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## **II. Summary Analysis**

## Processing of Cases

### 1. Cases Received

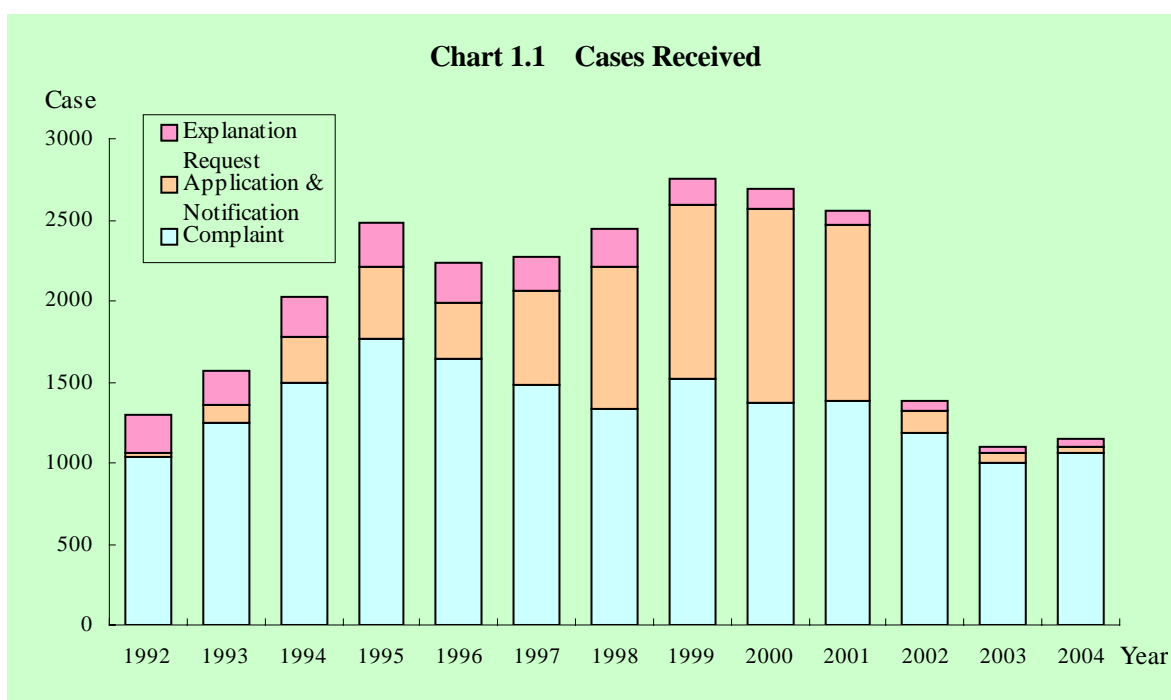
The Fair Trade Commission (hereinafter referred as the “FTC”) received 1,148 cases in 2004, 48 cases or 4.36% up from the preceding year. Under processing in 2004 were 1,425 cases (including 277 cases carried over from the preceding year). Of the total, 1,099 cases were closed, 57 cases or 4.93% down from the preceding year. Pending as of the end of 2004 were 326 cases, 49 cases or 17.69% up from a year earlier. (Table 1.1)

<b>Table 1.1 Processing of Cases</b>				
Unit: Case, %				
Year	Cases under Processing		Cases Closed	Cases Pending at Year-end
	Carried Over from Preceding Year	Received in Current Year		
2002	450	1,387	1,504	333
2003	333	1,100	1,156	277
2004	277	1,148	1,099	326
% Change 04/03	-16.82	4.36	-4.93	17.69

By type of cases received in 2004, complaints increased 59 cases or 5.91% from the preceding year to 1,058 cases. Concerted action application decreased 10 cases to 2 case. Merger notifications decreased 17 cases or 34.00% to 33 cases. Explanation requests increased 16 cases or 41.03% to 55 cases. By composition, complaints ranked the top, accounting for 92.16% of total cases received in 2004, followed by explanation requests, accounting for 4.79%. Compared with the preceding year, the shares of complaints and explanation requests increased 1.34 percentage points and 1.25 percentage points respectively. Meanwhile, the shares of merger notifications and concerted action applications decreased 1.68 percentage points and 0.92 percentage points respectively. The cumulative total number of cases received by the FTC as of the end of 2004 was 25,969. (Table 1.2 and Chart 1.1)

<b>Table 1.2 Cases Received by Type</b>					
Unit: Case, %					
Year	Total	Complaint	Application for Concerted Action	Application & Notification for Merger	Request for Explanation
2002	1,387	1,186	8	132	61
2003	1,100	999	12	50	39
2004	1,148	1,058	2	33	55
% Change 04/03	4.36	5.91	-83.33	-34.00	41.03
Composition (%)					
2002	100.00	85.51	0.57	9.52	4.40
2003	100.00	90.82	1.09	4.55	3.54
2004	100.00	92.16	0.17	2.87	4.79
PP Change 04/03	-	1.34	-0.92	-1.68	1.25

Note: PP stands for percentage point.



Of 1,425 cases processed in 2004, 1,099 cases were concluded in the year. The case conclusion ratio was 77.12%, 3.55 percentage points down from the preceding year. Cumulatively, 25,643 cases were concluded as of the end of 2004, and the cumulative case conclusion ratio was 98.74%. (Table 1.3)

**Table 1.3 Case Conclusion Ratio**

Unit: %

Year	Case Conclusion Ratio in Current Year				
	Total	Complaint	Application for Concerted Action	Application & Notification for Merger	Request for Explanation
2002	81.87	79.55	80.00	99.30	100.00
2003	80.67	79.46	100.00	98.04	92.31
2004-	77.12	76.03	50.00	91.18	94.83
PP Change 04/03	-3.55	-3.43	-50.00	-6.86	2.52
Cumulative Case Conclusion Ratio					
2002	98.60	97.87	98.23	99.98	100.00
2003	98.88	98.34	100.00	99.98	99.86
2004	98.74	98.18	99.21	99.95	99.86
PP Change 04/03	-0.14	-0.16	-0.79	-0.03	-

Note: PP stands for percentage point.

## 1) Complaints

Complaints received in 2004 totaled 1,058 cases, 59 cases or 5.91% up from 999 cases in the preceding year. Under processing in 2004 were 1,331 cases of complaints (including 273 cases carried over from the preceding year). Of the total, 1,012 cases were concluded in 2004. By result of processing, decision was made for 101 cases or 9.98% of total cases concluded in 2004, the number of cases subject to decision decreased 22 cases from the preceding year. No-action decision was set for 176 cases or 17.39% of total cases concluded, and the number of cases subject to no-action decision decreased 19 from the preceding year. The reasons for no-action decision were that those cases did not meet the substantive criteria for decision. Eight cases or a share of 0.79% were subject to administrative measurements, 5 cases up from the preceding year. Those administrative measurements included: (1) recommending competent authorities to take certain actions in cooperation with the FTC, (2) advising enterprises in question to take corrective measures, and (3) adopting business corrective programs.

Review and processing were terminated for 680 cases or 67.19% of total cases under processing, and the number of such cases increased 21 cases from the preceding year. For the reason of terminating processing, 11 cases or a share of 1.62% were involved in criminal charges, 224 cases or a share of 32.94% were involved in civil matters, and 237 cases or a share of 34.85% were considered outside the FTC's jurisdiction or were referred to other agencies for proper action. For cases didn't fit the procedural requirements such as complaints withdrawn, not able to contact the complainants, failed to receive documents required, or reported anonymously totally counted 208 cases or a share of 30.59%. (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	
2002	428	1,186	1,284	189	218	4	798	75	330
2003	330	999	1,056	123	195	3	659	76	273
2004	273	1,058	1,012	101	176	8	680	47	319
Year	% Change 04/03		Composition (%)						% Change 04/03
2002	-5.10	-14.12	100.00	14.72	16.98	0.31	62.15	5.84	-22.90
2003	-22.90	-15.77	100.00	11.65	18.47	0.28	62.40	7.20	-17.27
2004	-17.27	5.91	100.00	9.98	17.39	0.79	67.19	4.65	16.85

Complainants and complained entities could be classified into categories as the general public, business firms, trade associations, government agencies, foundations, and elected representatives. In 2004, of 1,012 cases of complaints concluded, 67.29% filed by the general public formed the largest category, and the percentage share showed increased 2.04 percentage points. Next one was business firms posting a share of 22.73%, 1.33 percentage points up from the preceding year. Of complained entity, business firms represented the largest category accounted for 89.72%, and the second largest was government agency posting a share of 3.26%. (Tables 1.5 and 1.6)

**Table 1.5 Composition of Complaints – By Classification of Complainant**

Unit: %								
Year	Total	General Public	Business Firms	Trade Association	Gov't Agency	Foundation	Elected Representative	Others
2002	100.00	64.17	21.81	1.87	8.49	0.55	0.31	2.80
2003	100.00	65.25	21.40	3.31	6.91	0.95	0.76	1.42
2004	100.00	67.29	22.73	1.88	5.83	0.39	0.79	1.09
PP Change 04/03	-	2.04	1.33	-1.43	-1.08	-0.56	0.03	-0.33

Note: PP stands for percentage point.

**Table 1.6 Composition of Complaints – By Classification of Complained Entity**

Unit: %								
Year	Total	General Public	Business Firms	Trade Association	Gov't Agency	Foundation	Cooperative	Others
2002	100.00	3.82	87.69	2.10	2.65	1.09	0.31	2.34
2003	100.00	4.07	88.35	1.42	3.22	0.48	0.47	1.99
2004	100.00	2.27	89.72	1.58	3.26	0.99	0.20	1.98
PP Change 04/03	-	-1.80	1.37	0.16	0.04	0.51	-0.27	-0.01

Note: PP stands for percentage point.

For cases concluded in 2004, to divide complained enterprises in terms of the Standard Industrial Classification of the Republic of China (SIC), trade ranked the top, reporting 29.35% of the total complaints which showed an increase of 3.31 percentage points from the preceding year. Manufacturing came next with a share of 13.24%, 3.62 percentage points down from the preceding year. Finance and insurance counting the third reported a share of 11.86%, 0.45 percentage points down from the preceding year. (Table 1.7)

**Table 1.7 Industrial Classification of Complained Enterprises**

Unit: %

Industry	2002	2003	2004	Change in PP
Total	100.00	100.00	100.00	--
Agriculture, Forestry, Fishing and Animal Husbandry & Mining and Quarrying	0.31	1.80	1.48	-0.32
Manufacturing	16.59	16.86	13.24	-3.62
Electricity, Gas & Water	1.64	1.42	1.68	0.26
Construction	2.73	1.99	1.28	-0.71
Trade	23.44	26.04	29.35	3.31
Accommodation & Eating-drinking Places	1.40	1.51	1.98	0.47
Transportation, Storage & Communications	6.85	5.02	9.49	4.47
Finance & Insurance	13.78	12.31	11.86	-0.45
Real Estate & Rental and Leasing	7.94	7.76	6.72	-1.04
Professional, Scientific & Technical Services	3.50	4.45	5.63	1.18
Educational Services	3.12	1.89	1.58	-0.31
Health Care & Social Welfare Services	0.86	1.14	1.09	-0.05
Cultural, Sporting & Recreational Services	6.70	6.44	6.22	-0.22
Other Services	5.69	5.78	4.55	-1.23
Public Administration & Others	5.45	5.59	3.85	-1.74

Cases closed might not be within the FTC's jurisdiction; also some complaints were not in conformity with the required procedure or in duplicate with other cases. In 2004 there were 285 complaint cases concluded applicable to the Fair Trade Act. By type of illegal action, 40 cases or a share of 14.04% (of total cases) were concerned with anti-competitive practice, including 13 cases or 4.56% with illegal concerted action, 12 cases or 4.21% with impeding fair competition. A total of 214 cases or a share of 75.09% were concerned with unfair trade practice, including 114 cases or 40.00% with false, untrue or misleading advertisement, 69 cases or 24.21% with deceptive or obviously unfair conducts, and 25 cases or 8.77% with counterfeiting commodities or trademarks. Twenty-five cases or a share of 8.77% were concerned with improper multi-level sales. (Table 1.8)

For 101 cases of complaints or 35.44% (of total complaints), ruling was set that actions violated the FTA. Following statistics included the multiple charges: on the top there were 69 cases or 68.32% with unfair trade practices (38 cases were false, untrue or misleading advertisement, and 30 deceptive or obviously unfair conducts), 20 cases or 19.80% of total complaints were concerned with improper multi-level sales, and 10 cases or 9.90% with anti-competitive practices (4 cases were illegal mergers action, and 3 cases of concerted actions and impeding fair competition respectively). (Table 1.9)

**Table 1.8 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)
2002	411	54	12	2	23	1	16
2003	321	52	8	2	20	3	19
2004	285	40	5	7	13	3	12
Year	Unfair Trade Practice	Counter-feiting Commodities or Trademarks	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)
2002	315	28	131	8	148	39	3
2003	229	19	111	5	94	37	3
2004	214	25	114	6	69	25	6

**Table 1.9 Complaints Subject to Decision Ruling – By Practices violating Fair Trade Act**

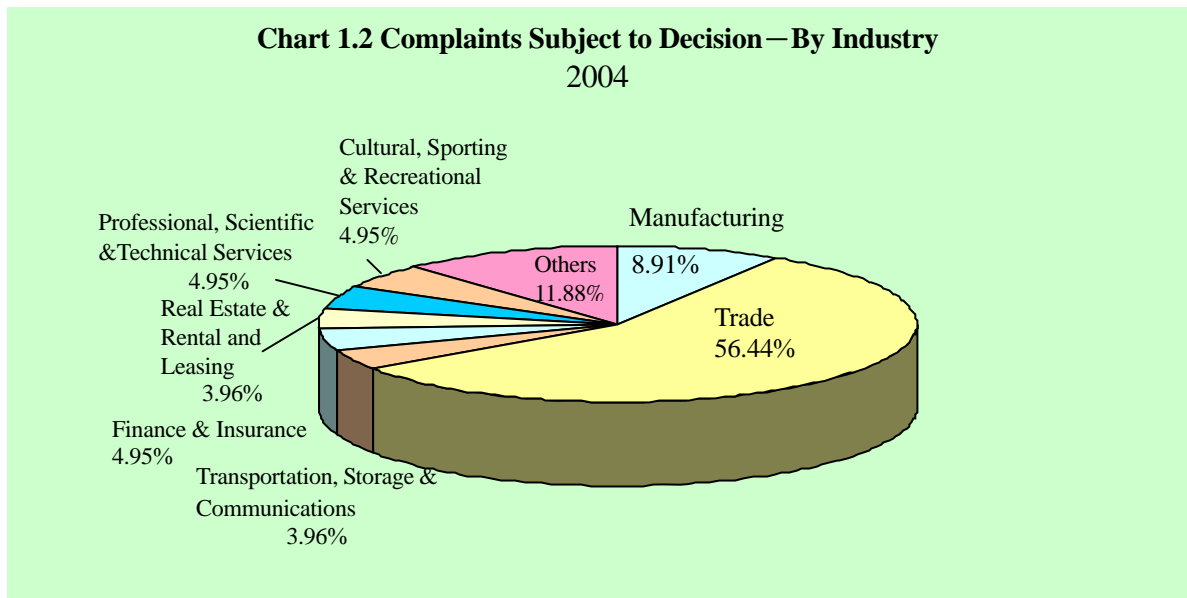
Unit: Case

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)
2002	189	15	3	1	8	1	3
2003	123	16	-	1	6	2	7
2004	101	10	-	4	3	-	3
Year	Unfair Trade Practice	Counter-feiting Commodities or Trademarks	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)
2002	142	1	58	-	84	31	1
2003	86	2	39	-	48	20	3
2004	69	1	38	1	30	20	3

Note : Illegal actions add up to 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, trade ranked the top, accounting for 56.44%, manufacturing came next, accounting for 8.91%. The first two together accounted for nearly 65%. (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 room for explanation before ambiguity be clarified. To pursue smooth enforcement of the FTA and give a clear direction for enterprises to follow, the FTC has, since its establishment, been devoted to express explanation statements and setting guidelines for enterprises to better understand the FTC's attitude and policy direction regarding enforcement of the laws. From such understanding, enterprises can adjust their business conducts to conform to the spirit of free and fair competition.

In 2004, the FTC received 55 explanation requests, showing an increase of 16 requests or 41.03% from 39 requests in the preceding year. For 40 requests of 55 concluded in 2004, the FTC had come up with explanation statement, responded with established precedents, or replied according to clear-cut provisions of laws. For 14 requests, the FTC did not respond because they were beyond the FTC's responsibility or because their submission was not in the proper procedure. The left one request was dealt with request. (Table 1.10)

**Table 1.10 Results of Explanation Requests**

Unit: Case

Year	Processing of Case		Results of Case Processing					Case Pending at Year-end
	Carried Over from Preceding Year	Received in Current Year	Total	Explanation	Reply	Review Terminated	Cases Consolidated	
2002	10	61	71	8	37	24	2	-
2003	-	39	36	4	24	7	1	3
2004	3	55	55	9	31	14	1	3
% Change 04/03	--	41.03	52.78	125.00	29.17	100.00	-	-

By identification of explanation applicant, firms were the largest category, which accounted for 30.91% of total applicants. Following behind were the general public with a share of 25.45%. (Table 1.11)

**Table 1.11 Explanation Requests – By Identification Classification of Applicants**

Unit: %

Year	Total	General Public	Business Firm	Foundation	Trade Association	Gov't Agency	Others
2002	100.00	12.68	33.80	8.45	11.27	29.58	4.22
2003	100.00	11.11	30.55	2.78	16.67	27.78	11.11
2004	100.00	25.45	30.91	3.64	18.18	20.00	1.82

### 3) Mergers

By merger, an enterprise may expand its business scale to increase the efficiency of operation and gain advantages from the economic scale. However, expanding the scale of an enterprise may raise concentration of a market and weaken or even impede competition. To avoid the undesired results, the Fair Trade Act requires an enterprise whose scale reaches certain level to obtain the FTC's prior approval for its merger with others. 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" system, merger threshold was loosened and changed into a dual thresholds model, in terms of financial sectors and non-financial sectors.

In 2004, a total of 33 mergers were notified to the FTC, showing a decrease of 17 cases or 34.00% in the preceding year. Thirty-one of the 34 mergers were decided in 2004, 17 of them were not prohibited, 14 terminated due to non-notifiable or insufficient information. (Table 1.12)

**Table 1.12 Applications & Notifications for Merger**

Unit: Case

Year	Cases under Processing		Results of Processing		
	Carried Over from Preceding Year	Received in Current Year	Total	Approved	Merger not Prohibited
2002	10	132	141	93	24
2003	1	50	50	-	31
2004	1	33	31	-	17
Year	Results of Case Processing				Cases Pending at Year-end
	Rejected	Merger Prohibited	Termination of Review	Cases Consolidated	
2002	-	1	21	2	1
2003	-	-	19	-	1
2004	-	-	14	-	3

Seventeen mergers were not prohibited in 2004 under the FTC's review. By type of merger (which may be classified into more than one type will be included in the classification categories accordingly), 12 cases or a share of 70.59% were concerned with acquiring or holding equity shares in or contributing capital for another enterprise (per Sub-paragraph 2, Paragraph 1, Article 6 of the Fair Trade Act) ranking the top. Four cases or a share of 23.53% were concerned with directly or indirectly controlling business operation or personnel change of other enterprise (per Sub-paragraph 5); 3 cases or a share of 17.65% with merged with another enterprise (per Sub-paragraph 1); and 2 cases or a share of 11.76% with taking over another enterprise or being taken over by another enterprise all or a major part of operation or assets (per Sub-paragraph 3). Please refer to Appendix 3 for merger not prohibited in 2004. (Table 1.13)

**Table 1.13 Mergers**

Unit: Case

Year	Mergers Approved & not Prohibited	By Types of Mergers (Per Paragraph 1, Article 6, Fair Trade Act)				
		Subpara. 1	Subpara. 2	Subpara. 3	Subpara. 4	Subpara. 5
2002	117	6	23	2	-	93
2003	31	9	18	4	1	5
2004	17	3	12	2	-	4
% Change 04/03	-45.16	-66.67	-33.33	-50.00	-100.00	-20.00

Note: Figures may add up to 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 competition mechanism and damaging consumers' interests, the FTA specifically prohibits

horizontally concerted actions which damage the market mechanism in such aspects as production, merchandise trade, and servicing demand and supply. However, seven types of concerted action listed in Article 14 of the FTA, considered advantageous to the economy and in the interests of the public, can be exempted from the above-mentioned prohibition provided that approval is obtained from the FTC.

There were two applications for concerted action in 2004, 10 cases down from the preceding year. One case in 2004 received approval, in accordance with the Subparagraph 5, Article 14 of the Fair Trade Act. (Tables 1.14 and 1.15)

**Table 1.14 Applications for Concerted Action** Unit: Case

Year	Cases under Processing		Results of Processing				Cases Pending at Year-end	
	Carried Over from Preceding Year	Received in Current Year	Total	Approved	Rejected	Partially Approved		Termination of Review
2002	2	8	8	6	-	-	2	2
2003	2	12	14	12	-	2	-	-
2004	-	2	1	1	-	-	-	1

**Table 1.15 Types of Applications for Concerted Action** Unit: Case

Year	Concerted Action Approved	By Types of Concerted Action (Per Article 14, Fair Trade Act)		
		Subpara. 1	Subpara. 2	Subpara. 5
2002	6	2	2	2
2003	14	1	8	5
2004	1	-	-	1

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

Seventeen concerted action cases approved by the FTC remained effective as of the end of 2004. Seven were concerned with joint imports of such bulk cargoes as wheat, barley, soybean, and corn, proved per Paragraph 5 Article 14 of FTA. Most enterprises participating in the above-mentioned concerted actions belong to the food processing industry. These concerted actions were approved because in the reason that the applications 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.

One case concerned with joint venture formed to manufacture and sell 69KV-161KV connecting appliances, and another 6 cases concerned with joint ventures formed to jointly quarry out stones in the Hualien River proved per Paragraph 2, Article 14 of the FTA. One case concerned with joint credit card

services between financial institutions and the United Credit Card Processing Center, and two cases regarding unconditional endorsement and transfer of ticket vouchers on Taipei-Tainan and Taipei-Taitung routes between airline companies, proved per Paragraph 1, Article 14 of the FTA. (Table 1.16)

Concerted Action	Valid Period of Concerted Action	No. of Enterprises	Applicable FTA Article
1. Joint manufacture, sales & imports of 69KV-161KV connecting appliances by a new joint venture	03/11/1999~ 02/14/2005	10	Para. 2, Article 14; Para. 2, Article 15
2. Joint shipping of soybean & corn under joint procurement program (Major League)	09/01/1999~ 8/31/2005	61	Para. 5, Article 14; Para. 2, Article 15
3. Joint shipping of barley under joint procurement program	01/01/2000~ 12/31/2005	8	Para. 5, Article 14; Para. 2, Article 15
4. Joint shipping of corn under joint procurement program (Feed League)	03/01/2000~ 02/28/2006	37	Para. 5, Article 14 Para. 2, Article 15
5. Joint shipping of soybean under joint procurement program	08/30/2000~ 08/31/2006	19	Para. 5, Article 14 Para. 2, Article 15
6. Joint shipping of wheat under joint procurement program	10/01/2000~ 09/30/2006	41	Para. 5, Article 14 Para. 2, Article 15
7. Joint shipping of soybean under joint procurement program	12/12/2000~ 12/31/2006	4	Para. 5, Article 14 Para. 2, Article 15
8. Joint IC card sales & services by financial institutions under extended joint program	12/13/2000~ 12/31/2006	34	Para. 1, Article 14
9. Joint applying unconditional endorsement and transfer of ticket vouchers on Taipei-Tainan route	Until 03/31/2005	3	Para. 1, Article 14
10. Joint applying unconditional endorsement and transfer of ticket vouchers on Taipei-Taitung route	Until 02/28/2005	2	Para. 1, Article 14
11. Joint shipping of corn under joint procurement program (Dachan Greatwall League)	06/01/2003~ 05/31/2006	12	Para. 5, Article 14
12. Joint quarrying out stones in Hualien River, the first area	Until 08/31/2005	9	Para. 2, Article 14
13. Joint quarrying out stones in Hualien River, the second area	Until 08/31/2005	4	Para. 2, Article 14
14. Joint quarrying out stones in Hualien River, the third area	Until 08/31/2005	4	Para. 2, Article 14
15. Joint quarrying out stones in Hualien River, the fourth area	Until 08/31/2005	8	Para. 2, Article 14
16. Joint quarrying out stones in Hualien River, the fifth area	Until 08/31/2005	3	Para. 2, Article 14
17. Joint quarrying out stones in Hualien River, the sixth area	Until 08/31/2005	2	Para. 2, 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 101 investigation cases itself in 2004. The cumulative number of investigation activities initiated by the FTC as of the end of 2004 totaled 540 cases. Of the total, 482 cases were concluded and the remaining 58 cases were under processing. For the 84 cases concluded in 2004, the FTC had devoted 599 person-times in manpower, held 16 session of public hearing or seminar, and investigated 244 enterprises. By processing result, decision ruling was handed down for 34 cases due to violation against the FTA. A total of 34 decision statements were issued for 38 enterprises. Fifty cases were found not violating the FTA, or not subject to the FTC's jurisdiction, or simply required attention to their development. (Table 1.17)

**Table 1.17 FTC Self-initiated Investigation**

Year	Cases Subject to Decision			No-action Decision	Subject to Administrative Action	Investigation Terminated
	Initiated Cases	Decision Statements	Firms Subject to Decision			
2002	29	29	29	5	6	2
2003	33	64	89	9	8	26
2004	34	34	38	16	8	26

Unit: Case

Note: The pieces of decision statement and the firms subject to decision ruling were net of those whose decision ruling had been revoked or which had been included in cases of complaints.

Among concluded self-initiated cases in 2004, 18 improper multi-level sales schemes ranked the top, 10 false, untrue or misleading advertisement came next, and then there were 2 deceptive or obviously unfair conducts, 2 illegal concerted actions, 1 impeding fair competition case, 1 damaging business reputation case and 1 others (failing to correct misconduct within time set and refusing to submit information required during investigation). (Table 1.18)

**Table 1.18 Decision for FTC Self-initiated Investigations – By Practices violating FTA**

Unit: Case

Year	Decisions for FTC Self-initiated Investigation	Anti-competitive Practice	Monopoly	Concerted Actions	Resale Price Maintenance	Impeding Fair Competition
			(Article 10)	(Article 14)	(Article 18)	(Article 19)
2002	29	2	1	1	-	-
2003	64	7	-	4	-	3
2004	34	3	-	2	-	1
Year	Unfair Trade Practice	Counterfeiting Commodities or Trademarks (Article 20)	False, Untrue or Misleading Advertisement	Deceptive or Obviously Unfair Conducts	Improper Multi-level Sales	Others (2 <sup>nd</sup> Part of Articles 41 & 43)
			(Article 21)	(Article 24)	(Articles 23 & 23-1~23-4)	
2002	3	-	2	1	24	-
2003	47	-	7	40	11	2
2004	13	1	10	2	18	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 Activities

In 2004, decision rulings of complaints and FTC self-initiated investigation were set for 135 cases, 52 cases or 27.81% 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, 9.63% of total illegal actions belonged to anti-competitive practice, 60.74% to unfair trade practice, 28.15% to improper multi-level sales, and 2.96% to other improper behaviors (failing to correct misconduct within time set and refusing to submit information required during investigation). (Table 1.19)

In 2004, by major division of the ROC Standard Industrial Classification (SIC), trade ranked the top, accounting for 62.22% of total cases of decision ruling, 5 percentage points up from the preceding year. The next was manufacturing which reported a share of 7.41%, 2.75 percentage points down. By division of various trades, retail trade ranked the top, accounting for 54.81% of total cases of decision ruling (including nonstore retailers accounting for 29.63%). (Table 1.20)

**Table 1.19 Decision Ruling by FTC—By Illegal Action**

Unit: Case

Year	Decisions	Anti-competitive Practice	Monopoly (Article 10)	Mergers (Article 11)	Concerted Actions (Article 14)	Resale Price Maintenance (Article 18)	Impeding Fair Competition (Article 19)
2002	218	17	4	1	9	1	3
2003	187	23	-	1	10	2	10
2004	135	13	-	4	5	-	4
Year	Unfair Trade Practice	Counterfeiting Commodities or Trademarks (Article 20)	False, Untrue or Misleading Advertisement (Article 21)	Damage to Business Reputation (Article 22)	Deceptive or Obviously Unfair Conducts (Article 24)	Improper Multi-level Sales (Articles 23 & 23-1~23-4)	Others (2nd Part of Article 41 & Article 43)
2002	145	1	60	-	85	55	1
2003	133	2	46	-	88	31	5
2004	82	2	48	1	32	38	4

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

**Table 1.20 Composition of Decision Ruling Cases—By Industry**

Unit: %

Year	Total	Agriculture, Forestry & Animal Husbandry, Mining & Quarrying	Manufacturing	Electricity, Gas & Water	Construction	Trade
2002	100.00	0.46	14.22	-	4.13	53.67
2003	100.00	-	10.16	0.53	5.36	57.22
2004	100.00	1.48	7.41	1.48	1.48	62.22
Year	Accommodation & Eating-drinking Places	Transportation, Storage & Communications	Finance & Insurance	Real Estate & Rental Leasing	Professional, Scientific & Technical Services	
2002	-	0.92	0.46	6.88	2.29	
2003	-	1.07	2.67	5.88	2.14	
2004	1.48	2.96	3.71	2.96	4.45	
Year	Educational Services	Health Care & Social Welfare Services	Cultural, Sporting & Recreational Services	Other Services	Public Administration & Others	
2002	-	-	1.83	8.26	6.88	
2003	0.53	0.53	2.68	4.28	6.95	
2004	1.48	-	5.19	2.22	1.48	



Total of 160 firms were subject to the decision ruling for offending the Fair Trade Act in 2004, showing a decrease of 100 firms or 38.46% from the preceding year. A firm may commit 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, 21 firms committed concerted action, and 6 firms were illegal mergers. Under the category of unfair trade practice, 55 firms committed false, untrue or misleading advertisement, 33 firms committed deceptive or obviously unfair conducts, 38 firms committed improper multi-level sales, and 4 firms failed to correct its misconduct or refused to provide information required. (Table 1.21)

**Table 1.21 Firms Subject to Decision Ruling by FTC – By Illegal Action**

Unit: Firm

Year	Business Subject to Decision	Anti-competitive Practice	Monopoly	Mergers	Concerted Actions	Resale Price Maintenance	Impeding Fair Competition
			(Article 10)	(Article 11)	(Article 14)	(Article 18)	(Article 19)
2002	302	52	6	16	29	1	3
2003	260	63	-	1	50	2	10
2004	160	31	-	6	21	-	4
Year	Unfair Trade Practice	Counterfeiting Commodities or Trademarks	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)
2002	174	1	62	-	112	75	1
2003	165	2	49	-	117	32	5
2004	89	2	55	1	33	38	4

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 2004, 117 cases were ordered to stop or correct illegal actions, 3 cases required by Article 13, 94 cases required by Article 41, and 21 cases required by Article 42 of the FTA. There were 115 cases imposed of administrative fines, including 4 cases under the Article 40 of the FTA, 70 cases under the former part of the Article 41, 4 cases under the latter part of the Article 41, 9 cases under paragraph 2, the Article 42, 35 cases fined for improper multi-level sales according to paragraph 3, the Article 42, and 2 cases under the Article 43 of the of FTA. The fines totaled NT\$ 70.72 million. (Table 1.22)

**Table 1.22 Penalty under Decision Ruling by FTC**

Unit: Case

Year	Decisions	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
2002	218	-	171	24	1	136	-
2003	187	-	164	14	1	109	3
2004	135	3	94	21	4	70	4
Year	Fined				Operation Suspended (Article 42)	Ordered to Close Business (Article 42)	
	Article 42			Article 43			
	Para. 1	Para. 2	Para. 3				
2002	-	7	48	-	-	2	
2003	3	4	26	2	-	-	
2004	-	9	35	2	-	-	

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

No decision made by the Fair Trade Commission in 2004 was repealed through appeals or administrative proceedings. The cumulative number of decisions made by the FTC as of the end of 2004 totaled 2,333 cases. Of the total, 100 decisions were repealed (including decision partially repealed), 2,251 decisions were sustained, accounted 96.49% of all decisions. By type of illegal actions repealed, 35 cases concerning with deceptive or obviously unfair conducts ranked top, 23 cases were concerned with false, untrue or misleading advertisement came next. (Table 1.23)

**Table 1.23 Decisions Repealed – By Type of Illegal Actions**

Unit: Case

The year decisions made	Number of decisions repealed	Monopoly (Article 10)	Concerted Actions (Article 14)	False, Untrue or Misleading Advertisement (Article 21)	Illegal Multi-level Marketing Practice (Art. 23, Para. 1-4, Art. 23)	Deceptive or Obviously Unfair Conducts (Article 24)
2002	13	2	-	2	1	8
2003	9	-	3	1	-	5
2004	-	-	-	-	-	-

Notes: 1. Number of decisions repealed includes decisions overruled and decisions 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)

## 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 new Appeal Act effective on July 2000, all appeal cases should raise to the Executive Yuan. There were 80 appeal cases in 2004, 134 cases were concluded, 116 of them were rejected, 2 original decision were repealed, 13 cases were not accepted, and 3 cases were withdrawn.

From July 2000 to the end of 2004, the cumulative number of appeal cases reached 817. The number of appeal cases, net of these double appealed, was 600 cases. From the establishment of the FTC in February 1992 to the end of 2004, the cumulative number of appeal cases reached 1,629, net of these double appealed was 1,295 cases. Among them 845 cases or 65.20% were raised in objection to decision, 306 cases or 23.61% were raised in objection to earlier no-action decision, respectively accounted 36.22% and 9.49% of the decisions and no-action decisions of the FTC. (Table 1.24)

Year	Case Received		Cases Concluded		
	Carried Over from Preceding Year	Received in Current Year	Total	Rejected	
2002	93	175	211	166	
2003	57	190	160	132	
2004	87	79	134	116	
Year	Cases Concluded				Case Pending
	Original Decision Repealed	Not Accepted	Withdrawn	Partially Rejected, Partially not Accepted	
2002	5	25	-	15	57
2003	11	13	3	1	87
2004	2	13	3	-	32

From July 2000 to the end of 2004, a cumulative 254 cases of administrative petition raised to the High Administrative Court were closed. Fifty-one cases were rejected due to not in conformity with the law, and 163 cases were rejected due to unreason. For 28 cases, original decision and decision of appeal were repealed. For 2 cases, original decision, decision of appeal, and decision of re-appeal were repealed. For 1 case, original decision and decision of appeal was partially repealed. For 2 cases, decision of appeal was repealed and other charges were rejected. Seven cases were withdrawn. Eighty-nine cases of administrative petition raised to the Supreme Administrative Court were closed.

Thirteen cases were rejected due to not in conformity with the law, 64 cases were rejected due to unreason, and 1 case was withdrawn. For one case, original decision, decision of appeal and decision of re-appeal were all repealed. For 9 cases, the original judgments were abolished and referred to the High Administrative Court. For 1 case, the original judgments were abolished and the Highest Administrative Court made a judgment itself.

A total of 210 cases were raised to the Administrative Court in objection to the Executive Yuan's decisions of re-appeal from 1992 to June 2000. As a result, 180 cases were rejected, 1 case of original decision and decision of appeal was partially repealed, 22 cases of original decision, decision of appeal and decision of re-appeal were repealed, 1 case of original decision, decision of appeal and decision of re-appeal was partially repealed, 1 case of decision of appeal and decision of re-appeal was repealed, 1 case of re-appeal decision was repealed, 3 cases were withdrawn, 1 case was referred to the High Administrative Court.

## 6. Court Cases

According to the statistics of the Judicial Yuan, in 2004, the district criminal courts concluded 15 first trial Fair Trade Act cases, 44 defendants were involved. Divided by behaviors, there were 31 defendants suspected violating multi-level sales article, and 13 defendants charged violating the business disparagement article. According to the judgments, 28 defendants were judged guilty, 25 were set in prison, and 3 were imposed criminal fines. All of them violated multi-level sales article. Nine were found not guilty, 4 were rejected, 1 was at large under wanted-notices, and 2 were withdrawn. (Table 1.25)

**Table 1.25 Judgments of the First Trial Fair Trade Act Cases by the District Criminal Courts**  
Unit: Person, Case

Year & Illegal Practice	Case Closed	Defendants							
		Total	Guilty	Not-guilty	Rejected	Beyond Jurisdiction	Listed as Wanted	Withdrawn	Others
2002	19	50	12	13	22	2	-	-	1
2003	16	38	14	14	4	2	3	-	1
2004	15	44	28	9	4	-	1	2	-
Business Disparagement	--	13	-	7	4	-	-	2	-
Improper Multi-level	--	31	28	2	-	-	1	-	-

Source : Statistics Department, Judicial Yuan

In 2004, the high criminal courts concluded 8 second trial Fair Trade Act cases, 28 defendants were involved. Divided by behaviors, there were 14 defendants charged violating the multi-level sales article, 8 defendants charged violating the concerting prohibition article. According to the judgments, 11 defendants were judged guilty, 3 were set in prison, 5 were taken into custody, and 3 were imposed criminal fines. All of them violated the multi-level sales article. Fourteen were judged not guilty, and 3 were withdrawn. (Table 1.26)

**Table 1.26 Judgments of the Second Trial Fair Trade Act Cases by the High Criminal Courts**  
Unit: Person, Case

Year & Illegal Practice	Case Closed	Defendants						
		Total	Guilty	Not-guilty	Rejected	Withdrawn	Referred to the Original Court	Others
2002	11	48	13	19	6	7	2	1
2003	11	41	4	29	4	-	4	-
2004	8	28	11	14	-	3	-	-
Concerting Prohibition	--	8	-	8	-	-	-	-
Business Disparagement	--	6	-	3	-	3	-	-
Improper Multi-level Sales	--	14	11	3	-	-	-	-

Source : Statistics Department, Judicial Yuan

## Regulation of Multi-level Sales Enterprises

### 1. Recordation

Any enterprise engaged in multi-level sales is required to report to the Fair Trade Commission for record in accordance with the "Supervisory Regulations governing Multi-level Sales" before commencing the business. In 2004, 230 enterprises completed the required recordation, and 236 enterprises withdrew their recordation. The cumulative number of enterprises ever reporting to the FTC was 739 by the end of 2004, 6 enterprises or 0.81% less than that of 2003. (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
2002	651	317	239	729
2003	729	272	256	745
2004	745	230	236	739

By location, Taipei Municipality ranked the top, reporting 252 enterprises or 34.10% of total recorded enterprises. Coming next was Taichung City reporting 171 enterprises or a share of 23.14%, and Kaohsiung municipality reporting 88 enterprises or a share of 11.91%. These three cities accounted for nearly 69% of total recorded enterprises, and implied that most multi-level sales businesses prefer to locate in cities with high density of population. Compared with the figure in the end of 2003, Taichung City increased 11 firms, Hwalien County increased 3 firms; and Taipei County decreased 8 firms. (Table 2.2)

**Table 2.2 Location of Multi-level Sales Enterprises**

Unit: Enterprise					
Area	Number of Enterprises		Area	Number of Enterprises	
	2004	2003		2004	2003
Total	739	745			
Taipei Municipality	252	256	Tainan County	13	18
Kaohsiung Municipality	88	90	Kaohsiung County	4	3
Taipei County	80	88	Pingtung County	5	3
Yilan County	3	3	Taitung County	1	1
Taoyuan County	54	58	Hwalien County	5	2
Hsinchu County	2	2	Penghu County	-	-
Miaoli County	1	2	Keelung City	1	-
Taichung County	16	16	Hsinchu City	5	5
Changhua County	9	7	Taichung City	171	160
Nantou County	4	3	Chiayi City	2	5
Yunlin County	4	3	Tainan City	15	17
Chiayi County	2	-	Outside the Border	2	3

## 2. Review of Operation

The Fair Trade Commission adopts a "full-scale review" and "prevention in advance" way to monitor the multi-level sales operation in order to effectively prevent them turning into 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 recorded. The purpose is to uncover problems and prevent them from occurring beforehand.

The FTC has conducted 65 times such review in 2004 in response to complaints or on its own schedule. Of the total, 26 times or 40.00% complied with the regulations while 34 times or 52.31% did not. Reasons for the enterprises failing to comply with regulations include: 21 firms (61.76%) violated the Fair Trade Act, 16 firms' (47.06%) practice of returning products did not comply with the Regulation, 10 firms failed to report to the FTC regarding its changes of previous recordation, 5 firms failed to inform participants of rights and obligations in details, 4 firms operated without prior recordation, 4 firm's written contracts differed from recordation, and 2 firms failed to display required documents at place of business. (Tables 2.3 and 2.4)

**Table 2.3 Inspection of Multi-level Sales Enterprises**

Unit: No.

Year	Enterprises Inspected	Results of Inspection				
		Complying with Regulations	Not Complying with Regulations	Not in Operation	Operation Suspended	Location Unknown
2002	64	32	26	2	3	1
2003	55	31	17	-	1	6
2004	65	26	34	3	1	1

Note: 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-time

Year	Enterprises against Regulations	Causes for Violation		
		Failure to Inform Participants of Duties in Details	Written Contract Inconsistent with Recordation	Procedure for Returning Products against Regulations
2002	26	5	14	10
2003	17	1	2	6
2004	34	5	4	16

Year	Causes for Violation			
	Failure to Display Relevant Documents at Place of Business	Violating Fair Trade Act	Operation without Reporting in Advance	Practicing Changes to Recordation without Reporting in Advance
2002	2	7	9	6
2003	3	4	2	4
2004	2	21	4	10

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 2004, the Fair Trade Commission set decision rulings for 38 multi-level sales enterprises, which showed an increase of 7 cases from the preceding year. Among 38 multi-level sales enterprises penalized, divided by provisions of violations, 36 cases violated the Supervisory Regulations Governing Multi-level Sales. Among them, 21 cases failed to report to the FTC regarding its changes of previous recordation violated the Article 7 of the Regulation, 15 cases not entering into written contracts with participants violated the Article 12 of the Regulation. Fines in 2004 totaled NT\$ 24.8 million. By the end of 2004, the cumulative cases of decision ruling reached 296, and the multi-level sales enterprises subject to such ruling totaled 325 firms. (Tables 2.5 and 2.6)

**Table 2.5 Improper Multi-level Sales Actions**

Unit: Case

Year	Case of Decision	Article 23	Article 23-1	Article 23-2	Article 23-3	Supervisory Regulations Governing Multi-level Sales
2002	55	10	3	4	2	50
2003	31	5	1	3	1	29
2004	38	1	-	4	5	36

Note: According to decision ruling, 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 (SRGMS) Violated**

Unit: Case

Year	Cases of Decision	Article 5	Article 7	Article 8	Article 11	Article 12	Article 13	Article 14	Article 15
2002	50	25	19	2	-	21	7	2	3
2003	29	14	9	-	3	17	2	3	2
2004	36	6	21	1	-	15	2	6	7
Year	Article 16	Article 17	Article 18	Article 19	Article 20	Article 22	Article 23	Article 25	
2002	-	1	2	1	-	1	1	1	
2003	-	-	5	1	-	-	-	-	
2004	2	-	4	1	1	-	-	-	

Note: Figures may add up to exceed the total because a case of decision ruling may involve violation of more than one article of SRGMS.

# Commissioners' Meeting

## 1. Deliberation

The policy-making body of the Fair Trade Commission is the Commissioners' Meeting which functions through a gathering of commissioners to deliberate and decide the FTC's major administrative programs. The Commissioners' Meeting of the FTC has six main responsibilities in accordance with the provisions of Article 14 of the Organization 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.

In 2004, the FTC held 53 Commissioners' Meetings to review 534 submissions. The submissions included 306 discussions and 228 reports. On the average, each Commissioners' Meeting heard 10.08 submissions, including 5.77 discussions and 4.30 reports. In 2004 the number of submissions decreased 113 (17.47%) submissions from the preceding year, including 77 discussions and 36 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
2002	814	100.00	292	35.87	522	64.13
2003	647	100.00	264	40.80	383	59.20
2004	534	100.00	228	42.70	306	57.30

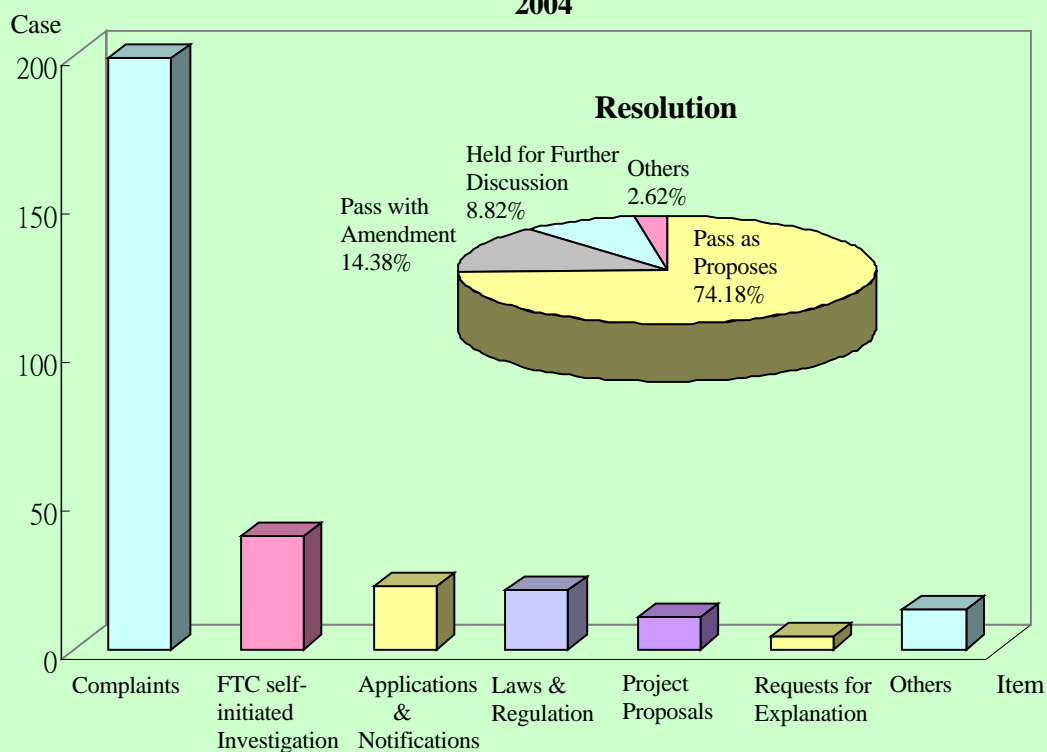
The 306 discussions reviewed in 2004 included 199 complaints, 38 self-initiated investigation cases, 21 applications and notifications, 20 draft amendments of laws and regulations, 11 project proposals, 4 requests for explanation of laws, and 13 other cases. Results of the deliberation showed that of total review cases, 227 cases or 74.18% were passed as proposed, 44 cases or 14.38% were passed with amendments, 35 cases or 11.44% held for further discussion and others. Three submissions of the discussions were assessments, the rest deliberation numbered 303. (Table 3.2 and Chart 3.1)

**Table 3.2 Discussions by Type**

Unit: Case

	Total	Laws and Regulations	Project Proposals	Complaints	Applications & Notifications
2002	522	62	7	343	42
2003	383	21	12	248	48
2004	306	20	11	199	21
	Requests for Explanation	Special Research Projects	FTC Self-initiated Investigations	Others	
2002	11	11	24	22	
2003	4	1	39	10	
2004	4	-	38	13	

**Chart 3.1 Deliberation on Discussions 2004**



## 2.Meeting Time

On the average, each Commissioners' Meeting in 2004 spent 2 hours and 53 minutes, showing a decrease of 40 minutes from 2003. By time used per meeting, 3-4 hours ranked the top, accounted for 41.51%. The followings were less than 2 hours for 24.53% and then 2-3 hours for 22.64%. (Table 3.3)

**Table 3.3 Time Spent by FTC Commissioners' Meeting**

Time	2004		2003		1992~2004	
	No. of Meeting	% of Total	No. of Meeting	% of Total	No. of Meeting	% of Total
Total	53	100.00	53	100.00	687	100.00
Less than 2 hours	13	24.53	10	18.87	50	7.28
2 - 3 hours	12	22.64	9	16.98	120	17.47
3 - 4 hours	22	41.51	18	33.96	255	37.12
4 - 5 hours	6	11.32	12	22.64	188	27.36
5 - 6 hours	-	-	1	1.89	45	6.55
More than 6 hours	-	-	3	5.66	29	4.22
Average Time Consumption (time per meeting)	2 hrs. 53 mins.		3 hrs. 33 mins.		3 hrs. 42 mins.	

## Consulting Services and Policy Implementation

### 1. Consulting Services

#### 1) Service Center

Both the Fair Trade Commission and its southern Taiwan branch set up a service center to provide enterprises and the general public with consulting services, answer questions concerning the Fair Trade Act and administrative programs. Services provided by the center, according to its operation guidelines, can be classified into four categories: (1) explanation of the Fair Trade Act; (2) explanation of application procedures; (3) provision of educational materials; and (4) Acceptance of Complaints. The aforementioned services totaled 17,536 cases in 2004, 5.09% up from the preceding year. These services were mostly concerning explanation of Fair Trade Act and relevant regulations. (Table 4.1)

**Table 4.1 Services Provided by FTC Service Center**

Year	Total	Explanation of Fair Trade Act	Provision of Educational Materials	Explanation of Application Procedures	Unit: Case
					Acceptance of Complaints
2002	16,857	15,150	608	533	566
2003	16,687	13,636	1,386	502	1,163
2004	17,536	11,743	4,793	453	547

#### 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 2004 were 7,314 cases, included 6,056 cases in providing forms and information, 710 cases for census of general overviews of multi-level sales schemes, 180 cases in conducting educational programs, 96 cases in transmitting case document, 42 cases in collecting evidences, 24 cases in collecting industrial data, and 206 other matters. (Table 4.2)

**Table 4.2 Supporting Activities of Local Governments**

2004

Unit: Case

	Total	Providing Forms & Data	Transmitting Case Document	Conducting Educational Program
Total	7,314	6,056	96	180
Taipei Municipal Gov't	317	1	6	21
Kaohsiung Municipal Gov't	588	477	8	9
Twenty-one County/City Gov'ts	6,398	5,574	82	143
Lien chiang County Gov't	1	-	-	1
Kingmen County Gov't	10	4	-	6
	Collecting Evidence	Collecting Industrial Data	Census of Multi-Level Sales Scheme	Others
Total	42	24	710	206
Taipei Municipal Gov't	1	4	268	16
Kaohsiung Municipal Gov't	-	-	88	6
Twenty-one County/City Gov'ts	41	20	354	184
Lien chiang County Gov't	-	-	-	-
Kinmen 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. Works of the CPIRC in 2004 were as follows:

- (1) Establishment and maintenance of competition policy database in order to provide professional consultant services: collecting competition policy data, including more than 16,000 volumes of books, more than 200 periodicals, 18 kinds of laser diskettes containing data in Chinese and foreign languages; and updating monthly the competition law newspaper clipping system and the APEC Competition Policy and Law Database which includes data of the 21 APEC members and papers presented in the APEC-OECD Regulatory Reform Co-operative Initiatives Workshops.
- (2) Building of competition policy research environment to facilitate professional research: (1) Holding the 4<sup>th</sup> "Seminar on Important Cases of the Fair Trade Act" on 7 May 2004. Participants included representatives from the Executive Yuan, the academic and the FTC. (2) Calling R&D Advisory Committee meeting on 21 June 2004 to discuss the direction of development. (3) Holding the "12<sup>th</sup> Seminar on Competition Policy and Fair Trade Act" on 6, December 2004, in which 167 experts and scholars attended.

- (3) Provision of competition policy training services to promote competition policy concepts: Inviting experts and scholars majoring in competition law to give lectures, with 477 persons attending 11 lectures in 2004. And holding 10 trainings about FTA to university students.
- (4) Publication of competition policy and law related materials to facilitate academic research and information sharing internationally: Publication of 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, 2003”, “Cases and Materials on Fair Trade Act of the Republic of China, Volume VI”, and the proceedings of the “11th Seminar on Competition Policy and Fair Trade Act”.

## 2. Public Education and Issuing Guidelines

### 1) Public Education and Training

The Fair Trade Commission has actively engaged in publicity works to educate business communities to understand what the Fair Trade Act regulates, to enable them to recognize the law and facilitating the enforcement of the Fair Trade Act. Publicity and education works in 2004 included: 141 seminars of different contents tailor-made for business, specific industries and students, and the “Fair Trade Act Study Program”, under which 1,943 participants have graduated in 36 sessions by the end of 2004. (Table 4.3)

Year	Total	Conducted by FTC	Conducted by Contracted Local Governments	Conducted by Contracted Industrial Associations	Lectures on Fair Trade Act
2002	73	29	29	1	14
2003	95	38	26	-	31
2004	141	82	39	-	20

### 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 2004 the FTC issued and revised guidelines as follows:

1. Issued the “Principles for Handling Cases Regarding Trading Conducts between Department Stores and Outlet Stores by the Fair Trade Commission”
2. Revised the “Regulatory Notes on Sales Practices of Qualified References Books for Compulsory

Educations Textbooks by the Fair Trade Commission”

3. Revised the “Guidelines to the Cable Television Related Industry, as stipulated in the Fair Trade Act”
4. Revised the “Regulatory Notes on the Business Practices by Financial Enterprises under the Fair Trade Law”
5. Revised the “Regulatory Notes on the Sales Practices of Membership Card Sales by Foreign Resorts under the Fair Trade Law”
6. Revised the “Regulatory Notes on the Telecommunications Enterprises under the Fair Trade Law”
7. Revised the “Guidelines for Handling Cases Involving Foreign Elements by the Fair Trade Commission”
8. Revised the “Guidelines for Handling Administrative Guidance by the Fair Trade Commission”

### **3. Revision of Laws and Regulations**

#### **1) Revision of Fair Trade Act**

Due to joint R&D is key to industrial development in the digital economic era, and the difficulty of uncovering the evidences of cartels, the FTC is now planning to revise the relevant provisions of the Fair Trade Act, in reference to the industrialized countries’ experiences. The revision is aimed to ease the current restriction on the joint R&D among enterprises. In addition, the revision will introduce a new investigation skill prevailing in foreign countries, providing amnesty to cartels’ member who reports to the FTC first. The deliberating revision will formulate a more reasonable, fair and sound competitive environment.

#### **2) Drafting the Multi-level Sales Regulation Act**

Multi-level sales prevail in Taiwan in recent years. However, some of the multi-level sales enterprises deployed fraudulent practices and caused serious social disturbance, shall be effectively prevented and detected. The existing Supervisory Regulations Governing Multi-level Sales is not sufficient to effectively regulate certain multi-level sales enterprises. To meet the needs, the FTC, invited comments from government agencies, multi-level sales associations, relevant enterprises, and the academic, and held a public hearing. And published the draft Multi-level Sales Regulation Act in Dec. 2004

### **4. Enhancing International Cooperation**

#### **1) Participation in the international organizations**

The FTC persistently participates in competition law and policy related meetings held by the WTO,



the OECD, the APEC and the ICN. The active participation and contribution facilitates the enforcement of the Fair Trade Act complying with the international trends and making the FTC an active participant of the international rule-making processes.

## **2) Bilateral Co-operations**

In January 2004, the FTC finalized a co-operation arrangement with the French Competition Council. The arrangement was especially meaningful as it's the first competition arrangement signed between Taiwan and a European country. In November 2004 the Deputy Assistant Attorney General of the Antitrust Division of the United States Department of Justice lead a delegate to visit the FTC and held bilateral talk. In the meeting both sides reached an agreement to organize a working group on competition law and intellectual property right to discuss relevant issues periodically. Later on, the Chairman of the FTC, Dr. Tzong-Leh Hwang, visited the German Federal Cartel Office, the French Competition Council, the French Directorate General of Competition, Consumption and Prevention of Frauds, and the EC Competition DG and held several bilateral consultation meetings.

## **3) Competition Law Technical Assistance**

Requested by the UNCTAD, the FTC sent resource person to attend a seminar on reviewing draft competition law in Vietnam in February 2004. The Thailand Ministry of Commerce, Department of Internal Trade sent a staff to the FTC for a visiting study. It was the second time the DIT sent staff to learn the FTC's enforcement experience. The FTC and the OECD jointly held a seminar in Kuantan, Malaysia in July 2004, and the Workshop on the Effective Administration and Enforcement of Competition Law for the Judiciary in Indonesia in November 2004. In December 2004 the head of the Competition Administration Department of Vietnam visited the FTC to understand its training programs. Through such kind of activities, the FTC established itself a position in this region in providing technical assistance and maintained relationship with other countries.