

CUPCA

1647th Commissioners' Meeting (2023)

Case: The CUPCA violated the Fair Trade Law by making a council decision to set minimum appraisal fee standards for local associations

Keyword(s): Civil engineers association, national union, appraisal, fee standard

Reference: Fair Trade Commission Decision of May 3, 2023 (the 1647th Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 112025

Industry: Engineering Activities and Related Technical Consultancy (7112)

Relevant Law(s): Paragraph 1, Article 15 of the Fair Trade Law

Summary:

1. The FTC received photo copies of the minutes for the 7th Council Meeting of the 9th Chinese Union of Professional Civil Engineers Association (hereinafter referred to as CUPCA) held on May 2, 2018 and CUPCA (107) Tzu Letter No. 069 dated May 10, 2018 from a private citizen accusing CUPCA of engaging in a concerted action by setting uniform appraisal fee standards.
2. Findings of the FTC after investigation:
 - (1) Around 2017, local civil engineers associations complained that the inconsistency of local associations' appraisal fees has given rise to disputes between civil engineers and proprietors. They therefore launched an appeal that CUPCA should take its coordinating responsibility to solve the problem. On May 2, 2018 when the 7th Council Meeting of the 9th CUPCA was held, the then chairperson of the provincial association proposed an extempore motion and requested CUPCA to set uniform appraisal fee standards. The members attending the meeting approved the resolution of establishing uniform minimum appraisal fee standards. As a result, Minimum current condition appraisal fee was increased from NT\$20,000 (same currency applies hereinafter) to NT\$25,000, minimum damage appraisal fee from NT\$30,000 to NT\$40,000, and minimum leakage appraisal fee also raise to NT\$40,000.
 - (2) The decision was forwarded via CUPCA (107) Tzu Letter No. 069 on May 10, 2018 to notify each local association and they were

asked to implement it on June 1, 2018. The letter also carried the wording of “Current inconsistencies on appraisal fees have given rise to a price war and affected the income of each association.”

3. Ground for disposition:

- (1) It was indicated in the aforesaid meeting minutes that “5. Cause of the extempore motion: The CUPCA was requested to discuss and set uniform appraisal fee standards to address the inconsistency of appraisal fee standards among local associations. Decisions: 1. Minimum current condition appraisal fee is raised from NT\$20,000 to NT\$25,000. 2. Minimum damage appraisal fee is raised from NT\$30,000 to NT\$40,000. 3. Minimum leakage appraisal fee is also raised to NT\$40,000. 4. The abovementioned adjustments are to be implemented on June 1 of this year (2018). 5. Each local association is required to abide by the decisions.” It was obvious that the CUPCA has established the minimum appraisal fee standards in accordance with the council resolution that put a mandate on each local association’s appraisal fees and therefore the freedom of local associations to determine their appraisal fees was restricted.
- (2) The aforementioned letter issued on May 10, 2018 carried the following text: “Purpose: In light of local associations’ inconsistent appraisal fee standards, the CUPCA had a discussion during the 7th Council Meeting and established uniform appraisal fee standards (as shown in Description 3) to be implemented on June 1, 2017. Please take note and act accordingly. Descriptions: ...2. The Taiwan Professional Civil Engineers Association expressed that the inconsistency of different appraisal fee standards had led to a price war and impacted the income of each local association. 3. The uniform fee standards for various appraisals are as follows: (1) Minimum currency condition appraisal fee is raised from NT\$20,000 to NT\$25,000. (2) Minimum damage appraisal fee is raised from NT\$30,000 to NT\$40,000. (3) Minimum leakage and other damage appraisal fees are also raised to NT\$40,000.” The CUPCA then sent copies of the resolution, uniform appraisal fee standards, and implementation date to local associations on May 10, 2018 and required them to act accordingly. The intention of the CUPCA to adjust the appraisal fee standards of local associations was obvious.
- (3) Moreover, since the CUPCA resolution was to set the bottom limits of the appraisal fees of each local association, it was an interference with the core competition means: price. Intrinsicly, the conduct was highly harmful to market competition and therefore

reprehensible. The FTC concluded that the practice would affect market functions.

- (4) After discussing during the 7th Council Meeting of the 9th CUPCA on May 2, 2018, the attending members established a mutual understanding to set uniform appraisal fee standards that was scheduled to be implemented on June 1, 2018. The resolution was sent on May 10, 2018 to local associations who were required to act accordingly. It was a mutual understanding achieved to jointly determine service prices and the conduct was able to affect the supply-demand function in the relevant market. It was in violation of the regulation against concerted actions set forth in Paragraph 1, Article 15 of the Fair Trade Law.
- (5) The CUPCA was one of the three major trade associations offering services in the relevant market. The council's resolution to set uniform appraisal fee standards was a concerted action with regard to price and the conduct lasted from 2018 until the FTC started the investigation. After taking into account the motive and purpose behind the illegal practice, the level of harm to trading order, the cooperativeness throughout the investigation, and other considerations listed in Article 36 of the Enforcement Rules of Fair Trade Law, the FTC cited the first section of Paragraph 1, Article 40 of the Fair Trade Law and imposed an administrative fine of NT\$500,000 on the CUPCA.

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