

Ex Officio Investigation into Fluctuations of Medicine Prices

1405th Commissioners' Meeting (2018)

Case: The FTC launched an ex officio investigation to see whether the fluctuations of household medicine prices between the end of 2017 and early 2018 during promotion of the Good Distribution Practice were abnormal and in violation of Fair Trade Law

Keyword(s): Household medicine, Good Distribution Practice

Reference: Fair Trade Commission Decision of October 9, 2018 (the 1405th Commissioners' Meeting)

Industry: Manufacture of Drugs and Medicines (2002)

Relevant Law(s): Articles 14 and 15 of the Fair Trade Law

Summary:

1. On March 20, 2018, the media reported that the prices of household medical products like Otrivin Menthol Nasal Spray, Tiger Balm, Taiko Serogan and Polident Denture Cleansing Tablets would be increased one after another. In Jan 2018, the prices of Panadol Diclofenac Oil Plaster, Green Oil and Gwo An Cold Liquid had already gone up whereas Chang Kuo Chou Stomachin and KingStom Upset Stomach Relief Powder also followed suit in February. As the aforementioned medicines included some well-known household medicines, the price hikes gave rise to concerns that the interests of the public might be affected. Therefore, the FTC launched an ex officio investigation to find out whether the price fluctuations involved activities that were in violation of the Fair Trade Law
2. Findings of the FTC after investigation:
 - (1) The FTC's investigation revealed that pharmaceuticals (or agents) had to update their software and hardware equipment in order to comply with the Good Manufacturing Practice (hereinafter referred to as GMP) and the Good Distribution Practice (hereinafter referred to as GDP) implemented in accordance with the Pharmaceutical Inspection Co-operation Scheme (PIC/S). Each business ended up investing tens of millions to nearly one hundred million NT dollars. At the same time, the costs of raw materials, personnel, transportation and advertising and marketing also went up. According to the Ministry Health and Welfare, Taiwan Pharmaceutical Manufacturer's Association and Taiwan Pharmacist Association, implementation of PIC/S, GMP and GDP could indeed increase the costs of pharmaceuticals. Therefore, it was true when related businesses claimed they had to increase medicine prices to reflect the management cost escalation resulted from the measures taken to comply with government policy.
 - (2) Among the 10 household medicines that became more expensive recently, the Panadol Diclofenac Oil Plaster (for pain relief and inflammation reduction), Taiko Serogan (an anti-diarrhea agent), Otrivin Menthol Nasal Spray (for common colds, stuffy nose, runny nose, sneezing, allergic rhinitis, and nasal congestion from allergies), and Polident Denture Cleansing Tablets (for cleaning false teeth) were medical products for purposes different from other household medicines that also underwent price hikes. No competition existed in between and it was therefore difficult to determine that concerted action was involved. As for other household medicines with increased prices, competition existed between Tiger Balm and Green Oil, between Ming Tong

Chyr Tong Dan Solution and Gwo An Cold Liquid, and between Chang Kuo Chou Stomachin and KingStom Upset Stomach Relief Powder. However, the investigation showed the time and margin of price increase were dissimilar. In addition, there were still many competing brands for consumers to choose on the market. Hence, it was hard to conclude the price increases were in violation of the regulation against concerted actions.

- (3) Another finding indicated that the retail prices of the aforementioned household medicines at the major chain pharmacies had already been inconsistent before pharmaceuticals (agents) issued price increase notices. At the same time, due to inventory differences, after pharmaceuticals (or agents) issued price increase notices, the time and margin of price increase were also inconsistent. Some chain pharmacies even did not raise their retail prices. Therefore, it was evident that the pharmaceuticals (or agents) might have increased the prices of their medical products, but pharmacies at the downstream could still determine their retail prices in accordance with their cost structure, market supply and demand and marketing strategy. Moreover, there was no imposition of resale price restrictions in this case.
- (4) In summary, the FTC concluded that the increases of household medicine price between the end of 2017 and early 2018 had been the result of cost increments. There was no evidence to show related businesses had jointly increased prices in violation of the Fair Trade Law.

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