

Mr. Yeh

1638th Commissioners' Meeting (2023)

Case: Mr. Yeh violated the Fair Trade Law by failing to stop selling gas safety devices by adopting inappropriate means according to the FTC Disposition Kung Ch'u Tzu No. 110065 dated September 23, 2021

Keyword(s): Safety inspection notice, gas safety device

Reference: Fair Trade Commission Decision of February 22, 2023 the 1638th Commissioners' Meeting); Kung Ch'u Tzu No. 112009

Industry: Retail Sale of Other Fuel and Related Products in Specialized Stores (4829)

Relevant Law(s): Articles 25 and 42 of the Fair Trade Law

Summary:

1. The FCT was informed by the Department of Economic Development of Taipei City Government and a number of private citizens that Tongguan Gas Engineering Co. printed gas safety inspection notices in the name of Great Taipei Gas Corporation and distributed them in order to sell gas safety devices. The deceptive marketing approach was able to affect trading order. The FTC sanctioned the company via Disposition Kung Ch'u Tzu No. 1100655 dated Sep. 23, 2021, but the illegal practice by the company continued.

2. Findings of the FTC after investigation:

(1) Mr. Yeh was the person in charge of Tongguan Gas Engineering Co. The company printed and distributed service notices in the name of Greater Taipei Area Gas which was similar to the name of the local natural gas utility enterprise. Mr. Yeh also sent his employees wearing uniforms and identification passes to visit private homes. The notice and the outfit misled people to believe those employees came from the local natural gas utility enterprise with the purpose of inspecting gas pipes and therefore people would let them in. After inspection, the employees told people that equipment had to be replaced and collected charges on the spot. The FTC investigated and concluded that it was deceptive conduct and sanctioned the company via Disposition Kung Ch'u Tzu No. 110065 dated Sep. 23, 2021.

(2) The business registration of Tongguan Gas Engineering Co. was

repealed on October. 26, 2021. However, Mr. Yeh distributed similar service notices to sell gas safety devices again in February 2022 and was convicted of criminal fraud by Taiwan Taipei District Court.

- (3) After March 2022, there were still private citizens receiving similar gas safety inspection notices and workers wearing uniforms and identification passes visited private homes to check gas pipes. Due to the trust of people in the local natural gas utility enterprise, the workers were let in. In subsequence, they pushed the people to purchase gas safety devices.

3. Grounds for disposition:

- (1) Mr. Yeh was the person in charge of solely owned Tongguan Gas Engineering Co. The business registration of the company was repealed, but a solely owned business was not an independent person in law. The natural person in charge of the business had to be regarded the subject of right. In other words, the person in charge had to be held responsible for violations of administrative law. For this reason, if Mr. Yeh did not stop the illegal behavior, the FTC could cite the second section of Article 42 of the Fair Trade Law and continue to sanction him.
- (2) The gas service notice Mr. Yeh used was the same in format and language as the gas service notice described in FTC's Disposition Kung Ch'u Tzu No. 110065. The people visiting private homes also wore similar uniforms and identification passes. The approach he adopted to sell gas safety devices was exactly the same as the conduct sanctioned by the FTC earlier. Apparently, Mr. Yeh did not stop the deceptive safety equipment marketing practice in accordance with the disposition issued earlier and continued to violate Article 25 of the Fair Trade Law.
- (3) The FTC sanctioned Mr. Yeh and ordered him to immediately cease the unlawful act by citing the second section of Article 42 of the Fair Trade Law. Since the illegal conduct found out by the FTC took place in Taipei City after March 2022 might also involve criminal fraud, the FTC acted according to the principle of criminal law over administrative law stated in Article 26 of the Administrative Penalty Act and transferred the case to judicial authorities first. Later if Mr. Yeh was not prosecuted or sentenced or the court decision was finalized, the FTC could still impose an administrative fine on him.

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