

Eastern Home Shopping and Leisure Co., Ltd.

1560th Commissioners' Meeting (2021)

Case: ETMall violated the Fair Trade Law for posting false advertisements to market Whirlpool gas-powered tumble dryers

Keyword(s): False advertisement, Energy Label

Reference: Fair Trade Commission Decision of September 8, 2021 (the 1560th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.110061

Industry: Retail Sale of Electrical Household Appliances in Specialized Stores (4741)

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

Summary:

1. When marketing the Whirlpool 8TWGD5620HW 16kg gas-powered tumble dryer product (hereinafter referred to as "the product in question") on ETMall, managed by Eastern Home Shopping and Leisure Co., Ltd. (hereinafter referred to as "Eastern Home Shopping"), Cova Automation Co., Ltd. (hereinafter referred to as "Cova Automation") claimed in an advertisement that the product had been awarded the "Energy Label." However, the Energy Label website of the Bureau of Energy of the Ministry of Economic Affairs had no information regarding the product in question being awarded the Energy Label. In other words, the advertisement was false.
2. Findings of the FCT after investigation:
 - (1) According to Eastern Home Shopping, ETMall was an online shopping platform operated by the company and the product in question was marketed on ETMall by Cova Automation. The advertisement for the product in question (including product name, price, specifications and pictures) were produced and uploaded to the website by Cova Automation. Eastern Home Shopping had not reviewed the advertisement beforehand. Consumers could order the product on the webpage carrying the advertisement. After the consumer makes the payment, Eastern Home Shopping will issue the buyer the invoice and then the supplier would ship the product to her/him.
 - (2) According to Cova Automation, it produced and uploaded the advertisement to ETMall. The advertisement was posted from May 7 to Sep. 14 in 2020. The product was not awarded the Energy Label. The typographical error occurred because the company had too many products being marketed on ETMall.

(3) According to the Bureau of Energy, the Energy Label system was promoted to guide consumers to purchase high-efficiency products and to encourage suppliers to make such products in order to save energy. When a product was awarded the Energy Label, it meant its energy efficiency was in the top 20%~30% among similar products on the marketplace. There was no record showing the application for the energy Label for the product in question, nor was the product being awarded the Energy label. If there are indications on the product or in its advertisements saying or suggesting that, contrary to the fact, it had been awarded the Energy Label, the Bureau of Energy or related executive authority could notify the supplier in writing that requests the removal of the product or such indications within a given period.

3. Grounds for disposition:

- (1) ETMall was a shopping website managed by Eastern Home Shopping. When the advertisement for the product in question was posted on ETMall, consumers could find out about the product from the advertisement and place orders for the product on the website. The trading counterpart of consumers was Eastern Home Shopping and therefore Eastern Home Shopping was the advertiser. Meanwhile, Cova Automation was the supplier of the product in question and posted the advertisement for the product in question. The company would get the profit directly when consumers were attracted by the advertisement to purchase its products. For this reason, Cova Automation was also the advertiser.
- (2) Between May 5 and Sep. 14 in 2020, Eastern Home Shopping and Cova Automation posted the advertisement for the product in question and claimed that the product had been awarded the Energy Label. The claim gave people the impression that the product in question consumed less energy compared to clothes dryers of similar specifications but with no Energy Label certification. However, the Bureau of Energy confirmed that there was no record showing the product in question had been awarded the Energy Label. In addition, Cova Automation also admitted that the claim was a typographical error. In other words, the claim that the product in question had been awarded the Energy Label was inconsistent with the fact. It was in violation of Article 21(1) of the Fair Trade Law.
- (3) As mentioned above, the claim regarding the product passing Energy Label certification posted on ETMall by Eastern Home Shopping and Cova Automation to market the product in question was a false and misleading representation with regard to the quality of the product and also could affect transaction decisions in violation of Article 21(1) of the Fair Trade Law. After assessing the motivation and purpose of the offenders, the benefits derived on account of the unlawful act, the degree of harm to

trading order, the duration of the unlawful act, past violations, the degree of rectification and cooperation during the investigation, the FTC imposed an administrative fine of NT\$100,000 on each company.

Appendix:

Eastern Home Shopping & Leisure Co., Ltd.'s Uniform Invoice Number:
22456427

Cova Automation Co., Ltd.'s Uniform Invoice Number: 24424274

Summarized by: Huang, Li-Ming; Supervised by: Tsao, Hui-Wen