps” activity at the Kaohsiung Senior Citizen Care Association.



1. The FTC conducting a “Various Aspects of Trading Traps” activity at the Consumer Protection Officers Office, Department of Legal Affairs, Taipei City Government (videoconferencing)
2. The FTC holding a promotional presentation entitled “Analysis of International Antitrust Cases and an Overview of Economic and Trade Developments in Tainan City”



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3. The FTC conducting the Fair Trade Act and Multi-level Marketing Supervision Act Training Camp, respectively, at the Graduate School of Law of National Chung Hsing University and the College of Law of Tunghai University
4. The FTC presenting a special topic lecture entitled "Analysis of Fair Trade Act Cases and Explanation of the Latest Amendment to the Regulations on Payment of Rewards for Reporting of Illegal Concerted Actions in Kaohsiung City"
5. FTA Vice Chairperson Chen Chih-min calling on the Chairperson Benoit Cœuré (left) and Vice Chairperson Fabienne Siredey-Garnier (right) when leading a delegation to attend the November Routine Meeting of the OECD Competition Committee and the OECD Global Forum on Competition
6. The FTC holding the 29th Competition Policy and Fair Trade Act Seminar in Taipei City

Dear Readers,

In order to improve the quality of our Taiwan FTC Newsletter, we would like to request a few minutes of your time to fill in the questionnaire below. It would be appreciated if you could please directly fill in the questionnaire at the website (<https://www.ftc.gov.tw>). Thank you for your assistance and cooperation.

Regards
Fair Trade Commission

Taiwan FTC Newsletter Reader's Survey

■ Nationality : _____

■ Category of your organization

Government Private Corporation Embassy NGO Media Scholars

Other (please specify) _____

1. What do you think of the design of the Taiwan FTC Newsletter, including style and photos?

Very Good Good Average Bad Very Bad

2. Are the articles clear and understandable or difficult to understand?

Very Clear Clear Average Difficult Too Difficult

3. Are you satisfied with the contents of the Taiwan FTC Newsletter, including choice of subjects, length and thoroughness of articles?

Very satisfied Satisfied Average Dissatisfied Very Dissatisfied

4. Which section is your favorite one?

Selected Cases FTC Statistics FTC Activities FTC International Exchanges

5. What more would you like to see in the Taiwan FTC Newsletter, e.g. different subjects? Do you have any other suggestions?

Your advice : _____

Taiwan FTC Newsletter

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