

HDD Suspension Assembly Suppliers

1514th Commissioners' Meeting (2020)

Case: The FTC initiated an ex officio investigation to HDD suspension assembly suppliers' concerted action in violation of the Fair Trade Law

Keyword(s): HDD suspension assembly, sensitive information

Reference: Fair Trade Commission Decision of November 11, 2020 (the 1514th Commissioners' Meeting); Dispositions Kung Ch'u Tzu No.109059 and No.109060

Industry: Manufacture of Other Electronic Parts and Components (2699)

Relevant Law(s): Article 15 of the Fair Trade Law.

Summary:

1. HDD suspension assembly suppliers TDK Corporation (hereinafter referred to as "TDK"), its Thai subsidiary Magnecomp Precision Technology Public Co., Ltd. (hereinafter referred to as "MPT"), and NHK Spring Co., Ltd. (hereinafter referred to as "NHK Spring") contacted with each other to exchange sensitive information, including HDD clients' bid prices and order quantities, as well as to have discussions on prices. In order to understand the impact of the aforesaid conducts on the domestic relevant market and trading order, the FTC initiated an ex officio investigation.
2. Findings of the FTC after investigation:
 - (1) Before 2016, there were only 4 HDD suspension assembly suppliers across the globe, namely, TDK Group (including MPT), NHK Spring Group (including NHK Spring), Hutchinson Technology Inc., and Suncall Corporation. The HDD suspension assemblies that they manufactured were supplied to all the HDD makers around the world. Except for those directly sold by retailers to end users, the remaining hard disk drives imported were used to assemble desktop computers, notebook computers, and monitoring cameras. As the sales amount of HDD products imported was over 10 billion per year, any concerted action adopted by HDD suspension assembly suppliers to manipulate prices and quantities, as well as to exclude competitors was bound to push up the prices of HDD products. In addition to making end users pay higher prices, it would also influence the exportation competitiveness of domestic computer businesses.
 - (2) The FTC's investigation revealed that between May 2008 and April 2016, TDK Group and NHK Group had contacted with each other frequently. The HDD suspension assembly business decision-makers or related personnel of TDK and NHK Spring or of MPT and NHK Spring had exchanged sensitive information regarding HDD clients' prices and sales quantities by phone calls, meet-ups, and mails. Further, both sides would then accordingly revise their price quotations. At the same time, when finding out competitors were about to lower their prices, the two groups would discuss to work out countermeasures to protect each other's market shares and interests as well as to exclude competitors.
3. Grounds for disposition:
 - (1) TDK, its subsidiary MPT, and NHK Spring had contacted with each other and exchanged sensitive information with regard to HDD suspension assembly products in order to prevent price competition, maintain or expand market shares together, and also exclude competitors. The concerted action was able to affect the supply-demand function in the

domestic relevant product market. The conduct was in violation of the regulation against concerted actions set forth in Article 15(1) of the Fair Trade Law.

- (2) The concerted action in this case was highly harmful to trading order in the market. In addition, the unlawful act has lasted for 8 years and the total sales of TDK Group and NHK Spring Group in the domestic market each exceeded NT\$100 million. According to the Regulations for Calculation of Administrative Fines for Serious Violations of Articles 9 and 15 of the Fair Trade Law enacted pursuant to 3 of Article 40(3) of the Fair Trade Law, it was a serious violation. After taking into consideration of the illegal conducts of the three enterprises, the profits obtained from their unlawful acts, and the provisions set forth in Articles 4 to 7 of the aforementioned calculation regulations, the FTC cited Article 40(2) of the Fair Trade Law and imposed on TDK and its subsidiary MPT an administrative fine of NT\$159.09 million respectively and NT\$285.55 million on NHK Spring. It was accounted for a total fine of NT\$637.3 million.

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