

## **Hitachi Ltd. & Yungtay Engineering Co., Ltd.**

1432<sup>nd</sup> Commissioners' Meeting (2019)

Case: Hitachi filed a pre-merger notification regarding its intention to merge with Yungtay Engineering through its subsidiary Hitachi Elevator Taiwan

Keyword(s): Elevator, component, vertical supply

Reference: Fair Trade Commission Decision of April 17, 2019 (the 1432<sup>nd</sup> Commissioners' Meeting); Letter Kung Zhi Tzu No.1081360199

Industry: Manufacture of Conveying Machinery (2935)

Relevant Law(s): Articles 10, 11 and 13 of the Fair Trade Law

### Summary:

1. Japanese company Hitachi Ltd. (hereinafter referred to as Hitachi) intended to increase its holding of the shares of Yungtay Engineering Co., Ltd. (hereinafter referred to as Yungtay Engineering) from 11.7% to 100% through a public tender offer. After the merger, Yungtay would become a wholly-owned subsidiary of Hitachi. The condition met the merger patterns described in Subparagraphs 2 and 5 of Paragraph 1 of Article 10 of the Fair Trade Law. At the same time, the domestic market share and revenue of Yungtay Engineering also achieved the merger-filing thresholds specified in Subparagraphs 2 and 3 of Paragraph 1 of Article 11 of the same law whereas the proviso in Article 12 did not apply. Therefore, the merger notification was filed.
2. Findings of the FTC after investigation:
  - (1) Cross-border transportation of elevators was costly while safety and after-sale maintenance were also important factors for the industry. Therefore, securing supplies from closer sources would be more appropriate. Buyers would find it difficult to choose or switch to other trading counterparts outside a specific area. For this reason, the product market in this case was the elevator market and the geographic market was the domestic market. Hitachi's elevators were marketed by Yungtay Engineering before. The quantity was small, but the products overlapped with those of Yungtay. In addition, since Hitachi had also provided related technologies and components to Yungtay Engineering, there were upstream-downstream supply relations between Hitachi and Yungtay Engineering. Hence, horizontal merger and vertical merger were in concern.
  - (2) For the domestic market, Hitachi elevators were pricy and did not sell well. After the merger, the capacity of the merging parties to increase the overall market power would be limited. It would be difficult for them to disregard market competition and make price raises. Furthermore, the technological cooperation between Hitachi and Yungtay Engineering would remain unchanged after merger. Both companies were unlikely to restrict each other's business activities or adopt consistent business practices. Moreover, since the domestic elevator market was an oligopolistic market, the competition between Yungtay Engineering, Taiwan Mitsubishi Elevators and Golden Friends Corporation was fierce, and the market share each company accounted for fluctuated from time to time. If the merging parties increased the

- prices of their products, trading counterparts could easily turn to other companies for their purchases. In other words, they would have the countervailing power to keep the merging parties from raising their product prices or service charges.
- (3) As for the vertical merger part, although Hitachi provided downstream businesses with its technologies and certain components around the world, Yungtay was the only domestic enterprise getting such technologies and components from Hitachi. After the merger, the sources of supply for other downstream businesses would not be affected and input foreclosure was unlikely to occur on the market. In the meantime, Yungtay had no reason to change its component sources and it would continue to purchase from domestic suppliers (it is noticeable that the merging parties did not have any plans to alter their management approaches). In other words, customer foreclosure would not happen to domestic component suppliers.
- (4) The competent authorities of related industries, concerned trade associations and elevator component suppliers either held positive views or had no opinions about the merger. Moreover, the general assessment conducted by the FTC showed that no significant competition restraints could occur on the market. Hence, citing Paragraph 1 of Article 13 of the Fair Trade Law, the FTC did not prohibit the merger and also notified the applicant by issuing an abridged notification.

Appendix:

Hitachi Elevator Taiwan Co., Ltd.'s Uniform Invoice Number: 50896474

Yungtay Engineering Co., Ltd.'s Uniform Invoice Number: 11166702

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