

Regulations of the Fair Trade Law and Case Study on Internet Advertisement

I. Background

Following rapid technological developments, the internet has greatly impacted the way we live, and internet advertisements have infiltrated every aspect of our daily lives. People have become accustomed to e-mail advertisements, banner advertisements, button advertisements, and news advertisements. Internet multimedia advertisements and mobile advertisements have significantly increased in recent years following the popularization of optical fiber network, mobile devices, and development of mobile communication technology from 3G to 4G. According to the Digital Marketing Association's statistics of domestic digital advertisements in 2013 and forecasts for 2014, which were published in June 2014, the volume of mobile advertisements and multimedia advertisements made an astounding leap from NT\$605 million and NT\$573 million in 2012 to NT\$1.792 billion and NT\$1.848 billion in 2013, respectively. This shows that it is necessary for regulations on internet advertisements to be flexible and aligned with technological trends.

The Fair Trade Law (hereinafter referred to as the "Act") sets forth regulations on false advertisement in Article 21, and the Fair Trade Commission (FTC) established "Directions for Handling Internet Advertisement Cases" in 2011. The directions include emerging internet advertising methods, such as group buying websites and blogger recommendation advertisements, in hopes of maintaining trade order, protecting consumers' rights and interests, and effectively dealing with false advertisements.

Due to the development of the internet and maturity of the online shopping and trade environment, the internet has been filled with a wide variety of advertisement methods, attracting consumers to trade online. The number of false internet advertisement cases have increased in recent years, and the FTC thus reviewed its law enforcement attitude and standard based on related theories, domestic contents of laws and regulations, and laws and regulations of other countries under the topic "Regulations of the Fair Trade Law on Internet Advertisement and Case Study," further giving recommendations for current laws and regulations.

II. Recommendations

This study merely proposes an approach and humbly reviews laws, regulations and standards, in hopes of keeping pace with the times and meeting the society's expectations. The following recommendations are made:

i. Regulation and protection of internet users should be strengthened

Disputes over online transactions have increased following the development of internet technology and new online industries, many disputes are cross borders since the internet has no borders. Hence, strengthening protection of fair competition and consumer interests on the internet has become an important topic. In addition, due to the rapid growth of internet users, new forms of illegal activity have appeared on the internet, and it is necessary to examine

related laws and regulations to maintain trade order and protect the rights and interests of internet users.

- ii. Establish good competition order in the market through industry-government-academia cooperation

More and more consumers are sharing their experiences on social networks and mobile devices; the rapid development of the internet has greatly accelerated information dissemination. At present, countries around the world all enacted laws to restrict false advertising, but all regulations, no matter how well thought out, still have shortcomings when it comes to the volatile world on the internet. In an era with manufacturing being replaced by an information economy, besides relying on the knowledge and expert opinion of scholars and experts in the field of law, economics, manufacturing, marketing and information, enterprises also need to comply with laws and regulations set forth by the competent authority. In order to prevent improper competition, enterprises must autonomously agree on regulations while the government acts as a supervisor, thereby maintaining competition order in the market and protecting consumers' rights and interests.

- iii. Closely follow the development of new internet advertising methods, and suitably examine law enforcement regulations and standards

- A. When online platform operators place advertisements of construction companies or sales agents on their own websites without obtaining prior consent, the FTC cannot impose an administrative penalty because it is not the principal of such advertisement as set forth in Article 21 of the Law, the conduct nonetheless may infringe on copyright and constitute civil liability, and may also affect trading order and consumers' rights and interests. It is necessary to review relevant laws and regulations on false or misleading representations in online information copied by network platform operators to increase their exposure, so as to maintain trading order and protect consumers' rights and interests.

- B. Even though Article 24 of the Law were determined by the court as applicable to keyword advertisements, the applicability of Article 21 to individual cases should be looked further into, and law enforcement regulations and standards should be suitably examined once the FTC accumulates a number of cases and experience.