

Fair Trade Commission

【FTC Newsletter】

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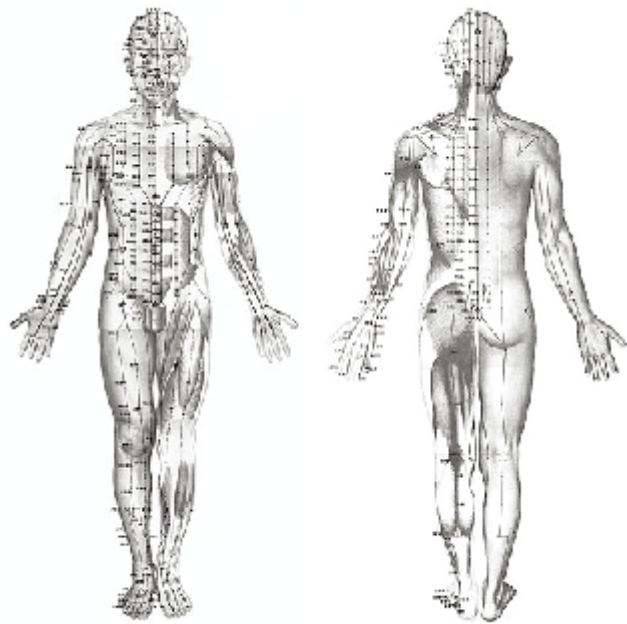
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Concerted Action by the Four Chinese Medical Associations Violated the Fair Trade Act

During its 908th Commissioners’ Meeting on April 1, 2009, the FTC resolved the following case. Four Chinese Medical Associations in the Central Region (Taichung City, Taichung County, Nantou County, and Changhua County) stipulated the “2007 Plan Controlling the Number of Medical Practices in the Central Region” together to control the number of Chinese medical practices by building a market entry barrier. Their act was sufficient to affect the market function of supply and demand of the Chinese Medical Service of the National Health Insurance in the Central Region and constituted a concerted action; therefore, it violated Article 14(1) of the Fair Trade Act. The violation was suspended pursuant to the first part of Article 41 of the said Act, and each Association was ordered to pay an administrative fine of NT\$ 50,000, with a total administrative fine of NT\$ 200,000.

The FTC received a report indicating that the Four Chinese Medical Associations in the Central Region stipulated the “2007 Plan Controlling the Number of Medical Practices in the Central Region” together. The plan imposes higher equity funds and more checkups on

Chinese medical practices in the Central Region; once the number of Chinese medical practices exceeds a certain amount, the fund will subsidize and encourage hospitals in the Central Region to terminate the contracted health insurance. After investigations, the FTC found that the 4 associations did engage in the previous activities. Under the “2007 Trial Project for Chinese Medical Clinical Payments and Budget Allocation for General Departments” of the Department of Health, if the following condition is met where the number of Chinese medical practices per ten thousand people in the Central Region exceeds 1.6 times the number Chinese medical practices per ten thousand people for the whole bureau for 2 successive seasons, then the trial project will be suspended. In order to avoid reaching the above situation regarding Chinese medical practices in the Central Region and avoid the termination of the project, the 4 associations stipulated the plan to control the number of Chinese medical practices.



The FTC indicated that it is important for a practicing doctor to be a member of an association, and that a decision by the association has certain impacts on its members. Thus, on the one hand, the 4 Chinese Medical Associations constructed an entry barrier by increasing the equity fund and preventing the number of new doctors from increasing. On the other hand, they provided hospitals in the Central Region with incentives to terminate contracted health insurance through subsidies. This artificially built market barriers and reduced the number of competitors; furthermore, their actions sought to control the number of Chinese medical practices in the Central Region, thereby affecting market supply and demand and restricting free competition.

The FTC further indicated that even though the 4 associations claimed their actions were a response to the trial project by the Department of Health, the Department of Health and the Bureau of National Health Insurance have already indicated that they have not established other measures to avoid violations to the condition terminating the trial project; besides, only the enhanced checkups, but not the increased equity fund, have been reported to the relevant authorities. As a result, the action by the 4 associations did not comply with the policy of the Department of Health and has not been approved; thus, it cannot be used as an excuse to justify the action.

Shin Lung Gas Switch Equipment Co. Violated the Fair Trade Act

During its 682th Commissioners' Meeting on December 2, 2004, the FTC resolved the case on Shin Lung Gas Switch Equipment Co. Shin Lung Gas Switch Equipment Co. violated the Fair Trade Act by selling gas equipment under the guise of a gas safety check. Shin Lung Gas Switch Equipment Co. made use of a gas security check to create gas equipment sales, and misled consumers to believe that it was the same business as the gas company in their area. Such activity was obviously deceptive and able to affect trading order; it violated Article 24 of the Fair Trade Act, and an administrative fine of NT\$ 100,000 was imposed.

The FTC indicated that a letter from Keelung City Government mentioned that a Keelung citizen reported to the city police office that a staff of "Shin Lung Gas Switch Equipment Co." claimed to be a staff from "Shin Lung Gas Company" and sold relevant products on the basis of performing a gas safety check. After investigation, the FTC found out that the Shin Lung Gas Switch Equipment Co. mainly sells gas-switching equipment, and its major market is the Keelung area. Even though its business category is different from that of gas supply

companies, the company name is similar to that of the gas supplier in the Keelung area, Shin Lung Gas Company. When marketing the products, Shin Lung Gas Switch Equipment Co. sends a service notice 2 to 3 days in advance; it takes advantage of the public's trust in the gas company by sending a "gas safety check notice" to the residence prior to the visit. Usually the public lets the sales person in to check the gas pipelines without hesitation; then, the sales person promotes and installs the gas switch. To achieve the sales objective, Shin Lung Gas Switch Equipment Co. has chosen a name similar to Shin Lung Gas Company and has distributed misleading service notices to hide the fact that it is not a gas pipeline company.

敬啟者：
瓦斯肇事率逐日驟增，已嚴重危害到瓦斯使用
安全，本公司為加強天然氣瓦斯用戶安全，特定於
月 日上午 11 時至下午 5 時期間辦理瓦斯
管線、爐具安全檢查工作，以期防患未然，保障最低。

瓦斯服務通知

※為防受騙，請校對服務人員工作證。

欣隆瓦斯工程配裝部 謹啟
工務課電話：0800-111111
(9:00~18:00)

限流且避震自動遮斷開關

- 一、本公司未委託任何其他公司作安全服務測試，除接受用戶要求或事先通知會派員上門服務，請 貴用戶多加注意，以免遭受無謂損失。
- 二、為了加強天然氣使用安全，本公司已全面改換政府立案 **限流且避震自動遮斷開關**，貴府可直接要求工作人員換裝。
- 三、貴用戶如有任何疑問，請利用本通知單正面之服務電話，當竭誠為您服務。
- 四、上開族可約假日。

The said company therefore used false information to mislead and deceive consumers in order to achieve its sales objectives. Its marketing scheme was obviously deceptive and able to affect trading order.

The FTC indicated that the FTC does not prohibit gas safety equipment enterprises from selling products by paying visits. However, an enterprise shall fully disclose relevant

information during the visit. Sales marketing shall not be made under the guise of a gas safety check. Shin Lung Gas Switch Equipment Co. used a gas safety check in order to sell products; it used false information to mislead and deceive consumers. Its marketing scheme was obviously deceptive and able to affect trading order. Besides, the company violated Article 24 of the Fair Trade Act twice. The FTC ordered a suspension of the deceptive activities that were sufficient to affect trading order pursuant to Article 41 of the said act. In considering the company's motive, objectives, time of action, expected benefits resulting from illegal behavior, the damage caused by business scale to trading order, and other relevant factors, a fine of NT\$ 100,000 was imposed.

Pure-Pro Posted Untrue Advertisements for the “Chlorine Shower Filter” on its Website

During its 914th Commissioners' Meeting on May 13, 2009, the FTC resolved the case on Pure-Pro Water Corp. (hereinafter called Pure-Pro). Pure-Pro posted advertisements for the “chlorine shower filter” on its website, alleging it to be the best seller nationwide. The representations as to the content and quality of the product were false, untrue, and misleading. The violation was suspended pursuant to Article 21(1) of the Fair Trade Act.

The FTC indicated that where an enterprise uses specific phrases to identify or represent a product or service, such as “the only,” “the first,” “the best seller,” or “the largest,” there shall be objective statistics or survey data to support such wording along with the basis of comparison specified; otherwise, the advertisements may be false, untrue, or misleading. Pure-Pro posted advertisements for the “chlorine shower filter” on its website, alleging the product to be the “best seller nationwide.” Such a phrase shall be supported by objective survey data such as sales volume. In addition, the wording tends to make people think that the comparison is made against



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全國銷售冠軍-本週特價 699 元

other identical or similar chlorine shower filter products domestically. It is better to specify the basis for comparison in order to avoid any misunderstanding or unfair competition in relation to other competitors in the industry. Even though Pure-Pro claimed to have sold

more “chlorine shower filters” than any other products on its own website, and that the said product was the best seller nationwide on its website, the advertisement failed to specify that the comparison was only made against products sold by Pure-Pro. Website users could not know the comparative basis for the phrase “best seller nationwide” and may have gained the wrong impression that the said product sold better than other either identical or similar products in the domestic market. As a result, the representation of the advertisement violated Article 21(1) of the Fair Trade Act.

Lungyi Posted Untrue Advertisement for “Abdomen Fat Burner” on its Website



During its 914th Commissioners’ Meeting on May 13, 2009, the FTC resolved the case involving Lungyi Biotechnology Corporation (hereinafter called Lungyi). Lungyi listed advertisements for the “Abdomen Fat Burner” on its website; the representations as to the contents and quality of the product were false, untrue, and misleading. It violated Article 21(1) of the Fair Trade Act and the violation was suspended pursuant to Article 41 of

the same act.

The FTC indicated that, since Lungyi named the product “Abdomen Fat Burner” in advertisements it posted on the website, the general public may have had the specific impression that such product created a “fat-burn” or “burning fat” effect and thus decided to buy the product when seeing that advertisement; the public may have believed that Lungyi’s statement was based on sufficient medical theory or clinical testing. However, Lungyi admitted that there were neither clinical testing data nor a scientific/medical theory basis to support the “fat-burn” effect of the “Abdomen Fat Burner;” neither were there supporting test data or statistics. As a result, the content of the advertisement was way different from the general public’s impression. Such a difference has exceeded an acceptable level and may mislead impressions or decisions. Thus, since its representations as to the contents and quality of the product are false, untrue, and misleading, Lungyi has violated Article 21(1) of the Fair Trade Act.

2008 Market Survey Summary for Multi-level Sales Enterprises

There were a total of 396 multi-level sales enterprises registered with the FTC at the end of 2008. If registration withdrawals, those not engaging in or those with suspended multi-level sales activities, and those with unknown business conditions or that failed to report their move are excluded, there were 235 enterprises engaging in multi-level sales activities in 2008. According to the survey, the total sales for multi-level sales in 2008 was NT\$ 51,430 million, among which 12 enterprises had sales exceeding NT\$ 1 billion, and 4 had more than 100,000 sales persons.

To approach the operation of multi-level sales enterprises, each April to June, the FTC conducts a survey regarding multi-level sales enterprises registered with the FTC at the end of 2008. The survey includes the basis business profile, the operation of multi-level sales enterprises, and the outlook for the future. The survey report is completed by the end of June 2009, and such data form the basis for the FTC to supervise and manage the multi-level sales enterprises. The following are the summary statistics for the 235 multi-level sales enterprises referred to above in 2008:

1. Most enterprises were registered in the northern area

In 2008, most enterprises still registered in the northern area, with a total of 151 enterprises. If divided by city/county, 48.1% were in Taipei City and 14.9% were in Taichung City. These two cities accounted for more than 60 percent. This shows that multi-level sales rely on social networks to expand their business; thus, most enterprises are registered in cities with dense populations.

2. Sales of multi-level sales

The total sales in 2008 amounted to NT\$ 51,430 million, among which 12 enterprises (5.1% of the number of enterprises) had sales exceeding NT\$ 1 billion ; the latter gave rise to total sales of NT\$ 32,600 million (63.4% of the industry's sales). Divided by products, NT\$ 28,580 million in sales were from nutrition/health food (55.6%); then came cosmetics (NT\$ 8,670 million, 16.9%), followed by bath and laundry (NT\$ 4 billion, 7.8%). The top three categories accounted for 80.2% of the sales.

3. Females are the main force in multilevel sales

A total of 4,405 thousand people were engaged in the multi-level sales business, representing 85.5% of total participants. In 2008, 626 thousand people joined the multi-level sales enterprises (14.2% of total multi-level sales personnel), and there were 2,784 thousand females (63.2%). If we focus on the percentage of females in an enterprise, 118 enterprises (50.2%) had between 50% and 74% females; and 18.7% had 75% to 89% females. As a result, females are the main force in multi-level sales.

4. Less than 15% of multi-level sales persons have received rewards/commissions

In 2008, the enterprises paid a total of NT\$ 20 billion in rewards/commissions, representing 38.9% of total sales. In 2008, a total of 636 thousand sales persons received rewards/commissions, representing 14.4% of the sales force. On average, each sales person received a reward/commission of NT\$ 31,441.

5. Future Outlook

When asked about the outlook for the multi-level sales industry, 167 of the 235 enterprises surveyed were worried about the market downturn (71.1%), 44.7% said that competition among similar products may affect operations, 42.1% were worried about the damage caused by illegal multilevel sales enterprises, and 24.3% were concerned about the decrease in the number of participants. Only 25 enterprises (10.6%) thought the future outlook was fine.

2008 Business Summary of Multi-level Sales Enterprises

Unit: Enterprise; 10,000 people; NT\$100 million dollars

By Sales Scale	Total No. of Enterprises	Number of Participants					Sales			Commission / Rewards Expense	
		Sellers	Female	No. of Subscribers	No. of Sellers Rewarded	Nutrition, Health Food	Beauty Cosmetics	Bath & Laundry			
Total	235	515.25	440.54	278.42	117.41	63.61	514.32	285.80	86.69	40.02	200.00
Under NT\$ 1,000,000	15	0.25	0.24	0.14	0.10	0.06	0.06	0.03	0.02	0.00	0.02
NT\$ 1,000,000 to 9,999,999	67	9.81	6.54	4.53	1.53	0.87	3.00	1.76	0.37	0.15	1.01
NT\$10,000,000 to 99,999,999	94	71.72	64.19	38.50	11.78	6.03	33.79	16.62	6.19	1.07	13.16
NT\$ 100,000,000 to 999,999,999	47	242.61	215.53	120.33	31.17	22.28	151.44	81.91	18.56	6.02	72.68
Over NT\$ 1,000,000,000	12	190.86	154.04	114.92	72.82	34.36	326.02	185.48	61.55	32.78	113.13

FTC Activities in June 2009

- On June 2, the FTC hosted a “Coordination Meeting for Legal Applications regarding Cram Schools and Misleading Advertisements.”
- On June 4, the FTC held the 2009 Southern Region “Workshop on Multi-level Sales and Hygiene-related Regulations” and the “Workshop on On-line Record-filing and Tax Regulations for Multi-level Sales” in Kaohsiung City.
- On June 8, the FTC held the “2009 Introduction to the Fair Trade Act Workshop for Administrative Organizations.”
- On June 11, the FTC held the “FTC Workshop for Examining Misleading Advertisements On-line.”
- On June 22, the FTC invited Mr. William E. Kovacic, Commissioner of the US Federal Trade Commission, to present a speech on “Engineering the Competition Agency of the Future-Perspectives from FTC Self-study.”
- On June 23 and 24, the FTC held the “2009 International Conference on Competition Policies/Laws” in Taipei City.
- On June 26, the FTC held the “FTC Workshop on Advertisement Regulations for On-line Enterprises.”

- On June 26, the FTC held the “2009 FTC Lectures on the Fair Trade Act: Regulations and Case Study on Business Activities of Land Administration Agents under the Fair Trade Act” in Taipei City.
- On June 29 and 30, the FTC held the 2009 “Multi-level Sales Regulation Camp for College Faculty and Students” in Taoyuan City.
- On June 30, the FTC invited Professor Du-Tsun Wang of the Law School of Ming Chuan University to present a speech on “The Recycling of Patented Items and Patent Infringement.”



1. The FTC held the 2009 Southern Region “Workshop on Multi-level Sales and Hygiene-related Regulations” in Kaohsiung City.
2. Mr. William E. Kovacic, Commissioner of the US Federal Trade Commission, presented a speech on Engineering the Compet Agency of the Future Perspectives from FTC Self-study.
3. The scene of the “Taiwan 2009 International Conference on Competition Policies/Laws.”
4. The FTC held the “FTC Workshop on Advertisement Regulations for On-line Enterprises.”

FTC International Exchanges in June 2009

- From June 3 to 5, the FTC sent members to the ICN 8th Annual Conference in Zurich.
- On June 23 and 24, Mr. Tang, Jinn-Chuan, Chairman of FTC, met with Mr. Frederic Jenny, Chairman of the OECD “Competition Committee,” and Mr. Zoltan Nagy, Head of the Hungarian Competition Authority, respectively.
- On June 25, Mr. Tang, Jinn-Chuan, Chairman of FTC, had bilateral meetings with Ms. Elisabeth Flury-Herard, Deputy Chair of the France Competition Authority, and Mr. Michael Schaper, Deputy Chair of the Australian Competition and Consumer Commission, respectively.

- From June 29 to July 1, Mr. Tang, Jinn-Chuan, Chairman of FTC, led a group to join “The 5th East Asia Conference on Competition Law and Policy” and “Competition Policy Summit” in Mongolia, and held a bilateral meeting.



1. Mr. Tang, Jinn-Chuan, Chairman of FTC, (right 1) met with Mr. Frederic Jenny, Chairman of the OECD “Competition Committee” (left 1).
2. Mr. Tang, Jinn-Chuan, Chairman of FTC, (right 1) met with Mr. Zoltan Nagy, Head of the Hungarian Competition Authority (left 1).
3. Mr. Tang, Jinn-Chuan, Chairman of FTC, (right 1) had a bilateral meeting with Ms. Elisabeth Flury-Herard (left 1), Deputy Chair of the France Competition Authority.
4. Mr. Tang, Jinn-Chuan, Chairman of FTC, (left 6, first row) led a group to the “Competition Policy Summit” in Mongolia.