

Aspen Healthcare Taiwan

1631st Commissioners' Meeting (2022)

Case: Aspen Healthcare Taiwan was complained for violating the Fair Trade Law for raising cancer drug prices

Keyword(s): Cancer drug, excessive pricing, suspension of investigation

Reference: Fair Trade Commission Decision of December 28, 2022 (the 1631st Commissioners' Meeting)

Industry: Manufacture of Drugs and Medicines (2002)

Relevant Law(s): Articles 9 and 28 of the Fair Trade Law

Summary:

1. The FTC initiated an ex officio investigation to find out whether the cancer drug price increases made by Aspen Healthcare Taiwan Limited (hereinafter referred to as Aspen Healthcare Taiwan) constituted inappropriate product price changes made by a monopolistic enterprise in violation of Article 9(ii) of the Fair Trade Law.
2. During the investigation process, Aspen Healthcare Taiwan cited Article 28 of the Fair Trade Law and requested the FTC to stop the investigation while it further promised to adopt the following concrete measures: applying to the National Health Insurance Administration (hereinafter referred to as NHIA) of the Ministry of Health and Welfare for approval to lower the prices of the cancer drugs at issue after it receives the FTC's investigation suspension decision. At the same time, Aspen Healthcare Taiwan also promised that it would not file any price increase applications within five years after the new prices took effect unless the gross margins of those drugs fell below a certain percentage.
3. Findings of the FTC after investigation:
 - (1) After taking into consideration the responsibility of Aspen Healthcare Taiwan for engaging in the unlawful act, the damage already happened or likely to continue to happen to market competition in the future, the level of recovery or promotion of market competition as a consequence of the promise, and the possibility of fulfilling the promise, the FTC decided that the concrete measures the company promised to take could neutralize the illegality of the conduct and, therefore, agreed to stop the investigation.
 - (2) Besides providing the FTC, after the FTC agreed to stop the investigation, with photocopies of the documents to and from the

NHIA with regard to the application for price decreases of the drugs at issue, as well as annual written confirmations that no price increase applications would be filed within the five years after the new prices took effect, the company also had to present copies of price increase applications filed with the NHIA and supporting evidences to the FTC whenever the company intended to increase prices during the aforesaid period.

- (3) The FTC will continue to keep an eye on the price changes of the drugs at issue, the results, and the new prices. If the FTC finds out Aspen Healthcare Taiwan fails to fulfill its promise or apparent changes occur to the facts that the investigation suspension decision was based upon, the investigation will be resumed accordingly.

Appendix:

Aspen Healthcare Taiwan Limited's Uniform Invoice Number: 53957116

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