



# NO 111 TAIWAN FTC NEWSLETTER

2023.6

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- ▶ 21 Xiaoliuqiu Snorkeling Tour Services Jointly Raised Charges in Violation of the Fair Trade Act
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- ▶ Tongguan Gas Engineering Continued to Violate the Fair Trade Act by Ignoring the FTC's Disposition Ordering the Company to Stop Adopting Deceptive Practices to Market Gas Safety Devices
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## Ramble Café and Ramble Co., Ltd. Failed to Disclose Franchise Information in Violation of the Fair Trade Act

The FTC decided at the 1624<sup>th</sup> Commissioners' Meeting on Nov. 9, 2022 that Ramble Café, a sole proprietorship, and Ramble Co., Ltd. had violated Article 25 of the Fair Trade Act by not fully disclosing important franchise information prior to contract signature when recruiting franchisees for the Ramble Café chain. The two companies did not provide information regarding the amount or estimated amount needed to purchase products and raw materials before starting operation, the amount or estimated amount needed to purchase products and raw materials during operation, and the specifications and brands of products and raw materials to be purchased from the franchisor or parties designated by the franchisor. The practice was obviously unfair conduct able to affect trading order. The FTC imposed administrative fines of NT\$80,000 and NT\$100,000 on the two companies, respectively.

Due to the diversity and prosperity of franchise business, joining franchises has become a major channel for people in the country who want to start their own business operations. Franchisors have the responsibility to provide important franchise information for prospective franchisees to think things over before making the decision. Above all, the costs needed to purchase products and raw materials before and during operation as well as the specifications and brands of such products and materials are important trading information that prospective franchisees require to evaluate whether they want to join the franchise. Such information can be provided in hardcopy or through email and communications software like LINE,

for example.

Being the side with the information advantage, Ramble Café and Ramble Co., Ltd. did not fully disclose the three aforesaid types of important trading information during the recruitment process. The practice made it difficult for people interested in joining the franchise to estimate the amount of funds needed to invest before starting operation, the expenses they would incur during operation and the restrictions there would be. The condition impeded prospective franchisees from making correct transaction decisions, jeopardized their interests, and also reduced the opportunities for competitors to obtain franchisees. It was obviously unfair conduct able to affect trading order. For this reason, the FTC imposed administrative fines of

NT\$80,000 and NT\$100,000 on the two companies, respectively.

Franchisors and franchisees are business startup partners. The FTC urges franchisors to fully communicate with prospective franchisees during the recruitment process and provide the latter with complete information with regard to franchise costs and conditions in order to build decent cooperative relationships to create a win-win situation together and minimize franchise transaction disputes. The franchisor must abide by the Fair Trade Commission Disposal Directions (Guidelines) on the Business Practices of Franchisors (<https://www.ftc.gov.tw/internet/english/doc/docDetail.aspx?uid=750&docid=10264>). 

## 21 Xiaoliuqiu Snorkeling Tour Services Jointly Raised Charges in Violation of the Fair Trade Act

Xiaoliuqiu is suitable for snorkeling all year round because the weather is not affected by northeasterly monsoon winds. Due to the pandemic, snorkeling tours were cancelled between May and August 2021. Later, after snorkeling tours were reopened on Aug. 24, 2021, 21 snorkeling tour services negotiated and jointly increased the snorkeling tour service fee per person from NT\$300 (or NT\$350) to NT\$400. As a result, they were fined by the FTC.

After receiving complaints, the FTC launched an investigation and discovered that the Liuqiu Tourism Development Association had met with the snorkeling tour services to draw up the Xiaoliuqiu Snorkeling Tour Services Epidemic Prevention Guide on Aug. 18, 2021 to apply for approval to reopen snorkeling tours. Through a LINE group and meetings, they discussed and exchanged ideas and reached a mutual understanding on increasing snorkeling tour service charges. At the same time, they also signed a joint statement to reduce the number of tourists per coach from ten to five tourists per coach in order to enhance epidemic prevention. As a result, the costs of business operation and epidemic prevention measures went up. Therefore, the snorkeling tour service fee per person had to be adjusted to NT\$400, and up to 21 snorkeling tour services participated.

As many as 21 snorkeling tour services participated in the concerted action and they were the principal service providers in the snorkeling tour service market in Xiaoliuqiu. After snorkeling tours were reopened

in Xiaoliuqiu on Aug. 24, 2021, these businesses immediately raised the service charge per person from NT\$300 or NT\$350 to NT\$400 and continued to talk about maintaining the service fee through their LINE group. They kept an eye on each other to make sure each snorkeling tour service adhered to the decision. The practice was in violation of the regulation against concerted actions specified in Article 15 of the Fair Trade Act.

Price-associated concerted actions are some of the core targets in the enforcement of the Fair Trade Act. After taking into account the impact of the pandemic on the businesses in question, the FTC only imposed a low fine of NT\$100,000 or NT\$150,000 on each business. The fines totaled NT\$2.35 million. Meanwhile, the Liuqiu Tourism Development Association was also given a fine of NT\$150,000 for prompting the 21 snorkeling tour services to engage in the concerted action.

The FTC would like to remind concerned businesses that concerted actions are illegal practices specifically forbidden by law. If enterprises in the same profession find it difficult to stay in business due to economic recessions and need to engage in concerted practices as a result of the causes prescribed in the subparagraphs of Paragraph 1 of Article 15 of the Fair Trade Act, they must apply to the FTC in advance for exceptional concerted action permission in order not to break the law.



## **Taiwan Cement, Goldsun Building Materials, Ya Tung Ready Mixed Concrete and Some Ready Mixed Concrete Businesses in Taoyuan Engaged in a Concerted Action in Violation of the Fair Trade Act**

The FTC initiated an ex officio investigation to see if there was any concerted action among ready mixed concrete suppliers in the northern region. The outcome showed evidence that Taiwan Cement Corp., Goldsun Building Materials Co., Ltd., Ya Tung Ready Mixed Concrete Co., Ltd., three nationwide operators, and 15 regional cement businesses in Taoyuan City, or 18 ready mixed concrete suppliers in total, had engaged in a concerted action. For this reason, the FTC decided at the 1637<sup>th</sup> Commissioners' Meeting on Feb. 15, 2023 that the mutual understanding achieved by the 18 businesses to allocate the ready mixed concrete trading counterparts in Taoyuan City and prevent competition was able to affect the supply-demand function in the ready mixed concrete market in Taoyuan City. The conduct was a concerted action prohibited by the Fair Trade Act. Therefore, the FTC imposed on the offenders administrative fines ranging from NT\$500,000 to NT\$50 million. The fines totaled NT\$213.10 million.

The investigation of the FTC revealed that the 15 ready mixed concrete businesses in Taoyuan City had begun to meet regularly to discuss and coordinate the allocation of ready mixed concrete supply cases in the Taoyuan area since November 2018. They paid fees and installed monitoring cameras to verify supplied quantities and supervise each other. Through their chat group, the 15 businesses sent meeting location and time messages among themselves, talked about supply quantity verification schedules and reported supplied quantities. Being competitors, they even informed each other of their price quotations or inquired whether it was all right to give quotations or

what the right amount to quote would be. Apparently, the purpose was to prevent price cutting to get customers.

In the meantime, Taiwan Cement, Goldsun Building Materials and Ya Tung Ready Mixed Concrete also sold ready mixed concrete in Taoyuan City and attended trade association get-togethers. The FTC also found solid evidence showing that the three major players had participated in trading counterpart allocation meetings and given price quotations.

Since the ready mixed concrete industry involved high product homogeneity, price became the main factor in business competition. The 18 businesses coordinated to allocate supply cases and prevent fights over customers. The conduct had a significant impact on the competition mechanism in the ready mixed concrete market in Taoyuan City. It was an illegal concerted action. Furthermore, the prevention of fights over customers could have led to gradual price increases and would indirectly push up construction costs.

Concerted actions have always been a key target of investigation for the FTC. To stop illegal concerted actions, the FTC has increased concerted action whistleblower rewards by a large margin, by up to NT\$100 million, to encourage people to report illegal activities. Meanwhile, the FTC would also like to urge related businesses to take advantage of the leniency policy to turn themselves in and apply for a reduction in fines or an exemption if they participate in illegal concerted actions.



## **Tongguan Gas Engineering Continued to Violate the Fair Trade Act by Ignoring the FTC's Disposition Ordering the Company to Stop Adopting Deceptive Practices to Market Gas Safety Devices**


The FTC decided at the 1638<sup>th</sup> Commissioners' Meeting on Feb. 22, 2023 to order Mr. Ye, formerly responsible for Tongguan Gas Engineering Co., to stop using deceptive practices to market gas safety devices and also transfer the case to be handled by a judicial agency after Mr. Ye ignored the FTC's Disposition Kung-Ch'u-Tzu No. 110065 dated Sep. 23, 2021 ordering the company to cease adopting deceptive practices to market gas safety devices and continuing to violate Article 25 of the Fair Trade Act.

Mr. Ye was in charge of Tongguan Gas Engineering Co. The company printed out and distributed service notices using the name "Greater Taipei Area Gas" which was similar to the name of the local natural gas utility enterprise. Then, the company's staff members called on private residences. The uniforms and employee passes they wore misled the people into thinking that they were sent by the local natural gas utility enterprise to inspect gas pipes and let them in. After inspections, the staff members told the people that equipment replacement was needed and collected the charges. The FTC investigated, and concluded that the practice was deceptive and sanctioned Mr. Ye in Sep. 2021. However, after Mar. 2022, there were people receiving the same service notice and workers wearing uniforms and employee passes visiting private homes to perform gas pipe inspections and sell safety devices again. Apparently, Mr. Ye continued to break the law.

According to the Natural Gas Enterprise Act, only natural gas utility enterprises can conduct gas pipe safety inspections. Over the years, related private businesses have often printed and distributed service

notices in the name of natural gas utility enterprises to deceive consumers. The FTC has handed down sanctions in a number of cases and issued news releases. This time, some private citizens checked online after receiving service notices and found out that Tongguan Gas Engineering Co. had been sanctioned by the FTC and reported to the FTC.

During the investigation, the FTC also discovered that Mr. Ye had adopted the same marketing approach in Feb. 2022 in Zhongzheng District of Taipei City and he was convicted of criminal fraud by the Taiwan Taipei District Court in July the same year. The latest investigation showed that the people receiving service notices after Mar. 2022 were all residents of Datong District and Daan District in Taipei City. Therefore, the FTC transferred the case to be handled by a judicial agency.

The FTC would like to remind people one more time. When receiving gas safety inspection notices, they must confirm the authenticity by asking the local natural gas utility enterprise or checking online. If service workers are actually at the door, people should make sure that they find out the enterprise that they really represent and also carefully evaluate whether having the suggested gas safety equipment installed is really necessary before deciding to make the purchase or not. In cases where the purchase decision is made out of indiscretion, they should act according to the regulation on door-to-door sales set forth in the Consumer Protection Act and ask the business for a refund within the statutory period in order to protect their interests. 


## **Mr. Luo and Two Other Individuals Violated the Multi-level Marketing Supervision Act by Starting Operation without Filing with the FTC in Advance**

The FTC decided at the 1624<sup>th</sup> Commissioners' Meeting on Nov. 9, 2022 that Mr. Luo, Mr. Li and Mr. Lin had violated Article 6 (1) of the Multi-level Marketing Supervision Act by starting their extraterritorial multi-level marketing operations without filing with the FTC in advance. The FTC imposed an administrative fine of NT\$150,000 on each of Mr. Luo and Mr. Li and NT\$100,000 on Mr. Lin.

The three individuals joined the US multi-level marketing business NBM Company at the end of 2019 and began to market the company's products in Taiwan and recruit participants. Mr. Luo was in charge of promoting and explaining products, arranging product orders for participants, and calculating member bonuses. Mr. Li and Mr. Lin were responsible for explaining the bonus system of NBM Company by using online communications software and LINE. Since the system involved multi-level bonus and commission distribution and team remuneration calculation, the characteristic complied with the

description of multi-level marketing specified in Article 3 of the Multi-level Marketing Supervision Act.

Mr. Luo, Mr. Li and Mr. Lin recruited participants, promoted and marketed products, and provided assistance in the bonus system operation. The conduct was an implementation of extraterritorial multi-level marketing and the three individuals had to be considered a multi-level marketing organization as described in Article 4 (2) of the Multi-level Marketing Supervision Act. Under such circumstances, by failing to file their operation with the competent authority in advance, they had violated the aforementioned regulation.


The FTC would like to remind people intending to bring in or conduct extraterritorial multi-level marketing business that they have to act according to Article 6 of the Multi-level Marketing Supervision Act and file with the FTC in advance by presenting documents carrying statutorily required information in order not to break the law. 

## Changtaijin Construction Posted False Advertisements in Violation of the Fair Trade Act

The FTC decided at the 1633<sup>rd</sup> Commissioners' Meeting on Jan. 11, 2023 that Changtaijin Construction Co., Ltd. had violated Article 21 (1) of the Fair Trade Act by posting on Facebook the claim "brand-new small luxury homes 400 meters from Jiantan MRT Station" as well as pictures showing how the 6m-high duplex apartments could be used to market the "Yuanshan Cangfu" housing project. The practice was a false and misleading representation with regard to content and use of product and could also affect transaction decisions. Therefore, the FTC imposed an administrative fine of NT\$1 million on the company.

When marketing the housing project of concern, Changtaijin Construction posted the claim "brand-new small luxury homes 400 meters from Jiantan MRT Station" and pictures suggesting how the 6m-high duplex apartments could be used. The practice gave consumers the impression that the 6m-high duplex

apartments could be used as normal residences. Nonetheless, the FTC's investigation revealed that the building use permit for the housing project indicated that the units were meant to be for common retail businesses and offices. Moreover, floors with ceiling heights exceeding 3.6 meters could not be altered to become residential homes. In other words, the advertisement was inconsistent with the fact in violation of Article 21 (1) of the Fair Trade Act.

Possessing a home is the dream of many people and buying a home is a lifetime event. The FTC would like to remind builders that they have the responsibility to provide correct information. Before making purchases, consumers can also go online to check the building license and building use permit for the housing project to find out whether the advertising is consistent with the facts to ensure they can legally use the space purchased. 


## Marketing by Internet Celebrities Brought under Regulation to Combat Online False Advertising

In light of increasing sales of products or services by Internet celebrities and streamers, the FTC approved the amendment to the Fair Trade Commission's Disposal Directions (Guidelines) on Online Advertisements at the 1637<sup>th</sup> Commissioners' Meeting on Feb. 15, 2023 to step up the prevention of false advertising online. The amendment was mainly intended to bring Internet celebrities and social media users under regulation. If false advertising is confirmed, administrative fines ranging from NT\$50,000 to NT\$25 million will be imposed. In addition, a number of examples of illegal online advertising patterns are also provided to make it easier for concerned businesses to understand.

Advertisers may not post false advertisements, or they will be considered to be in violation of Article 21 of the Fair Trade Act. When Internet celebrities and streamers market their own products or services or products or services provided by suppliers, they are sellers. What consumers see is the lively content presented by Internet celebrities. If there is any

false representation, the Internet celebrity has to be regarded as the advertiser and fined according to Article 21 of the Fair Trade Act.

Even if the Internet celebrity is only a spokesperson, and not the seller, saying on behalf of the supplier that the product or service is worth recommending or has proven effective based on personal experience, the Internet celebrity is still an endorser as described in the Fair Trade Act in spite of he or she not being the advertiser. If any false representation jeopardizes the interests of consumers, the Internet celebrity and the supplier will be held jointly responsible for the false advertisement and sanctioned in accordance with Article 21 of the Fair Trade Act.

The FTC would like to urge Internet celebrities and social media users to abide by related regulations in the Fair Trade Act when they post text or videos, either as sellers or endorsers, to market products or services online. They must be careful not to cross the line by posting false advertisements. 



## Statistics on Competition Restraint Cases

Due to increasingly fierce business competition, it is not uncommon for some enterprises to abuse their market status by restricting the business activity of others to guard their interests or jointly jack up prices amidst commodity price hikes. In order to remove practices that impede competition and promote free competition, the FTC has adopted measures to bring practices that are likely to restrain competition under control, such as monopolization, concerted actions and mergers.

Statistics show that the FTC handled 11,051 cases, including reported cases and the ones in which ex officio investigations were initiated, between 2018 and the end of March 2023 (hereinafter referred to as the five recent years). 11,060 cases (including cases remaining unclosed at the end of the previous year) were closed. After the deduction of cases that were outside the jurisdiction of the FTC, were procedurally inconsistent or involved repeated complaints about the same causes, there remained 1,093 cases (hereinafter referred to as violation cases). When analyzed by violation pattern (cases involving multiple illegal practices repeatedly calculated), the 578 unfair competition cases (52.9%) formed the largest group, followed by the 304 competition restraint cases (27.8%). (Table 1)

Table 1 Statistics on Violation Cases in the Five Recent Years

Type of violation	2018	2019	2020	2021	2022	Jan. to Mar. 2023	Total	Ratio to total violation cases (%)
Competition restraint	78	53	53	71	34	15	304	27.8%
Unfair competition	140	99	88	103	110	38	578	52.9%
Multi-level marketing	47	59	40	28	34	4	212	19.4%
Others	6	-	1	1	2	-	10	0.9%

Notes:

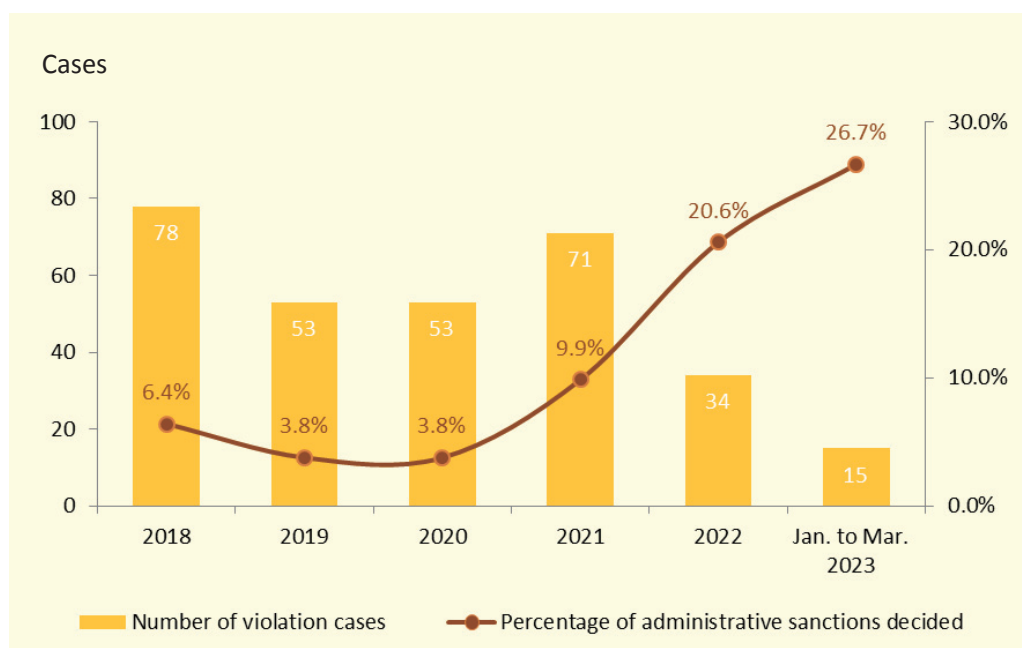
1. Some cases involved violation of two or more regulations; therefore, the total violations exceeded the 1,093 violation cases.

2. The term “others” refers to cases involving repeated sanctions, circumvention without justification or refusal to cooperate during the investigation.

A total of 304 competition restraint cases were closed in the five recent years, including 27 cases in which administrative sanctions were decided. The percentage of violation cases in each year went up from 6.4% in 2018 to 26.7%. (Figure 1) Meanwhile, 272 cases, 89.5%, were concluded after it was confirmed that

they involved no violation of regulations under the jurisdiction of the FTC. Judged by type of violation, the 171 cases, 56.3%, associated with concerted actions formed the largest group, followed by the 80 cases, 26.3%, involving boycotting, differentiated treatment and the adoption of illegitimate means to obtain trading counterparts (Article 20 of the Fair Trade Act).

Figure 1 Percentages of Competition Restraint Cases with Administrative Sanctions Decided



Note: Percentage of administrative sanctions decided=administrative sanction cases/ number of violation cases

In the five recent years, the FTC issued 486 dispositions (warning letters) to offenders in violation of regulations under the jurisdiction of the FTC. NT\$2.59365 billion in fines were sustained, including NT\$2.42524 billion, 93.5%, imposed on 129 businesses involved in 35 competition restraint cases. When observed by the type of competition restraint, the NT\$2.41494 billion, accounting for 99.6% of the total fine handed down for competition restraints, imposed on businesses engaging in concerted actions topped the list, followed by the NT\$7 million, or 0.3%, imposed for unlawful mergers. Judged according to the average fine per enterprise, the average amount imposed for competition restraints was NT\$18.80 million per enterprise, with NT\$22.16 million imposed for illegal concerted actions being the highest, followed by NT\$1.25 million imposed for boycotting, differentiated treatment and the adoption of illegitimate means to obtain trading counterparts (Article 20 of the Fair Trade Act). (Table 2)

Table 2 Fines Imposed for Competition Restraints Sustained in the Five Recent Years – by Type of Violation

Unit: 10 thousand; number of enterprises

Type of violation	Fine imposed	Number of enterprises	Average fine per enterprise
Competition restraint	242,524	129	1,880
Merger	700	14	50
Concerted action	241,494	109	2,216
Resale price restriction	80	4	20
Other competition restraint	250	2	125

Note: Other competition restraints are the practices described in Article 20 of the Fair Trade Act.

## FTC Activities in March and April 2023

- ▲ On Mar. 7 and 8, the FTC attended the ICN 2023 11th Unilateral Conduct Workshop in Japan.
- ▲ On Mar. 29, the FTC conducted the Fair Trade Act and Multi-level Marketing Supervision Act Training Camp at the Department of Public Finance and Taxation of Takming University of Science and Technology.
- ▲ On Apr. 18, the teachers and students of the Graduate School of Law of Soochow University attended the Fair Trade Act and Multi-level Marketing Supervision Act Training Camp at the FTC.
- ▲ On Apr. 27, the FTC held the Various Aspects of Trading Traps presentation at the Health Center of Keelung City.
- ▲ On Apr. 28, the FTC held the Presentation on Disposal Directions (Guidelines) on Real Estate Advertising and Past Cases in Taoyuan City.



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- 1.The FTC attending the ICN 2023 11th Unilateral Conduct Workshop in Japan
- 2.The teachers and students of the Graduate School of Law of Soochow University attending the Fair Trade Act and Multi-level Marketing Supervision Act Training Camp at the FTC
- 3.The FTC holding the Various Aspects of Trading Traps presentation at the Health Center of Keelung 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

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## 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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