

Five Ready Mixed Concrete Businesses

1433rd Commissioners' Meeting (2019)

Case: Five ready mixed concrete businesses violated the Fair Trade Law by causing gravel and ready mixed concrete price hikes in the south for the reason of shortages of gravel

Keyword(s): Ready-mixed concrete, gravel, announcement of prices in advance

Reference: Fair Trade Commission Decision of April 24, 2019 (the 1433rd Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 108021

Industry: Manufacture of Ready-mix Concrete (2332)

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

Summary:

1. Gravel shortages in the Laonong River Valley in the south occurring at the end of 2018 had an impact on the supply of ready mixed concrete. Using this as a pretext, ready mixed concrete businesses notified downstream construction companies that the supply would be disconnected in stages and market trading order and progress of public constructions were affected. They also announced prices of ready mixed concrete would go up for NT\$250 to NT\$280 per cubic meter starting on January 1, 2019. Therefore, the FTC launched an investigation.
2. Findings of the FTC after investigation:

Five ready mixed concrete businesses in Tainan City and Kaohsiung City notified their customers in mid-December 2018 that the prices of ready mixed concrete would go up for NT\$250 to NT\$280 per cubic meter. Taiwan Cement Corp. increased the price per cubic meter by NT\$280, Yatung Ready Mixed Cement Co., Ltd. NT\$270, Goldsun Building Materials Co., Ltd. NT\$260, Universal Cement Corp. NT\$270 and Tiancheng Ready Mixed Concrete Co., Ltd. NT\$270. All of them exceeded NT\$250 whereas the price increases took place on the same date, the amount and the margin were similar, and their customers were notified at about the same time. Such consistency could not have happened if the five businesses decided to raise prices independently. Moreover, since high homogeneity existed between the ready mixed concrete products from different companies, the five suppliers started to make small price adjustments step by step before January 1, 2019 to reflect changes in the market and prevent loss of customers. However, after January 1, 2019, they all raised the price by 17% to 18% simultaneously. Apparently, the practice was adopted not merely with the purpose of reflecting their cost increase.
3. Grounds for disposition:
 - (1) Incentives existing in the market for the concerted action: The five businesses together claimed more than 75% of the market in Tainan City and Kaohsiung City. The condition met the definition of oligopolistic market in terms of economic theory. In addition, due to the simple production technique, high product homogeneity and price information transparency, mutual restraint was characteristic in the conduct of these suppliers. Under this market structure, competing suppliers faced short-term heavy cost pressure. If they did not raise prices by a large margin, profit could decline or deficits could even happen.

However, individual price increases by a large margin could lead to loss of customers. Therefore, caught in such a difficult management situation, joint price increase to protect mutual interests was indeed an incentive.

- (2) High product or service homogeneity making price competition a normal practice: Ready mixed concrete could not be marketed through product differentiation. Price competition was necessary to attract customers. Take the strength of 3,000 psi ready mixed concrete for example. The prices of the five businesses ranged between NT\$1,400 and NT\$1,500 per cubic meter in 2018. When every one of them raised prices by a large margin after January 1, 2019, it was not normal.
- (3) According to the cost and profit differences, the levels of price increase, and cost to be absorbed by each of the five businesses had to be different:
 - (i) The five businesses raised the prices of ready mixed concrete on January 1, 2019 to reflect their cost increases which were mainly associated with gravel, transportation and slag powder. Such cost increases took place on different dates and involved different amounts. The businesses claimed that their price adjustments were made to reflect costs. Nevertheless, since the amounts of cost increase and the contents of the cost differed, the price increases had to vary as well.
 - (ii) The profit and loss of each business were also quite different. Hence, the amortization of management cost resulted from raw material cost increases had to have dissimilar influence for each business. For this reason, it would be normal for each business to adopt different price strategies to pursue the biggest competitive advantage and rate of return. On the contrary, all of them actually announced the prices of different types of ready mixed concrete would be increased by NT\$200 to NT\$280. The amounts increased all exceeded the amount of each business' cost increase. It was not justifiable.
- (4) Business practices economically unjustifiable:
 - (i) The ready mixed concrete price adjustments made by the five businesses starting on January 1, 2019 were inconsistent with the patterns of price adjustments they had made in the past. The amounts increased all surpassed the cost increments whereas the adjustments were made on the same date, the amounts and the margins of increase were similar and the announcements of price increase were made at about the same time.
 - (ii) The scales of the five businesses were rather large. Some of them had the advantage of vertically integrated production, but the margins and amounts of their ready mixed concrete price increases to reflect cost increments were larger than those of smaller suppliers. The phenomenon was obviously abnormal.
 - (iii) The five businesses announced their ready mixed concrete price increases before their raw material cost increases or margins of increase became certain. It was economically unjustifiable.
 - (iiii) The collective price announcement in advance was either a type of promotion practice or it was the evidence that they had reached a mutual understanding.
- (5) The five businesses issued notices in mid-December 2018 to inform their customers of the ready mixed concrete price increase starting on January 1, 2019. The practice was able to affect the supply-demand function in the ready mixed concrete market in Tainan City and Kaohsiung City. It was in violation of the regulation against concerted actions set forth in Paragraph 1 of Article 15. After assessing the motive and purpose of each business, the amount of inappropriate profit expected, the level of harm of the unlawful act to trading order, the duration of the harm to trading order (January to March 2019), the profit they gained from

the unlawful act, the scale, management condition, sales and market status of each business, the types, frequency and intervals of past violations and punishments received, the level of remorse and the cooperativeness throughout the investigation, the level of liability and financial capacity of each company and other factors, the FTC cited the first section of Article 41 of the Fair Trade Law, ordered the businesses to immediately cease their unlawful acts, and imposed administrative fines ranging from NT\$1 million to NT\$20 million on them. The fines totaled NT\$60 million.

Appendix:

Goldsun Building Materials Co., Ltd.'s Uniform Invoice Number: 24060203

Taiwan Cement Corp.'s Uniform Invoice Number: 11913502

Yatung Ready Mixed Cement Co., Ltd.'s Uniform Invoice Number: 73641592

Universal Cement Corp.'s Uniform Invoice Number: 07568009

Tiancheng Ready Mixed Concrete Co., Ltd.'s Uniform Invoice Number: 84087085

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