

Amendment to the Consultation Conclusion between the Fair Trade Commission and the National Communications Commission

1426th Commissioners' Meeting (2019)

Case: The consultation conclusion between the Fair Trade Commission and the National Communications Commission was amended

Keyword(s): Cable TV, coordination principle, NCC

Reference: Fair Trade Commission Decision of February 15, 2019 (the 1426th Commissioners' Meeting)

Industry: Wired Telecommunications Activities (6101)

Relevant Law(s): Article 20 of the Fair Trade Law

Summary:

1. Disputes over listing and delisting of Cable TV channels could have a serious impact on the rights of the viewers. To effectively investigate such disputes, the FTC and the National Communications Commission (hereinafter referred to as "NCC") published the "Consultation Conclusion between the Fair Trade Commission and the National Communications Commission" (hereinafter referred to as "FTC-NCC Consultation Conclusion") in 2010. However, the amendments made to the Cable Radio and Television Act and the Satellite Broadcasting Act on January 6, 2016 included guidelines for handling differential treatments and refusal of transactions by system operators and satellite channel providers. At the same time, the guidelines were in concurrence with Article 20(i)(ii) of the Fair Trade Law. In other words, it was necessary for the FTC and the NCC to renegotiate and clearly define the responsibilities of both commissions. Therefore, a coordination meeting was held for the two commissions to revise the original "FTC-NCC Consultation Conclusion".

2. Two major revisions were made in the meeting. First, although regulations regarding boycotts and differential treatments between businesses were already specified in Article 20(i)(ii) of the Fair Trade Law, it was set forth in Article 37(1)(4) of the Cable Radio and Television Act revised on January 6, 2016 that cable, radio and television system operators had to establish fair, reasonable and non-differential regulations with regard to channel listing and delisting associated with satellite channel program providers, other channel program providers, extraterritorial satellite radio, and television services and wireless television services. It was also specified that system operators could not adopt illegitimate measures against satellite channel program providers, extraterritorial satellite radio and television services, other channel program providers and wireless television services to treat other system operators differentially. Consequently, it was defined in the coordination meeting that cases involving such practices were to be handled by the NCC in accordance with Article 37 of the Cable Radio and Television Act. Meanwhile, it was also stipulated in Article 25(i)(ii) of the amended Satellite Broadcasting Act of 2016 that direct satellite broadcasting services and the extraterritorial branches of satellite broadcasting television services airing direct satellite broadcast programs could not, without justifications, treat satellite channel program providers and satellite and the extra territorial branches or agents of satellite channel program providers managing provision of satellite channel programs differentially. At the same time, without

justifications, satellite channel program providers and extraterritorial branches or agents of satellite channel providers could not apply differential treatments to cable radio and television system operators (including cable television program broadcast systems), direct satellite broadcast television services or other broadcast platforms listened to or viewed by the public. In the coordination meeting, it was decided that cases involving these practices were to be handled by the NCC in accordance with Article 25 of the Satellite Broadcasting Act. As for cases touching upon boycotts, differential treatments, tie-in sales, concerted actions (such as joint purchases and joint sales), mergers, or other activities in violation of the Fair Trade Law, they were to be handled by the FTC according to the Fair Trade Law.

3. The revision of the “FTC-NCC Consultation Conclusion” this time focused on staying in line with the Cable Radio and Television Act and the Satellite Broadcasting Act. Boycotts and differential treatment practices adopted by broadcasting businesses were to be handled by the NCC in accordance with broadcasting regulations. The FTC and the NCC would split the workload and cooperate with each other to maintain freedom and fair competition in the broadcasting markets.

Summarized by: Yang, Jhe-Hao; Supervised by: Kuo, An-Ci