

Kwang Yang Motor Co., Ltd. & Sheng Long International Motor Co., Ltd.

1490th Commissioners' Meeting (2020)

Case: KYMCO and Sheng Long Motors violated the Fair Trade Law by posting false advertisements to market the KYMCO Gold Medal motorcycle

Keyword(s): Gas tank capacity, false advertisement, motorcycle

Reference: Fair Trade Commission Decision of May 27, 2020 (the 1490th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.109030 and No.109031

Industry: Manufacture of Motorcycles (3121), Retail Sale of Motorcycles in Specialized Stores (4842)

Relevant Law(s): Article 21 of the Fair Trade Law

Summary:

1. New Taipei City Government transferred to the FTC a complaint from a private citizen asserting that Kwang Yang Motor Co., Ltd. (hereinafter referred to as "KYMCO") had posted an advertisement for the KYMCO God Medal 125CC motorcycle on its website claiming the gas tank of the motorcycle was "8.5L in capacity." He checked the specifications and related information of the product in question on the Internet, but after purchasing the motorcycle he found out the difference was rather considerable. Therefore, he suspected false advertising was involved.

2. Findings of the FTC after investigation:

The FTC's investigation showed KYMCO had revised the capacity of the gas tank of the product in question to 7.5L while the catalog (printed in May 2018) shown on the web page for the product in question carried the wording of "7L large capacity gas tank." However, the user manual for the product in question posted on KYMCO's website still indicated "gas tank capacity 8.5L." In the meantime, on the website of Sheng Long International Motor Co., Ltd. (hereinafter referred to as "Sheng Long Motors"), KYMCO's distributor, the specifications of the product in question displayed the specifications of "gas tank capacity 8.5L and "7L super large gas tank capacity." According to KYMCO, the gas tank capacity of the product in question had always been 7.5L and the "gas tank capacity 8.5L indicated on the website and in the user manual was a mistake. As for Sheng Long Motors, the company said that the images and texts in the advertisement were copied from the KYMCO website.

3. Grounds for disposition:

(1) The claim of "gas tank capacity 8.5L" in the advertisement for the product in question gave consumers the impression that the gas tank of the product in question was 8.5L. Since the gas tank capacity was an indication of the maximum volume of gas that a motorcycle could carry, it meant a large gas tank could reduce the frequency and need for the rider to go to a gas station for refills. Therefore, the gas tank capacity could be a consideration for consumers who intended to purchase the product in question. In other words, the large gas tank

capacity might just attract consumers to buy the product in question as a result. According to KYMCO, however, the gas tank capacity of the product in question had always been 7.5L and the “gas tank capacity 8.5L” indicated on the website and in the user manual was a mistake. After consumer filed complaints about truthfulness of the gas tank capacity of the product in question, research and development personnel of the company measured the gas tank again and confirmed the capacity of the gas tank was actually 7.5L. Afterwards, the gas tank capacity was revised. However, the “gas tank capacity 8.5L” indicated in the advertisement for the product in question was inconsistent with the fact. The difference exceeded the level that the general public could accept. It could cause the general public to have wrong perceptions or make wrong decisions. By failing to check and make sure the claim of “gas tank capacity 8.5L” in the advertisement for the product in question was consistent with the fact, KYMCO and Sheng Long Motors did not fulfill their obligation as the advertisers. The conduct was a false and misleading representation with regard to content of product and also could affect transaction decision. It was in violation of Article 21(1) of the Fair Trade Law.

- (2) After assessing the motive and purpose behind the unlawful act of KYMCO and Sheng Long Motors, the inappropriate profits expected, the level of harm to trading order, the duration, the business scale, the management condition and market status of each company, their past violations, degree of remorse after the violation, and the level of their cooperativeness throughout the investigation, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed administrative fines of NT\$400,000 and NT\$50,000 on KYMCO and Sheng Long Motors respectively.

Appendix:

Kwang Yang Motor Co., Ltd.’s Uniform Invoice Number: 75195800

Sheng Long International Motor Co., Ltd.’s Uniform Invoice Number: 28055244

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