

Presicarre Corporation

1566th Commissioners' Meeting (2021)

Case: Presicarre Corporation violated the Fair Trade Law for collecting new store opening sponsorships from suppliers

Keyword(s): Hypermarket, supermarket, market dominance, surcharge

Reference: Fair Trade Commission Decision of October 20, 2021 (the 1566th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.110074

Industry: Other Retail Sale in Non-specialized Stores (4719)

Relevant Law(s): Article 25 of the Fair Trade Law

Summary:

1. The FTC received messages from private citizens questioning about the justifiability of Presicarre Corporation collecting new store opening sponsorships from original Wellcome Supermarket suppliers. As the practice might involve inappropriate collection of surcharges in violation of the Fair Trade Law, the FTC launched an ex-officio investigation.
2. Findings of the FCT after investigation:
 - (1) During the investigation process, 13 trade associations also expressed their objection to Presicarre Corporation's collection of new store opening sponsorships after merging with Wellcome Supermarket. The FTC requested Presicarre Corporation and the trade associations to provide their statements and related evidences. Presicarre Corporation stated that the new store opening sponsorship collection was conducted according to the supplier contracts signed in 2020. The company would not and also were not capable of forcing suppliers to pay the aforesaid surcharges. The trade associations commented that Carrefour Taiwan had not disclosed to them the company's expansion plan, opening up new stores unexpectedly and asking suppliers for new store opening sponsorships. They were surcharges that suppliers had not expected or agreed to pay. The suppliers also found it difficult to assess whether payment of the surcharges would benefit the sales of their products.
 - (2) The FTC conducted a questionnaire survey on suppliers who had already paid new store opening sponsorships. The outcome

indicated that most suppliers disagreed with Presicarre Corporation's asking for new store opening sponsorships after its merger with Wellcome Supermarket.

3. Grounds for disposition:

- (1) The management condition and market status of Presicarre Corporation were remarkable while the suppliers the company collecting new store opening sponsorships from were small and medium enterprises. Moreover, Presicarre Corporation was the biggest trading counterpart of every one of the suppliers. If the business relations with Presicarre Corporation were terminated, such suppliers would not be able to establish relations with another hypermarket operator within a short time to make up for the loss of their considerable amount of sales generated from doing business with Presicarre Corporation. In other words, the choice of new trading counterparts would be little and the possibility of their making the subjective decision to switch to new trading counterparts would be tiny. Continuing to maintain business relationships with Presicarre Corporation was thus a necessity. Presicarre Corporation definitely had its market dominance.
- (2) An inspection of the 2020 supplier contract signed between Presicarre Corporation and its suppliers revealed that new store opening sponsorships and store reopening sponsorships were listed under the same title: opening sponsorships. There was no distinction and it was not described clearly whether sponsorships Presicarre Corporation asked for were contributions for new store opening or store reopening. Meanwhile, for suppliers originally supplying both Presicarre Corporation and Wellcome Supermarket, the stores Presicarre Corporation opened as a result of the merger with Wellcome Supermarket were not new locations at all and could not be considered new stores to be opened. In addition, when the 2020 supplier contract was signed, nobody could have guessed that Presicarre Corporation would merge with Wellcome Supermarket and as many as 196 "new" stores, all of them supermarkets, would be opened. When the contracts were signed in 2021, the situation was totally different from before. At the same time, the result of questionnaire survey also showed that a considerable percentage of suppliers found it hard to accept Presicarre Corporation's asking them for new store opening sponsorships because they had been suppliers of Wellcome Supermarket. They believed that collecting new store opening sponsorships from them was rather unfair.
- (3) As described above, Presicarre Corporation abused its advantageous market status to collect inappropriate surcharges. It was obviously

unfair conduct which caused the originally fair and cooperative trading relations in the vertical supply-marketing system to lose balance and the legitimate and reasonable trading order in the market was jeopardized. At the same time, the suppliers might reflect the increased surcharges on product quality or retail prices, and the interests of consumers would therefore be affected.

- (4) After merging with Wellcome Supermarket, Presicarre Corporation wanted to collect new store opening sponsorships from suppliers who agreed to pay the surcharges when signing the 2020 supplier contract. There were many such suppliers and each one of them was likely to suffer from the burden of paying the new store sponsorship 196 times in 2021. The amount would be rather considerable. That was why the 13 trade associations expressed their concern. Together, they had nearly one thousand members associated with a very large number of potential trading counterparts. The impact on the trading order of the marketplace would be far-reaching.
- (5) As mentioned above, after merging with Wellcome Supermarket, Presicarre Corporation changed the original Wellcome outlets to “Carrefour Market and Convenience Store” and asked for new store opening sponsorships from suppliers who had been supplying Wellcome Supermarket originally. The practice was obviously unfair conduct able to affect trading order in violation of Article 25 of the Fair Trade Law. After reviewing Article 36 of the Enforcement Rules of Fair Trade Law, the FTC imposed an administrative fine of NT\$1.5 million on Presicarre Corporation.

Appendix:

Presicarre Corporation’s Uniform Invoice Number : 22662550

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