

# Fair Trade Commission

## 【FTC Newsletter】

No.012

January, 2009

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### © Does Money burn a hole in your pocket?

The modern trend in TV shopping continues with an ever-increasing number of shopping channels. Seemingly retailers are selling at wholesale prices every day and experts on the TV shopping channels are touting for your business imploring you to buy yet another “must have” product. It doesn't just stop there as even more products are available online just waiting to be delivered to you at the click of your mouse.

Irrespective of the marketing technique, whether through TV shopping, online shopping or direct marketing, all

enterprises spend thousands of dollars on each of their promotions with the hope of catching consumer attention, enticing them to spend and seizing further trading opportunities. Do these promotional ploys work and tempt you to purchase items you do not really need? Are you able to distinguish which promotional activity is genuine and which one is a fake? In this era, with much talk about a recession and a slowing economy, it is ever more important to be smart and aware of the marketing techniques used to lure you in.

Every time you switch on a television, you are bombarded with advertisements and shopping channels offering “limited edition products” , “breakthrough prices” and “novelty give-aways” . These advertisements are powerful marketing tools offering preferential prices and alluring gifts to entice you into spending your money.

It is easy to succumb to these tempting offers and make purchasing decisions hastily, especially when goods are just a phone call away. Such impulse buying leaves little time to consider whether the claims in the advertisement actually correspond with the goods being sold or whether the free gift on offer is truly free or if its cost is simply recovered by inflating the price of the item being purchased.

While large discounts always attract consumers, the discount must be genuine. If an enterprise routinely sells products by firstly increasing the re-commended retail price and then reducing this price to indicate a special offer, consumers will quickly learn that they have been duped and the impact of using this marketing technique might impact negatively on future business. Such practices also risk contravening relevant provisions of the Fair Trade Act because it can result in unfair competition against other enterprises which set prices in good faith.

Furthermore, the use of promotional slogans such as “You can buy cheap goods and services every day” , “On-the-spot price

watch daily” and “Guaranteed best price or we’ll refund the difference on identical products” are all designed to make you think you are getting a great deal and saving yourself the time and effort of comparing prices. In fact, price advertising is always an important reference factor in any consumer purchasing decision and is therefore a powerful marketing tool. However, if an enterprise does not honor its commitment on preferential prices exactly as it is presented in its advertisement, it will not only be unfair to consumers but it will also adversely impact on other enterprises. It is therefore inevitable that such conduct will be brought to the attention of the Fair Trade Commission and enterprises that persist in such practices risk fines being imposed under relevant provisions of the Fair Trade Act.

Honest advertising and selling practices benefit small businesses and consumers alike. Enterprises should be able to prosper on the merit of their products or services without fearing that competitors will gain an unfair competitive advantage from dishonest representations. Consumers also have a right to accurate and truthful information from businesses. An enterprise should not merely seek to earn a one-time or short-term profit from a consumer by using promotional tactics that exaggerate discounts or otherwise mislead consumers about the content or quality of products or services. A well-designed promotion undertaken in good faith will benefit both consumers and business alike. Enterprises should not underestimate the value of consumer confidence in its brands and reputation because repeat business is the direct result and is hence the path to sustainable operations.

Similarly, a consumer should take time to understand the substance of all promotions, compare products and prices and not simply buy on impulse. Don’t let money burn a hole in your pocket and think twice before you buy!

012-02

© **Watch out! There are Many Promotional Tactics — “On-the-spot Price Watch, Immediate Price Cut” ? Can You Believe Everything You Read?**

Shopping for items for daily use at a wholesale market has become commonplace and is a great way to save a few dollars. At the same time, a wholesale market may own many retail chain stores with stocks and goods in large quantities. Both retailers and wholesalers will promote their products through advertising claims such as “We guarantee that our products and services are the cheapest” , “Guaranteed cheapest price or we’ll refund the price differences on identical products” , “On-the-spot Price Watch, Immediate Price Cut” and so on. All of these slogans are designed to make you believe you will find things cheaper by buying from them. However, are these promotional activities “true” ?

A large hyper mart chain advertised extensively using the slogan “You buy cheap goods and services every day” and “On-the-spot Price Watch Daily” . It published in its catalogues the claim “We conduct investigations on everyday products in each large hyper mart chain every day and when we discover that there are price differences, we guarantee to adjust and cut the prices of our products and services immediately. We get the lowest prices of products and services at any moment and guarantee that our products and services are cheaper every day.”

However, the FTC received a complaint from a member of the public, that after the he had purchased goods from the large hyper mart chain, he found out that the price of the identical product sold by competitors in the neighborhood was lower. Although the large hyper mart chain did provide the complainant with a refund for the price difference, it did not reduce the price of its product immediately but only adjusted the price five days later.

Following receipt of this complaint, the FTC conducted its

own investigations on samples of promotional items in the catalogs of the large hyper mart chain and other wholesale markets in the neighborhood. It identified those products sold by the wholesale markets that were identical to those sold by the large hyper mart chain and found that many of the prices for products sold in the wholesale markets were cheaper. The evidence collected demonstrated that the large hyper mart chain did not voluntarily cut prices during its promotion period or take account of the promotions of the other wholesale markets and discount its products to match or better the prices on offer in the wholesale markets. It even failed to make appropriate price adjustments after it was notified that its prices were more expensive.

The FTC believed that the following two representations were misleading: "On-the-spot Price Watch Daily" and "once we find out that there is a price difference between a product sold by us and a product which is identical to our product, but sold by another wholesale market, we will immediately cut the price" . Both representations were likely to lead consumers to expect that such purchases from the large hypermarket chain would result in lower prices because of the daily on-the-spot price watch mechanism when in fact this was not the case. Further, the advertisements were likely to induce consumers to make their purchases from the large hyper mart chain and unfairly increase its trading opportunities at the expense of other distributors.

Therefore, the FTC believed that the representations by the large hyper mart chain were false, untrue and misleading because it was unable to supply to consumers each promotional product at a price that was lower than the prices offered by its competitors. In essence, the large hyper mart chain had violated Article 21(1) of the Fair Trade Act. In arriving at this decision, the FTC noted the importance of pricing as a key-referencing factor for consumer purchasing decisions, especially in the everyday commodity market. Accordingly, the FTC ordered the hyper mart chain to cease engaging in the

conduct of concern and imposed an administrative fine of NT\$ 4.44 million.

While the FTC makes every endeavor to ensure advertising is fair and honest, paying careful attention to genuine offers and shopping around before you buy will save you money!

012-03

**© Price Promotions and Advertisements, Please be Aware of Traps!**

The term 'two priced advertising' , refers to the practice by enterprises of displaying the former price of goods or services together with the new sale price. While this practice is not, of itself, necessarily misleading it can be if an enterprise has never sold the product at the higher price. Similarly, long-term advertising claims that a higher price existed, while maintaining that the new sales price is a genuine discount, can also be misleading. The effect of discounting over a long period of time indicates that a product is likely to be priced at its actual value and strongly suggests that any further claims that the higher price was applicable would be illusory. Such conduct not only has the capacity to mislead consumers but it can also result in unfair competition advantages over competitors that do set their prices in good faith.

Not long after the FTC was established in 1993, a program was put in place to deal with 'two price advertising' . The FTC carefully examined a number of matters across a broad range of retail industries including the lamp and lighting enterprises; optometrist, optical & spectacle enterprises; bath, toilet & ceramic enterprises and electric appliance enterprises. The key focus of the FTC's action at that time was to broadly disseminate information that would encourage all retail enterprises to properly understand their obligations to maintain trading order and preserve consumer rights and benefits.

In recent years, the number of untrue advertisements regarding 'two price advertising' has markedly reduced. However, a small number of enterprises persist in improperly promoting their products or services through such methods. In one particular matter, the FTC received many complaints filed against a petrol station that alleged "it increased the price by a corresponding amount prior to offering the so called

reduced price” . The public also stated that the petrol station had engaged in this conduct for over two years.

The complainants alleged that “During the period of the sales promotion, the station advertised a NT\$ 3 price cut for each liter of petrol purchased when, in fact, the station had not offered this discount on each petrol product. Rather, on some grades of petrol it applied prices based on the list prices (the higher fixed prices) displayed in its petrol station. In reality, the difference between the transaction price during the period of the price cut promotion and the actual price during the period when there was no such promotion was only NT\$0.50 per liter.

The advertised “NT\$ 3 price cut” for each liter of petrol purchased did not exist. Therefore, the display by the company of the phrase, “NT\$ 3 price cut for paying for petrol in cash” , was misleading, untrue or false and violated Article 21(1) of the Fair Trade Act. The FTC not only ordered the company to cease the unlawful act, but also imposed an administrative fine of NT\$ 600,000.



The domestic petroleum market has been opened up to free competition and each petrol station can set prices voluntarily and should do so primarily on the basis of its actual competitive status. Petrol stations are no longer restricted by prices announced by the CPC Corporation. However, if an enterprise act of setting prices misleads consumers by engaging in untrue, false or misleading ‘two price advertising’ promotions, it is likely to result in unfair

competition and adversely affect market order. In such circumstances the FTC will act to protect the interests of consumers and prevent the business from gaining any unfair competitive advantage. The above-mentioned case clearly demonstrates this point where such a business strategy was held to have contravened Article 21 of the Fair Trade Act and the FTC imposed substantial fines. This should act as a deterrent to other enterprises that might consider engaging in similar conduct and is a timely reminder to consumers to stay alert to sharp practices and avoid any possible losses.

012-04

© **TV Shopping - What are the risks and how are my rights protected?**

There are variety programs, dramas, current affairs shows and comedies but it is often the domestic TV shopping program that provides the most entertainment. A TV shopping program presents a two-man show where the presenter and a representative of an enterprise bombard us with “amazing never to be repeated offers” where “there is a breakthrough in the recommended retail price” or “the product is exclusive to TV shoppers only”, “limited edition” with “original free gifts”, or the “latest market release”. The myriad of catch cries implore you to buy immediately or miss the opportunity of a lifetime to purchase goods at an unprecedented preferential price. They are all designed to get the consumer to act on impulse, dial the number and place their orders.

TV shopping is not peculiar to the country and it originated much earlier in the United States and Korea. In a busy and modern society, TV shopping is a trend which allows people to shop from the comfort of their own home. However, consumers need to be aware of the potential pitfalls that may accompany this retail experience. A number of different tactics are employed to attract customers to this type of shopping in preference to more conventional retailing. Often TV promotions will offer gifts with the goods purchased or emphasize a money back guarantee or instant exchange of goods. They will entice consumers with chances to win expensive holidays or other great prizes and/or offer gift vouchers that can be used to buy further products.



Why do they do this? Unlike conventional stores, where consumers have the opportunity to inspect the product and the impulse to purchase is greater, TV shopping has to generate another incentive to convince consumers to buy their products. While advertising costs might be more expensive than conventional stores, they do not necessarily have the overheads of maintaining retail premises and are therefore more likely to be better placed to offer cheaper prices or tied gifts.

A recent TV shopping matter investigated by the FTC involved the sale of the “ASUS 64 Bits Dual Core: The Empire Strikes Back G” . The company claimed in its advertisement that the product had “ super-integrated peripherals … with USB2.0+IEEE1394 …” but this turned out to be false. Similarly, the company’s product did not have the claimed interface of “IEEE1394” for products that its subsidiary advertised and sold through its online shopping mall. Both advertisements implied that this capability was included, as part of the product but information obtained directly from the suppliers did not indicate the product had the IEEE1394 interface. Even though the company indicated that the IEEE1394 interface card was provided as an external express card adapter and as a gift free of charge, it was not actually an integral part of the notebook itself. Additionally, the FTC discovered that this gift was neither delivered together with the main product nor sent to the consumer following delivery of the product. This advertisement was found to be false, untrue and misleading and a violation of relevant provisions of the Fair Trade Act.



One of the major differences for consumers in purchasing through TV channels, as opposed to more conventional retail outlets, is that the sensory characteristics of actually being able to examine, touch and physically see the product are absent. In these circumstances consumers are left to base their purchasing decisions solely on the representations made to them via the advertised information. This makes it all the more important for such representations to be accurate.

In recognition that consumers have limited opportunity to thoroughly examine goods they purchase via TV channels or online, the Consumer Protection Act regulates mail order sales. Under Article 19 of that Act, any transactions that are conducted via broadcast, television, telephone, fax, catalog, newspaper or the internet, where purchasers who do not have a prior opportunity to directly examine the products being bought, must provide a minimum seven day 'cooling off period'. The 'cooling off period' allows a consumer to return the goods within the specified timeframe without providing reasons. This cooling off period is in addition to the usual rights afforded under the Consumer Protection Act that still apply in the same way as they would for any consumer transaction.

The warranty rights together with the 'cooling off provisions' for mail order goods provided for in the Consumer Protection Act, and the regulation on fair and accurate disclosure of advertising information provided under the Fair Trade Act, are important measures that safeguard consumer interests. Businesses need to be aware of these measures or risk legal action by the FTC, or others, for any loss or damages arising out of a failure to properly observe the laws.

012-05

© **Statistics on Competition Restraint Involving Cable TV**

In periods of recession, the public historically cuts spending. At the same time, business enterprises employ aggressive marketing techniques in order to boost popularity of their products and services. Such promotional practices include “discounted prices,” “buy one, get one free offers,” and “limited time offers at special prices” .

The object is to promote sales and increase turnover. While lower prices may deplete capital reserves in the short term, it is hoped that the increased turnover will maintain profit levels. For the smart consumer there may be opportunities to pick up a bargain but there are no guarantees and every offer should be carefully considered.

If you believe an enterprise has published a false or misleading advertisement, you can file a complaint with the FTC. Such a complaint should include a reference to, or copy of, the relevant advertising, detail of the relevant circumstances and your contact phone number or address. Complaints can be lodged by writing to the following address:

Fair Trade Commission

13 F, No. 2-2, Jinan Rd., Sec. 1, Taipei City, Chinese Taipei  
Service Phone: (02) 23510022,

or (02) 23517588 ext. 380

E-mail: [ftcsc@ftc.gov.tw](mailto:ftcsc@ftc.gov.tw)

From 2002 to the end of October 2008, statistics reveal that the FTC had concluded 34 cases involving decisions on false, untrue or misleading advertisements. Excluding those matters that were settled administratively (36 enterprises involving some form of penalty), the total amount of the administrative fines imposed reached NT\$16.71 million with the average administrative fine imposed in each case equating to NT\$ 491,000.

On an industry basis the top three industries subject to financial penalty were:

- the retail trade which ranked first and involved 16 cases

(47.1%);

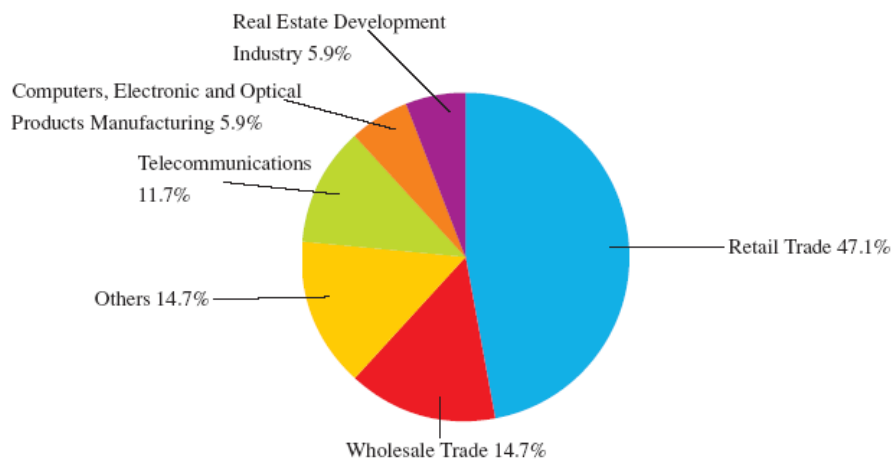
- followed by the wholesale trade which ranked second with 5 cases (14.7%); and

- the telecommunications industry which had 4 cases (11.7%).

The top three industries accounted for 73.5% of all matters and the total industry breakdown is depicted in the following graph.

### Trades Involving Decisions on Untrue Promotional Advertisements

From 2002 to October 2008



### Decisions on Untrue Promotional Advertisements

Year	No. of Decisions			No. of Enterprises Subject to Punishment	Total Amount of Administrative Fines Imposed (NT\$ 10,000)	Average Amount of Administrative Fines Imposed in Each Case (NT\$ 10,000)
		Retail Trade	Wholesale Trade			
2002	7	3	2	7	155	22.1
2003	3	1	1	4	30	10.0
2004	7	4	-	7	95	13.5
2005	6	3	-	6	193	32.2
2006	6	4	1	7	982	163.7
2007	4	1	-	4	166	41.5
Jan. — Oct. 2008	1	-	1	1	50	50.0
2002 — Oct. 2008	34	16	5	36	1,671	49.1

010-06

© **FTC Activities in November 2008**

■ On November 4, the FTC invited Professor CHEN Chin-Shyan of the Department of Economics, National Taipei University, to pre-sent a speech on “Health Industry and Anti-trust.”

■ On November 5, the FTC left for the Tong-rong Primary School, Mingxiong, Chiayi County to hold the propagation on “Aspects of Traps in Trade.”

■ On November 7, the FTC held the “Fair Trade Commission Propagation regarding Regulations Governing Land Business Personnel Trade Unions.”

■ On November 7, the FTC held the “Advocacy Meeting on Getting Acquainted with Multi-level Sales Laws and Orders” in Taichung County.

■ On November 11, the FTC held the education training on “Introduction to Fair Trade Commission Points for Handling Seizure of Articles.”

■ On November 12 and 13, the FTC left for the Chung Shan Elementary School, the Taoyuan Primary School, and the Jhu-Yuan Elementary School respectively located in Changpu Village, Chuchi Village, and Luchao Village in CHIayi County to hold the propagation on “Aspects of Traps in Trade.”

■ On November 17 and 18, the FTC organized “visits to Shi-Men Hydroelectric Power Plant of Taiwan Power Company, Taichung Fire Power Plant and Chang Kong Wind Power Station.”

■ On November 18, the FTC invited lecturers from Dale Carneige Training to present a speech on “Effective Communication and Coordi-nation - Enjoy Working.”

■ On November 18, the FTC convened a public meeting on “Matters Related to Amendment to Fair Trade Commission Principles

Governing Disclosure of Information by Franchisers.”

■ On November 21, the FTC organized the “Staff Training Course Relevant to Industry of Junior High School and Elementary Schools Textbooks” in Kaohsiung City.



012-07

© **FTC International Exchanges in November 2008**

■ On November 5, Deputy Director TAMURA Ryohei of the International Affairs Division, Japan Fair Trade Commission visited the FTC; he also took steps to understand and exchange opinions with respect to the content of the draft amendment to the Fair Trade Act of the FTC.

■ From November 5 to 7, Section Chief CHEN Chun-Ting of the Department of Planning of FTC and Inspector Hwu Ji-Shyan of the Second Department of the Commission attended “The Fourth APEC Training Course on Competition Policy.”

■ From November 12 to 14, Specialist CHANG Hsin-Yi participated in the conference on “Antitrust Policy toward Horizontal Mergers and Joint Ventures ” held by the Organisation for Economic Co-operation and Development and OECD-Korea Regional Centre for Competition.

■ On Number 13, the FTC took part in the conference call of ICN MWG.

