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TAIWAN FTC  
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FTC International Exchanges in March and April of 2018

**Application from Yang Ming Marine Transport and 12 Other Shipping Companies for Concerted Action Extension Approved**

The Fair Trade Commission (hereinafter referred to as the FTC) decided at the 1,348<sup>th</sup> Commissioners' Meeting on Sep. 6, 2017 to cite Subparagraph 5 of the proviso in Article 15 (1) and Article 16 (2) of the Fair Trade Act and approve the application from Yang Ming Marine Transport Corporation (hereinafter referred to as Yang Ming Marine Transport) and 12 other shipping companies for extension of their joint shipment of imported materials and instruments for government agencies and state-owned enterprises. The extension would be from Sep. 29, 2017 to Sep. 28, 2022, 5 years in total.

Previously, Yang Ming Marine Transport and the 12 shipping companies had applied to the FTC for exceptional permission for their joint shipment of imported materials and instruments for government agencies and state-owned enterprises and the FTC had approved the application with undertakings attached. As the exceptional permission for the concerted action was about to expire, the aforesaid companies acted according to the Fair Trade Act and applied for the extension.

After reviewing the application, the FTC concluded that continuation of the concerted question could help develop the scale of domestic fleets and the capacity to ship military materials for the country during wartime. It could benefit industrial policy and national security, and promote the public interest. With the applicants jointly providing shipping service and cargo space, ship dispatch could be more flexible to cope with likely disorder in the marine market, provide more stable transport capacity, stabilize supply and reduce

shipping cost fluctuations. In addition, the economic benefits derived could be reasonably shared by trading counterparts and the general public, as well as promote the overall economic benefit. Moreover, the concerted action did not limit the participants to shipping imported materials and instruments for government agencies and state-owned enterprises only through transport volume allocation; hence, there still existed enough incentives for the participants to remain in competition. In other words, the concerted action would not exceed the range of legitimate objectives to be achieved. Therefore, the FTC approved the application with the following undertakings attached:

1. The applicants and the designated organization recognized by the Ministry of Transportation and Communications may not refuse the participation of

other domestic shipping companies complying with the Regulations of Materials and Instruments Imported by Maritime Transportation for Governmental Agencies and State-owned Enterprises in the concerted action. Any change of participants in this concerted action has to be filed with the FTC for reference.

2. To engage in the joint shipment of materials and instruments for government agencies and state-owned enterprises, the applicants have to present the list of domestic shipping companies recommended by the designated organization and the ratio of cargo volume to be shipped by each company as well as the actual shipment operations (including the list of domestic shipping companies actually participating, the cargo volume shipped by each company and the ratio) to the FTC for reference before Apr. 1 each year. 

## Application from FOPCO and 31 other Companies for Concerted Action Extension Approved

The Fair Trade Commission (hereinafter referred to as the FTC) decided at the 1,370<sup>th</sup> Commissioners' Meeting on Feb. 7, 2018 to cite Subparagraph 5 of the proviso in Article 15 (1) and Article 16 (2) of the Fair Trade Act and approve the application from Formosa Oilseed Processing Co., Ltd. (hereinafter referred to as FOPCO) for extension of their joint shipment of corn imports. The extension would be from Mar. 1, 2018 to Feb. 28, 2023, 5 years in total.

FOPCO and the other companies filed the first application for exceptional permission for their concerted action in 1993 and the FTC approved the application with undertakings attached. As the permission was about to expire, FOPCO and the 31 other companies filed an application for extension of their concerted action according to the Fair Trade Act.

After reviewing the application, the FTC concluded that the concerted action could reduce importation costs, diversify risks, prevent the need to increase storage facilities, cut down on spoilage of stored materials, decrease interest expenses and increase flexibility in capital use. Planned and well-organized joint shipment could reduce dock traffic, facilitate pickup of goods and decrease unloading delays to minimize social costs. Furthermore, the big and stable quantities involved in joint shipments could push suppliers to provide materials of better quality and the feeds produced with such materials would be better. In the meantime, as the number of importers is large and competition is fierce, businesses participating in these joint shipments would have the

incentive to reflect the cost thus saved by lowering their selling prices and providing stable supply. As a consequence, feed factories at the midstream level and livestock businesses downstream would be able to share the economic benefits from the concerted action. In other words, it could promote the overall economy and public interest. The imports brought in through the joint shipments in 2015, 2016 and 2017 respectively accounted for 27.62%, 25.89% and 24.56% of the total corn imports in the same periods. The quantity imported between 2015 and 2017 accounted for 26.15% of the total quantity imported into the country in the same period. Meanwhile, there was no restriction imposed on the importation of corn or on the qualifications of importers. Businesses intending to purchase corn overseas could also choose to participate in the other joint shipment group, the "Dachan-Great Wall" group, or to buy directly from cereal suppliers. Import channels were diverse and not controlled by a handful of companies. Corn could be obtained easily. Therefore, the influence of the concerted action on the corn import market was limited, and the FTC approved the extension application with the following undertakings attached:

1. Each quarter, the applicants are required to file with the FTC a written report on the execution of the concerted action, including the registered purchased quantity of each importer in every shipment, the actual quantity purchased, price, date of loading, port of loading, date of ship arrival at the port of loading, date of departure from the port of loading, date of arrival at the port in the country, etc.

2. The applicants may not use this permission to engage in other concerted actions or restrict the freedom of any applicant to decide the quantity to be purchased, or prohibit any applicant from procuring and importing independently, or prevent other

enterprises from participation in the joint shipment without justification. Any changes in participants in this concerted action must be filed with the FTC for reference.



## RT Mart Falsely Announced Toilet Paper Price Increase in Violation of Fair Trade Act

The Fair Trade Commission (hereinafter referred to as the FTC) decided at the 1,375<sup>th</sup> Commissioners' meeting on Mar. 14. 2018 that RT Mart International Ltd. (hereinafter referred to as RT Mart) had violated Article 25 of the Fair Trade Act by falsely announcing an impending toilet paper price increase. The practice misled consumers and triggered an unexpected toilet paper supply-demand imbalance and was deceptive conduct able to affect trading order. Therefore, the FTC imposed an administrative fine of NT\$3.5 million on the company.

Earlier, the FTC had initiated an ex officio investigation to find out whether the intended price increase agreement among toilet paper manufacturers had been the result of a concerted action. During the investigation, the FTC discovered that RT Mart had sent out the message "Toilet paper prices to go up 30% and sales at major outlets are increasing by 400%" to cell phones and email boxes on the morning of Feb. 23 at the beginning of its toilet paper promotion sale from Feb. 23 to Feb. 27. The content was drawn up by RT Mart and the message was sent to all major media. Judging by the amount of its sales and number of outlets, RT Mart is definitely one of the biggest retail businesses in the country. The company first released on Feb. 23 the announcement "Toilet paper prices to go up 30%," with the time point of the price hike and margin of increase indicated, and then launched the toilet paper promotion sale from the same day to Feb. 27, but claimed that the company would continue to execute its low toilet paper price strategy. Apparently, the intention was to use the unproven message of an impending price increase

by toilet paper manufacturers and then declare its promotional sale to attract consumers to purchase toilet paper at its outlets.

The message released by RT Mart carried the wording "The price increase of known toilet paper brands is not just 1% or 3%, but as high as 10% to 30%" and "The price increase can occur as early as mid-March, or before April at the latest." However, toilet paper manufacturers had never conducted price negotiations with RT Mart and the price increase time point and margin were groundless. Meanwhile, RT Mart was unable to provide evidence to support its claim of an impending 30% price increase. After comparing the statements from RT Mart and toilet paper manufacturers, the FTC concluded that the whole incident was the result of RT Mart's intention to use the false message to mislead consumers and expedite its toilet paper promotion sale.

Transaction records in the toilet paper industry showed that the post-Chinese New Year period was a slow season. Hence, the panic buying was unusual. RT Mart released the unproven message of an impending price increase by toilet paper manufacturers out of the intention to promote its toilet paper sales. The practice sabotaged the normal competition mechanism. Panic buying started after the company released the announcement. Competitors stated that there was suddenly a several-fold increase in the demand for toilet paper and within a few days an unexpected supply-demand imbalance took place in the toilet paper market. Retailers had to adopt the emergency measure of taking orders. There were also many complaints from consumers, causing business

management costs to rise. At the same time, as the demand suddenly escalated, toilet manufacturers did not have enough stock to meet the need and their production costs went up as a consequence. On top of that, consumers' normal shopping behavior was affected and they had to spend extra time and money on transportation to purchase toilet paper. All the extra costs and disbenefits for manufacturers, competitors and consumers were the result of the practice of RT Mart that had a serious effect on trading order.

RT Mart falsely announced the impending toilet paper price increase message to mislead consumers and promote its toilet paper sales, causing an abnormal, unexpected supply-demand imbalance in the toilet paper market. It was deceptive conduct able to affect trading order in violation of Article 25 of the Fair Trade Act. Therefore, the FTC sanctioned the company. As to whether the intended price increase by toilet paper manufacturers was the result of an illegal concerted action, the FTC has continued to investigate. 

## Royal Art International Posted False Advertisements in Violation of Fair Trade Act

The Fair Trade Commission (hereinafter referred to as the FTC) decided at the 1,363<sup>rd</sup> Commissioners' Meeting on Dec. 20, 2017 that by claiming the lecturer Mr. Ju had a PhD from National Taiwan University, had won first place in a Taiwan memory competition and was also a US NGH high-level hypnotist and a high-level ABNLP executive in advertisements posted for the activities associated with "NLP extreme speed—memory skills," "NLP magic charm," NLP mind-grasping—anchoring," "NLP charming chatting skills," "NLP nine character types—mind-settling skills," "NLP mind-reading skills" and "NLP charm—art of articulation," Royal Art International Co., Ltd. (hereinafter referred to as Royal Art International) had violated Paragraph 4 of Article 21 of the Fair Trade Act and Paragraph 1 of the same article was applicable mutatis mutandis. The FTC imposed an administrative fine of NT\$100,000 on the company.

Royal Art International conducted the aforementioned lecture activities in a café that belonged to the company. Each attendee was subject to the minimum charge regulation and had to pay NT\$100 as the fee for venue use, venue cleaning and a beverage to be served. For this reason, the lecture activities could bring in some income. In the advertisements, the company claimed the lecturer Mr. Ju had a PhD from National Taiwan University, giving the impression that he had a PhD diploma from National Taiwan

University. However, the FTC's investigation revealed that he did not and Royal Art International also admitted later that Mr. Ju had not yet completed his PhD program. It was also declared that Mr. Ju had won the first prize in a Taiwan memory competition, giving the impression that Mr. Ju had indeed won a memory competition in Taiwan. Yet, in fact the competition had been held by Royal Art International and the event had not been openly publicized. Only people taking courses at Royal Art International attended. Apparently, the claim could have caused regular or concerned consumers to have wrong perceptions. In addition, Royal Art International also confessed that Mr. Ju did not possess US NGH high-level hypnotist and US ABNLP high-level executive licenses. The erroneous wording was due to a clerical error. In other words, the advertisements were inconsistent with reality and all the claims about the lecturer's academic credentials and work experience were also inconsistent with the facts. Nonetheless, they could have caused regular or concerned consumers to have wrong perceptions or make wrong decisions about the quality of the services being offered. Hence, the FTC concluded that the conduct was a false and misleading representation in violation of Paragraph 4 of Article 21 of the Fair Trade Act and Paragraph 1 of the same article was applicable mutatis mutandis.



## Glenn Doman Co. Posted False Advertisements in Violation of Fair Trade Act

The Fair Trade Commission (hereinafter referred to as the FTC) decided at the 1,367<sup>th</sup> Commissioners' Meeting on Jan. 17, 2018 that Glenn Doman Co., Ltd. (hereinafter referred to as Glenn Doman Co.) had violated Article 21 (1) of the Fair Trade Act by hanging posters carrying the wording "US Glenn Doman Institute of Education" and "Glenn Doman prenatal education methods for prodigious babies" as well as the portrait of Dr. Glenn Doman at the sales venue when marketing the company's "Glenn Doman Learning System" teaching materials. The practice was a false and misleading representation with regard to quality of product and could also affect transaction decisions. The FTC ordered the company to immediately cease the unlawful act after receiving the disposition and also imposed on it an administrative fine of NT\$500,000.

The FTC's investigation revealed that Glenn Doman Co. started to participate in fairs for women and children between 2014 and 2017 to market 4 types of "Glenn Doman Learning System" teaching materials, including Chinese, English, math and encyclopedic knowledge flashcards developed by the representative of the company. Posters and banners carrying the wording "US Glenn Doman Institute of Education" and "Glenn Doman prenatal education methods for prodigious babies" as well as the portrait of Dr. Glenn Doman, the founder of the Institute for the Achievement of Human Potential, were also hung up to promote the above-mentioned teaching materials.

Although during the investigation Glenn Doman Co. did show contracts that the company had signed with the Institute for Achievement of Human Potential and its Singaporean agent and a letter of authorization to support the legality of the posters and banners, a closer inspection of the aforesaid documents indicated that the authorization only covered 7 publications by Dr. Glenn Doman and others, but not the "Glenn Doman Learning System" teaching materials. Moreover, at some point in the investigation the company also admitted that the "Glenn Doman Institute of Education" written on the posters and banners did not exist. The company had created the name to market the teaching materials. The "Glenn Doman prenatal education methods for prodigious babies" also had nothing to do with the "Glenn Doman Institute for Achievement of Human Potential". The term had been created by the company's representative in order to use the fame of Dr. Glenn Doman in infant education to help market the "prenatal teaching methods" developed by the company's legal representative.

To promote the "Glenn Doman Learning System" teaching materials developed by the company's representative, Glenn Doman Co. put up posters and banners in fairs for women and children to mislead consumers to believe the "Glenn Doman Learning System" teaching materials, the "US Glenn Doman Institute of Education" and the "Glenn Doman prenatal education methods for prodigious babies" created by

the company were associated with the US Institute for Achievement of Human Potential founded by Dr. Glenn Doman. In other words, the practice was a false

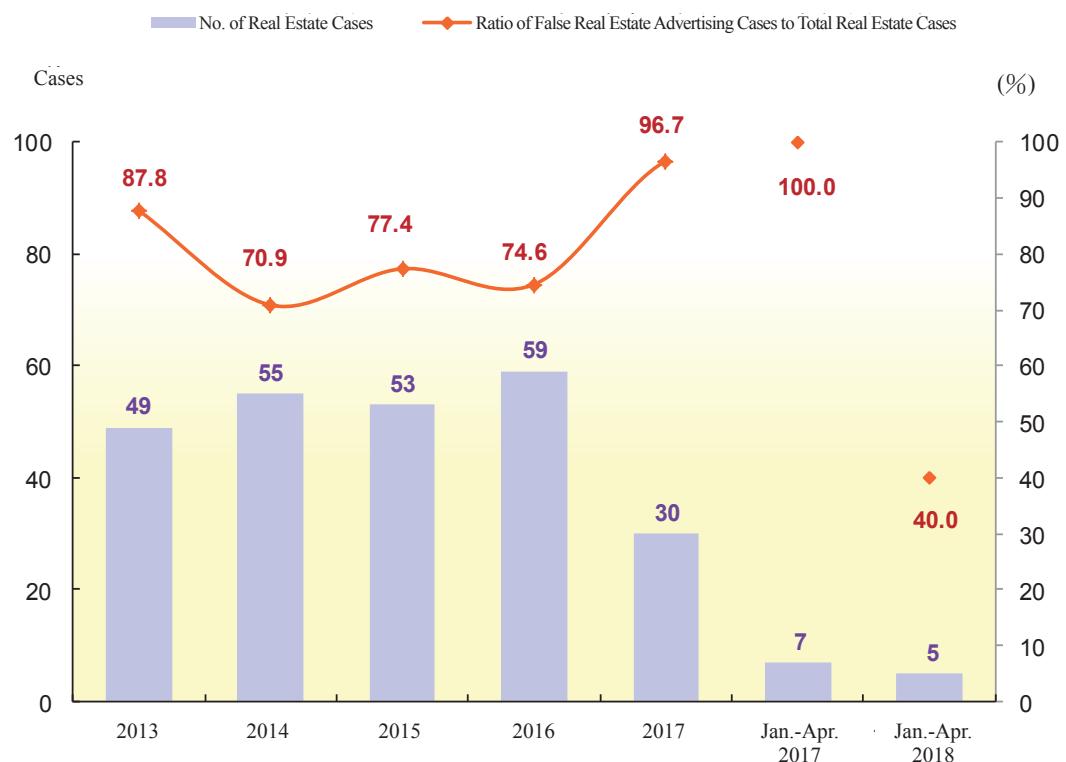
and misleading representation with regard to quality of product and could also affect transaction decisions in violation of Article 21 (1) of the Fair Trade Act. 

## Statistics on Cases Involving False Advertising for Real Estate

Real estate transactions involve large amounts of money. Builders and marketers design all kinds of advertisements to attract more consumers to make purchases. Sometimes, after investing their lifetime savings, homebuyers discover that the gym and recreation room indicated in the original plan have become part of the parking lot. At other times, the space for electromechanical equipment is marked as part of the interior whereas the half-hour actually needed to reach the MRT station is shrunk to 5 minutes. How many false or misleading real estate advertisements like these are there?

According to the FTC's statistics, from 2013 to the end of April 2018 (hereinafter referred to as the 5 recent years), the total number of cases that the FTC investigated after receiving complaints or initiated ex officio investigations and closed as involving violations against the Fair Trade Act (excluding cases in which the review was suspended due to the involvement of criminal or civil laws, jurisdiction of other agencies or procedural inconsistency) was 251. 198 of those cases involved false advertising (Article 21 of the Fair Trade Act), suggesting that 7.9 out of every 10 cases involved false advertising (Fig. 1).

Fig. 1 Statistics on Cases Involving Violations against the Fair Trade Act by Real Estate Businesses



There were 466 cases involving real estate businesses in violation of the Fair Trade Act in the 5 recent years. 136 of them were closed with sanctions imposed (140 dispositions issued), no sanction was given in 61 cases and administrative disposal was decided in 1 case. The review of 260 cases was suspended due to the involvement of criminal or civil laws, jurisdiction of other agencies or procedural inconsistency. 8 cases were consolidated with other cases (Table 1).

Table 1 Statistics on Handling Results of False Real Estate Advertising

Year	No. of Cases Involving False Advertising	Handling Result						Unit: case	
		Sanction Imposed		No Sanction Given	Administrative Disposal	Review (Investigation) Suspended	Consolidated with Other Cases		
		No. of Cases	No. of Dispositions Issued						
Total (2013-Apr. 2018)		466	136	140	61	1	260	8	
2013		44	22	22	21	-	1	-	
2014		49	26	30	12	1	8	2	
2015		115	31	31	10	-	74	-	
2016		128	31	31	13	-	84	-	
2017		127	25	25	4	-	92	6	
Jan.-Apr. 2018		3	1	1	1	-	1	-	

In the 5 recent years, the FTC issued 140 dispositions to sanction real estate businesses engaging in false advertising. Among them, 111 cases involved real estate developers and 29 cases were associated with real estate management and related services. 202 businesses were sanctioned and the fines imposed totaled NT\$92.70 million, averaging out to be NT\$459,000 per business (Table 2).

Table 2 Statistics on Fines Imposed for False Real Estate Advertising

Year	No. of Dispositions Issued (Case)	No. of Businesses Sanctioned (Business)	Unit: case; business; NT\$ million	
			Total Fines Imposed (million)	Average Fine per Business (million)
Total (2013-Apr. 2018)	140	202	92.70	0.459
2013	22	33	11.40	0.345
2014	30	37	13.45	0.364
2015	31	43	12.40	0.288
2016	31	48	23.00	0.479
2017	25	40	32.05	0.801
Jan.-Apr. 2018	1	1	0.40	0.400

## FTC Activities in March and April of 2018

- ↗ On Mar. 12, Distinguished Professor David Gerber of the Chicago-Kent College of Law, Illinois Institute of Technology gave a lecture on “Searching for An Appropriate Role for Economics in Competition Law Convergence” at the invitation of the FTC.
- ↗ From Mar. 15 to 18, the FTC conducted a Fair Trade Act promotion activity at the Taipei International Bakery Show.
- ↗ On Mar. 17, the FTC and Taiwan Fair Trade Law Society co-hosted the society’s “First Academic Seminar in 2018” at the Linze Hall of the College of Law, National Taiwan University.
- ↗ On Apr. 19, the FTC conducted the “Fair Trade Act and Multi-level Marketing Supervision Act Training Camp” for the teachers and students of the Department of Economics, Soochow University.
- ↗ On Apr. 20, the FTC held a workshop on “Fair Trade Commission Disposal Directions (Policy Statements)” on the Sales of Elementary and Junior High School Textbooks in Tainan City.
- ↗ On Apr. 27, Professor Yen Ya-Lun of the Department of Law, National Cheng Kung University gave a lecture on “Financial Technology and Increasing Competition Law Issues” at the invitation of the FTC.



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- 1.Distinguished Professor David Gerber of the Chicago-Kent College of Law, Illinois Institute of Technology giving a lecture on “Searching for An Appropriate Role for Economics in Competition Law Convergence” at the invitation of the FTC
- 2.The FTC and Taiwan Fair Trade Law Society co-hosting the society’s “First Academic Seminar in 2018” at the Linze Hall of the College of Law, National Taiwan University
- 3.The FTC holding a workshop on “Fair Trade Commission Disposal Directions (Policy Statements)” on the Sales of Elementary and Junior High School Textbooks in Tainan City
- 4.Professor Yen Ya-Lun of the Department of Law, National Cheng Kung University giving a lecture on “Financial Technology and Increasing Competition Law Issues” at the invitation of the FTC

## FTC International Exchanges in March and April of 2018

- From Mar. 1 to 6, the FTC attended the “Information Sharing Best Practices Workshop on Merger Control Regimes Used by APEC Economies”, the “Competition Policy and Law Group Meeting” and the first “Economic Committee Meeting” in Papua New Guinea.
- From Mar. 5 to 9, the FTC attended the workshop on “Sector event on Competition Rules and the Energy Sector” organized by the OECD—Korea Policy Centre Competition Programme in Jeju Island, Korea.
- On Mar. 8, the FTC attended a teleconference held by the ICN Advocacy Working Group.
- From Mar. 20 to 23, the FTC Vice Chairperson Perng Shaw-Jiin led a delegation to attend the ICN Annual Conference and related meetings in New Delhi, India.



1.The FTC attending the workshop on “Sector event on Competition Rules and the Energy Sector” organized by the OECD—Korea Policy Centre Competition Programme in Jeju Island, Korea

2.The FTC Vice Chairperson Perng Shaw-Jiin in a photo with Mr. Andrea Coscelli, CEO of the Competition and Markets Authority (CMA) of the UK, taken while they were attending the ICN Annual Conference and related meetings

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 (<http://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
- Regulation Report
- 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 : \_\_\_\_\_

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