

Amendment to Disposal Directions (Policy Statements) on Cable Television Related Enterprises

1535th Commissioners' Meeting (2021)

Case: The Disposal Directions (Policy Statements) on Cable Television Related Enterprises amended

Keyword(s): Cable television, policy statement, Coordinated Conclusion

Reference: Fair Trade Commission Decision of April 14, 2021 (the 1535th Commissioners' Meeting)

Industry: Wired Telecommunications Activities (6101)

Relevant Law(s): Articles 9, 13, 15, 20, 21, 23 and 25 of the Fair Trade Law

Summary:

1. In response to change of policy of the cable television industry authority, the amendments made to the Cable Radio and Television Act and the Satellite Broadcasting Act, as well as the change in the ways of transaction between enterprises, the FTC held a coordination meeting with National Communications Commission on Jan. 24, 2019 to talk about the division of labor to investigate discrepancies over cases involving inclusion and removal of satellite television programs and also to revise the FTC-NCC Coordinated Conclusion (hereinafter referred to as "the Coordinated Conclusion"). Acting according to the aforesaid Coordinated Conclusion and the revisions made to the regulations under its charge, the FTC put forth an amendment to the Disposal Directions (Policy Statements) on Cable Television Related Enterprises after soliciting opinions from cable television related enterprises and cable TV guilds and associations. The amendment was approved at the 1536th Commissioners' Meeting of Apr. 14, 2021.
2. The three key points in this amendment are as follows:
 - (1) Initially, as a response to the convergence and cross-industry development in the future, the flexibility required for handling individual cases was reserved. "The converging condition of communications and service content" was added to Paragraph 1 of Point 3 of the Policy Statements and the definitions of relevant product market and geographic market in Paragraphs 2 and 3 were deleted. Additionally, in order to be consistent with the deletion of the method of market share calculation in Point 4 whereas the fact that there was no longer any cable television program broadcasting

system was also taken into account, related texts in the Policy Statements were also removed.

- (2) Meanwhile, to accommodate the revisions made to the Cable Radio and Television Act, the Satellite Broadcasting Act and the Coordinated Conclusions, related content in the Policy Statements was adjusted accordingly. For example, the provisions in Points 10 and 11 before the amendment involving exclusive regional agency and system operators' refusal to make transactions were already covered by Paragraph 4 of Article 37 of the Cable Radio and Television Act. In addition, such conduct as specified in Paragraphs 4 and 5 of Point 2 of the Coordinated Conclusion was to be handled by the NCC in accordance with the aforementioned regulation. Therefore, the aforesaid content was deleted. Furthermore, the provisions in pre-amendment Point 13 associated with channel suppliers' discriminatory provision of channel programs were deleted since the regulation was already included in Paragraph 2 of Article 25 of the Satellite Broadcasting Act while according to Paragraph 4 of Point 2 of the Coordinated Conclusion, such conduct was to be handled by the NCC in compliance with the aforementioned regulations. As for the regulation in Point 14 before amendment regarding the adoption of tie-in sales and discount giving by channel suppliers, Paragraph 2 of Article 28 of the Enforcement Rules of Fair Trade Law has already included the criteria for the assessment of whether restrictions imposed by enterprises were illegitimate and likely to lead to competition restraints. Further, since the regulations had never been applied to process any cases, they were deleted and the instructions in Paragraph 3 were also removed.
 - (3) Finally, in light of the frequent disputes between channel agents and cable TV system operators that have occurred many times recently, the FTC referred to Paragraph 6 of Point 2 of the Coordinated Conclusion and added a regulation on "the practices of other channel agents in violation of the Fair Trade Law" by specifying that in cases where the conduct of channel agents was not subject to the regulations on communications but was in violation of the Fair Trade Law (such as boycotting, jointly removing channels or jointly giving price quotations), the FTC would still intervene in accordance with related regulations in the Fair Trade Law.
3. The focus of the amendment to the Disposal Directions (Policy Statements) on Cable Television Related Enterprises was to accommodate the changes made to the Cable Radio and Television Act,

the Satellite Broadcasting Act, as well as the revisions conducted to the Coordinated Conclusion. The purposes were to adjust related content in the Disposal Directions (Policy Statements) on Cable Television Related Enterprises and to make text additions and deletions in accordance with the development of digital convergence to make the Disposal Directions (Policy Statements) easier for related business to follow and to provide reference for the FTC in its review of related cases.

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