

Tesla Motors Taiwan Limited

1498th Commissioners' Meeting (2020)

Case: Tesla Motors was complained for violating the Fair Trade Law for drastic price-cut of its electric car

Keyword(s): Electric car, pre-order, product price decrease

Reference: Fair Trade Commission Decision of July 22, 2020 (the 1498th Commissioners' Meeting)

Industry: Retail Sale of Motor Vehicles in Specialized Stores (4841)

Relevant Law(s): Articles 9 and 25 of the Fair Trade Law

Summary:

1. The FTC received complaints stating that Tesla Motors Taiwan Limited (hereinafter referred to as "Tesla Motors") accounted for more than half of the domestic electric car market, yet the company lowered the prices of its electric cars drastically since March 1, 2019. It was claimed that the move of Tesla Motors jeopardized the interest of consumers and was in violation of the Fair Trade Law.
2. Findings of the FTC after investigation:
 - (1) An electric car uses electricity to be its source of power. It is a vehicle powered by electric energy. Depending on the level of electric energy used and the approach of energy supplementation, electric cars can be divided into battery electric vehicles (BEVs), plug-in hybrid electric vehicles (PHEVs), and hybrid electric vehicles (HEVs).
 - (2) Depending on the nature of use and highway supervision purposes, automobiles can be divided into passenger cars and trucks. Passenger cars are again divided into buses and small passenger cars according to the number of people they can seat. The performance, interior space and degree of comfort vary and there is no substitutability in between. All these vehicles belong to different product markets. Meanwhile, gasoline-powered cars and electric cars may use different power sources, but they both can meet the need of people to travel for work or in their private life. Substitutability exists between them. After performing critical loss analysis, the FTC found that when the candidate market was the electric car (including plug-in hybrid electric vehicles), hybrid electric vehicle, hybrid electric vehicle or plug-in hybrid electric vehicle, or gasoline-power car market, the critical loss was smaller than the actual loss. Therefore, it would not become a single product market. Since Tesla electric cars were all small passenger cars, the relevant product market in this case was defined as the "small passenger car market."
 - (3) According to the statistics provided by the Directorate General of Highways of the Ministry of Transportation and Communications, there were 384,083 new-registered small passenger cars in 2018. Among them, 523 of them, about 0.14%, were Tesla electric cars. As the small passenger car market was not without competition, Tesla Motors could not be regarded a monopolistic enterprise as described in the Fair Trade Law. Therefore, the FTC found it difficult to determine that the company had violated Article 9 of the Fair Trade Law. In the meantime, Tesla Taiwan's decision to lower the prices of its electric cars was made according to its production cost, tax expenses and intention to promote electric cars. It was its business freedom. Moreover, the price cut did not impede other enterprises from selling electric cars. Hence, based on existing evidences, the FTC found it difficult to conclude that the

- price-cutting move of Tesla Motors had eliminated or lessened market competition.
- (4) Tesla Motors stated that the company sold its electric cars through placement of orders online. All transaction information could be accessed on the website. The price decisions and adjustments were made by the parent company Tesla Inc. in the United States. The salespersons of Tesla Motors also found out about the latest selling prices on the website, so no time gap existed between consumers and the salespersons. There were no big changes in the sales of electric cars. Consequently, the FTC found it difficult, based on available evidences, to conclude Tesla had concealed important transaction information.

Appendix:

Tesla Motors Taiwan Limited's Uniform Invoice Number: 42861108

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