

## Penghu Ice Makers

1617<sup>th</sup> Commissioners' Meeting (2022)

Case: An ex officio investigation initiated by Fair Trade Commission into Penghu ice makers jointly increasing price of ice for fishing industry in violation of the Fair Trade Law

Keywords: Ice for fishing industry, information exchange

Reference: Fair Trade Commission Decision of September 21, 2022 (the 1617<sup>th</sup> Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 111076

Industry: Other Manufacturing Not Elsewhere Classified (3399)

Relevant Laws: Articles 14 and 15 of the Fair Trade Law

### Summary:

1. The media reported that three makers of ice for the fishing industry in Penghu County had violated Article 15 of the Fair Trade Law by raising the price of one chunk of ice from NT\$150 to NT\$200 on July 1, 2022. Therefore, the FTC initiated an ex officio investigation.
2. Findings of the FTC after investigation:
  - (1) Jinhai Enterprise Co., Fengde Freezing Co., Ltd. and Northwest Ice-making Co., Ltd. were the three major suppliers of ice of the fishing industry in Penghu County. For years, they did not make any price adjustments because the principal cost, electricity price, had stayed the same. In addition, as competitors on the market did not make price changes, any single ice maker was unable to raise the price even if it wanted to. Since the intention of Taiwan Power Company to increase electricity prices on July 1, 2022 was a piece of public information, the principal cost of the aforesaid ice makers was bound to go up significantly. The market shares of the three ice makers were about the same. If Jinhai Enterprise Co. did not adjust the price of ice, an estimation according to the sales and of each business in high season showed that its excess capacity was enough to deal with additional demands transferred from competitors. Furthermore, as Jinhai Enterprise Co., lower the price to NT\$180 on July 2, 2022 after the Penghu County Fishermen's Association intervened, the two other ice makers also decreased the price to stay in competition. It was obvious that they had to achieve consensus in order to prevent price competition.
  - (2) After finding out in June 2022 about Taiwan Power Company's intention to increase electricity prices, Jinhai Enterprise Co., Fengde Freezing Co., Ltd. and Northwest Ice-making Co., Ltd. used LINE to exchange market information and other sensitive messages to establish a mutual

understanding on price increase and simultaneously adjusted the price on July 1. It was a concerted action.

3. Grounds for disposition:

- (1) The concerted increase of price of ice for the fishing industry by Jinhai Enterprise Co., Fengde Freezing Co., Ltd. and Northwest Ice-making Co., Ltd. was able to affect the supply-demand function in the fish preservation ice market in Penghu County. It constituted a violation of Article 15(1) of the Fair Trade Law.
- (2) After taking into account the cooperativeness of the offenders throughout the investigation and the violation being the first one, the motive and purpose behind the unlawful act, the duration, the level of harm to trading order, the profit obtained from the unlawful practice, and other considerations listed in Article 36 of the Enforcement Rules of Fair Trade Law, the FTC cited the first section of Article 40(1) of the Fair Trade Law and imposed an administrative fine of NT\$100,000 on each of the three businesses.

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