

## Banana Wholesalers

1442<sup>rd</sup> Commissioners' Meeting (2019)

Case: Banana wholesalers were complained for violating the Fair Trade Law by suppressing purchase prices jointly and causing the banana price plunges in Kaohsiung

Keyword(s): Banana, wholesaler, Facebook group

Reference: Fair Trade Commission Decision of June 26, 2019 (the 1442<sup>nd</sup> Commissioners' Meeting)

Industry: Wholesale of Fruit and Vegetables (4541)

Relevant Law(s): Articles 14, 15 and 20 of the Fair Trade Law

### Summary:

1. In June 2018, the media reported that a banana wholesaler got beaten up for paying higher prices for bananas. The wholesaler accused the “Guolian Produce Alliance of Banana Sellers and Growers” of controlling banana prices at the place of origin through the influence of its Facebook group. In February 2019, the farmers in Qishan, Kaohsiung organized a self-help association to request the government to intervene and stop wholesalers from jointly monopolizing the market. The investigation was focused on whether the wholesalers did violate the Fair Trade Law by using the influence of their Facebook group to suppress the prices of bananas at the place of origin.
2. Findings of the FTC after investigation:
  - (1) Concerned banana wholesalers and farmers were invited to give their statements and present related evidences at the FTC while relevant agricultural authorities and production and marketing entities (including the Council of Agriculture, Kaohsiung City Government, Taipei Agricultural Products Marketing Corporation, Kaohsiung Fruit and Vegetable Marketing Company, Kaohsiung Area Farmers Association, and Taiwan Banana Research Institute) were also requested to provide explanations and information. The investigation showed that the wholesalers involved were not horizontal competitors of the same production and marketing stage. To the contrary, they purchased bananas from farmers just to make a fixed profit. The purchase prices were not up to their decisions. In addition, the quantities of bananas they purchased made it evident that they did not have the market power. In the meantime, after comparing the postings from the aforementioned Facebook group and LINE conversation records while matching the price data, the FTC found no concrete evidences to prove any violation of the Fair Trade Law. In other words, the banana-purchase prices showed no consistency and there was no proof that the wholesalers had established any mutual understanding to jointly decide banana purchase prices. For this reason, the FTC could not conclude the wholesalers had violated Article 15 of the Fair Trade Act by jointly suppressing banana prices through the Facebook group. The investigation also revealed that the conversations of the LINE group were private, not public, messages. The recipients of such messages decided their own banana-purchase prices and were not affected by the messages. Therefore, it was concluded that the wholesalers involved did not have enough market power to make other wholesalers not to engage in price competition or to participate in banana price suppression in

- violation of Subparagraph 4, Article 20 of the Fair Trade Law.
- (2) To prevent wholesalers from violating the Fair Trade Law by announcing banana-purchase prices in advance through the aforesaid Facebook group in the future, the FTC particularly warned the principal members of the Facebook group that they had to abide by related regulations in the Fair Trade Law.

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