

The Role and Positioning of the Competition Authority in Governance Reinforcement

1. Background of Study

Globalization is pushing the development of public affairs in most countries in certain directions. Facing challenges such as advancements in information technology, integration of economic development and increasing civic awareness, government agencies have to adjust their roles and structures to respond to a large number of complicated changing needs in the external environment. As a result, the concept of “good governance” has arisen. It implies diversified participation and various adjustments to governments to adapt to environmental changes through continuous learning, modification and innovation to cope with rapid changes and uncertainties in the internal and external environments in order to improve administrative performance and quality.

As the competent authority responsible for enforcement of competition law and policy, the Fair Trade Commission (hereinafter referred to as the FTC) has the duty to enforce fair trade regulations (competition regulations) and promote fair trade policy (competition policy). Under the title of “The Role and Positioning of the Competition Authority in Governance Reinforcement”, this study is intended to examine the FTC’s approaches of governance and reform projects in establishment of regulations, law enforcement and performance over the past 20-odd years to make the public understand better the experience and achievements of the FTC. In addition, it is also an attempt to produce certain suggestions for the FTC’s future administrative planning by reviewing administrative efforts in the past and assessing the issues the FTC faces at the moment, so that the FTC will be able to use its existing foundation to strengthen its administrative performance and promote various operations through stable and mature approaches to implement fair trade regulations effectively and enforce competition policy as a “competition policy pioneer.”

2. Methods and Process of Study

Initially, documents related to competition, competition policy and governance are reviewed. Information with regard to the positioning of competition authorities in other countries is also collected to serve as references for further efforts to improve law enforcement in the country. Then, the administrative directions and operations of the FTC in the past are examined and classified to clarify the effects of the FTC’s governance practices and problems encountered in order to come up with appropriate suggestions.

3. Main Suggestions

Based on the results of the FTC’s administrative endeavors and the current economic environment, the FTC, the competition authority in our country, ought to reinforce its future governance by enforcing the Fair Trade Law with effectiveness, advocating competition concepts through diverse channels and making active efforts to participate in international exchange activities. Here are the suggestions:

- A. Enforcing the Fair Trade Law with effectiveness and tightening investigations on concerted actions

- (1) Making effective use of the informer reward system: The FTC has promulgated the “Regulations on Payment of Rewards for Reporting of Illegal Concerted Actions” and a set of complementary procedures to increase the incentives for informers and encourage employees of enterprises to report illegal concerted practices.
- (2) Implementing the “leniency policy”: Since the leniency policy was implemented in 2012, not many enterprises have filed applications. The FTC ought to continue to improve the design of the system and explain the policy as well as precisely define applicant requirements and the results to be expected in order to encourage enterprises to apply.
- (3) Handling of business merger filings cautiously: When reviewing merger filings, the FTC ought to focus on whether the mergers in question are likely to lead to joint agreements or tacit collusions in relevant markets in order to make sure that such markets will not structurally become environments for concerted agreements.
- (4) Continuing to keep a close watch on industrial developments and market conditions and launching ex officio investigations when discovering evidence of likely violations as a result of concerted actions.
- (5) Reinforcing investigations into international cartel cases: The FTC ought to keep track of the developments of international cases involving anti-competitive practices and continue to cooperate with foreign governments through information sharing and collaboration to fight hardcore cartels.
- (6) Improving the staff members’ professional knowledge and skills: The FCT ought to sort out administrative litigation cases according to the reasons behind court decisions for supporting and revoking the FTC’s sanctions and at the same time improve the professional knowledge and skills of its staff members to enhance the results, quality and rigorousness of law enforcement.

B. Advocating competition concepts through diverse channels and utilizing the power of new media

- (1) Using consumers as targets of competition advocacy: The FTC ought to make comprehensive competition advocacy plans and utilize the diverse channels of the media to make the public understand the Fair Trade Law and the various achievements the FTC has accomplished.
- (2) Using enterprises as targets of competition advocacy: The FTC ought to organize presentations on competition regulations for key industries to educate enterprises to apply self-discipline and abide by the Fair Trade Law when engaging in business operations. The FTC must invite High-ranking managers (especially of listed companies) to attend presentations on competition regulations and engage in bilateral communication with the industries in order to understand the needs of businesses, and to give timely responses and take such needs into consideration when making administrative plans.
- (3) Utilizing the power of new media: The FTC can improve the design and contents of its administrative information when updating its website and also make the website

a user-friendly environment to facilitate information searches.

C. Making active efforts to participate in international exchange activities and increasing cross-border law enforcement cooperation

- (1) Participating in activities held by international competition law organizations: Due to the special status of Chinese Taipei in international society, the FTC ought to make even more efforts to take part in activities held by various international organizations, get more involved in international conferences, adopt more law enforcement experiences of other foreign governments to serve as references and transform advance concepts and methods from other countries into ideas and approaches suitable in our country.
- (2) Increasing exchange and cooperation with the competition authorities of other countries: To facilitate investigations into international antitrust cases, the FTC ought to continue to increase exchange and cooperation with the competition authorities of other countries and also keep track of the latest competition policy development under globalization to establish references for policy making and law enforcement.