

PVinsights Co. Ltd. and TrendForce Corp.

1451st Commissioners' Meeting (2019)

Case: Online platform operators of PVinsights and Energy Trend was complained for violating the Fair Trade Law by announcing solar cell prices

Keyword(s): Price information, solar cell

Reference: Fair Trade Commission Decision of August 28, 2019 (the 1451st Commissioners' Meeting)

Industry: Data Processing, Hosting and Related Activities (6312)

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

Summary:

1. Taiwan Photovoltaic Industry Association filed with the FTC a complaint that the websites of PVinsights and Energy Trend announced the prices of solar cells each week and the rates they announced were apparently too low. As a result, domestic solar cell makers were caught in a disadvantageous position when negotiating prices. Therefore, the association thought PVinsights and Energy Trend had violated Article 15 of the Fair Trade Law because their solar cell price announcements on their websites had seriously affected trading order in the market.

2. Findings of the FTC after investigation and the results:

- (1) PVinsights and Energy Trend, both online solar cell market rate information platforms, were respectively set up, maintained, and updated by PVinsights Co. Ltd. (hereinafter referred to as "PVinsights") and TrendForce Technology Co., Ltd. (hereinafter referred to as "TrendForce"). It was thus claimed that PVinsights and TrendForce were responsible for the conduct. Another finding of the FTC's investigation indicated that PVinsights and TrendForce operated the market rate information platforms to provide data on the upstream, midstream, and downstream of the solar cell market. Their revenues primarily came from selling research reports to members and providing market rate information services. They were neither buyers nor suppliers of solar cells. Therefore, the FTC concluded that their practice was not meant to deceive, mislead or conceal important information to cause others to engage in transactions with them.
- (2) The solar cell market prices announced on solar cell market rate websites could serve as references in price negotiations, and domestic solar cell makers all agreed that the market rates announced on such websites could only be used for reference at best. The closing price in the end had to be negotiated between the buyer and the seller according to their costs, profit margins, and transaction conditions. Some businesses didn't even take the market rates announced on the aforementioned websites into their transaction considerations. In other words, the solar cell market prices announced by the accused had no impact on the actual closing price between the buyer and seller of solar cells.
- (3) Moreover, besides Energy Trend and PVinsights, there were other online solar cell market rate platforms, including PV Infolink, Gessey, China Non-Ferrous Metal Industry Association (CNIA) Silicon Branch, and so on. Apparently, there were many sources for information regarding solar cell market prices. The solar cell

market prices announced on the online platforms of the accused could be rather different from the actual closing prices of some suppliers. Therefore, the FTC found it impossible to conclude that the prices announced on the aforesaid websites could mislead buyers and sellers to make wrong transaction decisions and end up affecting trading order on the market and causing harm to market competition.

- (4) Finally, the approaches of sampling and analysis adopted by the accused platform operators to investigate market rates were different. The data established were screened and weighted with the shipments from various suppliers before they were calculated to figure out the closing prices. The establishment and calculation of data were rather objective. In addition, the FTC's investigation showed that there were four other similar websites on which related market prices were available, and many domestic solar cell makers also expressed that they had received price inquiries from market rate websites or had provided such websites with closing price information. In other words, the solar cell price information announced by the accused had its basis. Furthermore, PVinsights and Energy Trend were only two of the sources of price information. Although the average price announced on the two online platforms could be lower than the closing prices of some solar cell businesses, it would be inappropriate to say the average price announced on the two websites was below the current rate in the global solar cell market. Consequently, based on existing evidences, the FTC found it difficult to conclude the accused had violated Article 25 of the Fair Trade Law.

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