

**Chuangda Construction Co., Ltd. &
Creator Marketing Co., Ltd.**

1502nd Commissioners' Meeting (2020)

Case: Chuangda Construction and Creator Marketing violated the Fair Trade Law by posting false advertisements during marketing the “Huashanchuan” housing project

Keyword(s): Housing project, Building Use Permit, gym

Reference: Fair Trade Commission Decision of August 19, 2020 (the 1502nd Commissioners' Meeting); Disposition Kung Ch'u Tzu No.109047

Industry: Real Estate Development Activities (6700)

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

Summary:

1. The FTC initiated an ex officio investigation after seeing an advertisement posted by Chuangda Construction Co., Ltd. (hereinafter referred to as “Chuangda Construction”) and Creator Marketing Co., Ltd. (hereinafter referred to as “Creator Marketing”) to market the “Huashanchuan” housing project located in Zhongshan District of Taipei City. The advertisement carried the wording of “public facility: RF-gym” while on the floor plan a section was indicated as a gym. However, the claim was inconsistent with the information revealed on the Building Use Permit for the housing project. Therefore, false advertising was involved.
2. Findings of the FTC after investigation:
The FTC's investigation revealed that Chuangda Construction has invested in and constructed the housing project. The company then entered into a contract with Creator Marketing and commissioned it to be responsible for the sale of the units and the advertising. Creator Marketing posted advertisements on the website and paid for the advertising expenses. The more units it has sold, the higher profits would be. In other words, Creator Marketing and Chuangda Construction had a profit-sharing relationship. Consequently, both the companies were considered advertisers. Meanwhile, according to the opinion offered by the Taipei City Government, the floor referred to in the advertisement was indicated as the machine room on the Building Use Permit and there was no record of application for approval to changes the use. Therefore, the construction company's indication of the space as a gym in the advertisement would mislead the public and probably involved unlawful extension.
3. Grounds for disposition:
 - (1) Chuangda Construction and Creator Marketing posted the wording of “Public facility: RF-gym” in the advertisement on the website and displayed on the floor plan a section of gym. It gave the general public the impression that the gym could be used by homebuyers legitimately. However, neither Chuangda Construction nor Creator Marketing could provide any proofs that the building authority had approved the construction of the gym. Therefore, the claim made by Chuangda Construction and Creator Marketing was inconsistent with the fact. It was in violation of Article 21(1) of the Fair Trade Law.

- (2) After assessing the motivation and purpose of Chuangda Construction and Creator Marketing to engage in the unlawful conduct, the improper profits expected, the degree of harm to trading order, the duration, the profits gained, the business scale, operation condition and market position of the two companies, past records of violations, remorse, as well as the act and attitude of cooperation in the investigation, the FTC, citing the first section of Article 42 of the Fair Trade Law, imposed administrative fines of NT\$400,000 on Chuangda Construction and NT\$200,000 on Creator Marketing respectively.

Appendix:

Chuangda Construction Co., Ltd.'s Uniform Invoice Number: 54641951

Creator Marketing Co., Ltd.'s Uniform Invoice Number: 27749417

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