

Horia

Case: Taipei High Administrative Court rejected the administrative litigation by Horia over the sanction from the FTC for their violations of Fair Trade Law

Keyword(s): False advertisement, furniture

Reference: Taipei High administrative Court Judgment (2022) Su Tzu No. 134

Industry: Manufacture of Other Non-metallic Furniture (3219)

Relevant Law(s): Article 21 of the Fair Trade Law

Summary:

1. The appellee (FTC) concluded that the appellant violated Article 21(1) of the Fair Trade Law and imposed on it an administrative fine of NT\$700,000 by citing the first section of Article 42 of the same law because between December 2014 and December 2020 the appellant posted on its company website the claim of “Horia – an authoritative brand in the Taiwan sofa industry founded nearly 30 years ago,” “the only sofas passing tests in Taiwan—foam, wood, fabric, spray adhesive and structure all passing safety certification” and “passing the SGS high pressure resistance test of having the weight of 100kg put on the sofa 100,000 times without collapsing or getting damaged.” The investigation conducted by the appellee proved that the abovementioned wordings was false and misleading representations with regard to product quality and process for material production that could affect transaction decisions. The appellant found the sanction unacceptable and filed the administrative litigation.
2. The purpose of the regulation stipulated in Article 21(1) of the Fair Trade Law is to assure fair competition between businesses, protect consumers’ interests, and forbid enterprises to use false or misleading representations or symbols on products, in advertisements or through other means to make known to the public. Such practices are illegitimate competition of applying false or misleading representations to attract consumers to obtain transaction opportunities. If an enterprise uses false or misleading representations with regard to quality or content of product stated on labels, in advertisements or through other means to make known to the public, it is considered a violation of Article 21(1) of the Fair Trade Law. As for whether consumers get cheated or suffer damages as a result, it is beside the point.

3. What the appellant contested in the lawsuit was the appellee's decision regarding the claim of "passing the SGS high pressure resistance test of having the weight of 100kg put on the sofa 100,000 times without collapsing or getting damaged" posted on the Horia website. However, SGS only used a 1kg weight to press the sofa down 15cm 100,000 times and the test was only performed on a Horia sofa of the Maserati model. SGS did not press the sofa with the weight of 100kg 100,000 times and the test was not conducted on sofas of all the models the company marketed. In other words, the advertisement misled consumers to think the sofas of all the models Horia marketed had gone through the high pressure resistance test of having the weight of 100kg pressed on them 100,000 times. Consumers would have the wrong perception that the structures of all of Horia's sofas had passed the SGS test.
4. Moreover, the appellant had the obligation of verifying and telling the truth when posting advertisements. If there was anything unclear, the appellant should have verified and clearly presented the fact. In other words, the appellee concluded that the content of the advertisement was inconsistent with the fact and the advertiser did not fulfill its obligation of verifying and telling the truth. It was likely to cause the general public to have wrong perceptions or make wrong decisions. Therefore, it was even more obvious that the appellant violated Article 21(1) of the Fair Trade Law.
5. It was stated in the original disposition that the appellant was fined NT\$700,000 for violating Article 21(1) of the Fair Trade Law. The decision was not illegal. The request of the appellant for revocating the original disposition was ungrounded and therefore was rejected.

Summarized by: Lee, Chun-Ying; Supervised by: Ren, Han-Ying