

Xin Xin Enterprises

1439th Commissioners' Meeting (2019)

Case: Xin Xin Enterprises violated the Fair Trade Law by adopting illegal means to sell gas safety devices

Keyword(s): Safety device, use of safety inspection as a pretext

Reference: Fair Trade Commission Decision of June 5, 2019 (the 1439th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.108029

Industry: Retail Sale of Other Household Appliances and Goods in Specialized Stores (4749)

Relevant Law(s): Article 25 of the Fair Trade Law

Summary:

1. New Taipei City Government forwarded to the FTC a private citizen's complaint about Xin Xin Natural Gas Enterprises (hereinafter referred to as Xin Xin Enterprises) putting gas pipe safety inspection notices in the mail boxes of residential homes in the middle of the night and using the inspection as a pretext to push gas safety devices. Although the consumer protection officers of New Taipei City Government investigated the case and did not find any facts of consumers' interests getting jeopardized, they thought the practice of the company using performing safety inspections as a pretext to promote its products was in violation of the Fair Trade Law and, therefore, transferred the case to be handled by the FTC.
2. Findings of the FTC after investigation:

Xin Xin Enterprises engaged in sales of gas safety devices. The FTC' investigation revealed that the services notices the company distributed in the operating area of Xin Xin Natural Gas Co., Ltd. did not indicate what the company was selling or its intention to market gas safety devices. The service notice carried the wording of "Xin Xin Natural Gas Service Notice" and the words Xin Xin Natural were specifically enlarged. When the company's employees called on private residences, the company name Xin Xin could be seen clearly on their uniforms while the name Xin Xin on their worker IDs was also made bigger and more conspicuous. There was no indication on the service notice that the company was actually a gas safety device business. For this reason, when people who had never had the company's product installed received the notice or when the company employees visited their homes, they could easily associate the company with Xin Xin Natural Gas Co., Ltd., their natural gas supplier. In other words, the purposes was obviously to trick people into believing that it was the local natural gas supplier coming to conduct regular gas pipe safety inspections as the fact that Xin Xin Enterprises was a gas safety device business was concealed.
3. Grounds for disposition:
 - (1) Xin Xin Enterprises was a gas safety device business. The service notices distributed in the operating area of Xin Xin Natural Gas Co., Ltd. did not carry any information about the specific products the company sold or indicate its intention to sell gas safety devices. "Xin Xin Natural Gas Service Notice" was printed on each service notice and "Xin Xin Natural" was specifically enlarged.

When the company's workers called on private homes, the name "Xin Xin" on the uniform was conspicuous while the name on the Worker ID also enlarged. However, since the service notice did not indicate the company was actually a gas safety device business, people who had not never had the company's products installed before would easily associated the company with the local natural gas supplier Xin Xin Natural Gas Co., Ltd. when they received the service notice. Obviously, the purpose of the company was to mislead people to believe it was the local natural gas supplier performing regular gas pipe safety inspections. However, the fact that the company was a gas safety device business was concealed.

- (2) Natural gas pipe safety inspections were the responsibility of public natural gas enterprises. As a gas safety device business, Xin Xin Enterprises had no right to enter private homes to inspect gas pipes, and people had no obligation to cooperate with the offender and allow its employees to perform safety inspections on gas pipes and valves. The wordings of "[P]ersonnel will be sent to perform safety inspections on the gas pipes in your home," and "[I]f the time indicated on this service notice is inconvenient for you, please inform our company beforehand to make an appointment at a different time for us to provide the service" on the service notice apparently was employed to mislead people into believing that it was the regular safety inspection from the local natural gas supplier and the company had the right to perform such inspections. Under such circumstances, the likelihood that the company's employees could be allowed to enter private homes and market gas safety devices would be much higher. Judged by the overall practice and the effect, the company name printed on the service notice, workers' IDs and uniforms obviously could mislead people to believe that the personnel were either associated with the local natural gas supplier Xin Xin Natural Gas Co., Ltd., or they were commissioned by the concern agency to provide regular gas safety inspection service. The deceptive practices of concealing the fact that the company was a gas safety device business to mislead consumers were in violation of Article 25 of the Fair Trade Law.
- (3) Xin Xin Enterprises was a gas safety device business, but it used gas safety inspection service notices, workers' IDs and informs to mislead people to believe the company was associated with the local natural gas supplier and at the same time concealed the fact that it was a gas safety device business. The deceptive conducts were in violation of Article 25 of the Fair Trade Law. In addition to ordering the company to cease the unlawful act, the FTC also transferred the company's person in charge and two employees who actually sold gas safety devices through the aforementioned means to be investigated by the concerned law enforcement agency. The FTC sanctioned the company for its unlawful act first without imposing any fine. According to Paragraph 2 of Article 26 of the Administrative Penalty Act, if a non-prosecutorial disposition was decided for the offenders or the offenders were acquitted or not indicted, or the case was rejected or did not have to be taken to court, the FTC could then impose an administrative fine after the above decision becomes finalized.

Appendix:

Xin Xin Natural Gas Enterprises' Uniform Invoice Number: 72683117

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