



**Asia-Pacific
Economic Cooperation**

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Agenda Item: 8

Updates and Developments of Competition Policy in Chinese Taipei

Purpose: Information
Submitted by: Chinese Taipei



**Competition Policy and Law Group Meeting
Moscow, Russia
12-13 February 2012**

Updates and Developments of Competition Policy in Chinese Taipei

Chinese Taipei Fair Trade Commission
(CTFTC)

13 February 2012

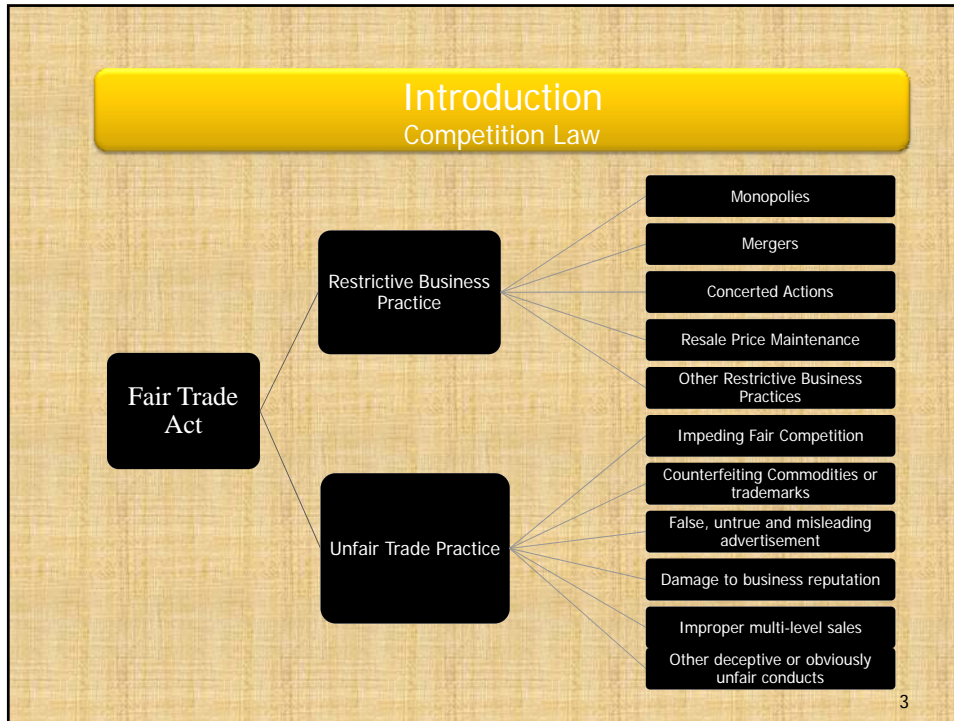
Outlines

Introduction

Case Handling in 2011

Enforcement Works in 2011

Future Outlook



Introduction
New and amended provisions of the Fair Trade Act

◆ **Article 21**

Where any advertising agency makes or designs any advertisement that it knows or should have known to be misleading, it shall be jointly and severally liable with the principal of such advertisement for damages arising therefrom. Where any advertising medium communicates or publishes any advertisement that it knows or should have known to be likely to mislead the public, it shall be jointly and severally liable with the principal of such advertisement for the damages arising therefrom. Where any endorser provides any testimonials that he knows or should have known to be likely to mislead the public, he shall be jointly and severally liable with the principal of such advertisement for damages arising therefrom. **However, endorsers who are not celebrities, specialists or organizations shall be held jointly and severally liable with the advertiser for only up to 10 times of the reward they have received from the advertiser.**

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Introduction

New and amended provisions of the Fair Trade Act (cont.)

◆ Article 35-1

The Central Competent Authority may grant reduction of or exemption from fines to be imposed in accordance with Article 41 on enterprises in violation of Article 14 but meeting one of the following conditions:

1. The enterprise files a complaint or informs the Central Competent Authority in writing about the concrete illegal conduct of the concerted action in which it has partaken and also submits the evidence and assists the investigation before Central Competent Authority is aware of the said illegal conduct or initiated an investigation in accordance with this Law.
2. The enterprise reveals the concrete illegal conduct as well as submits the evidence and assists the investigation during the period in which the Central Competent Authority investigates the said illegal conduct in accordance with this Law.

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Introduction

New and amended provisions of the Fair Trade Act (cont.)

- ◆ The Central Competent Authority shall enact the regulations with regard to the eligibility of the subjects to whom the preceding paragraph applies, the criteria of the said fine reduction and exemption and the number of enterprises to be granted the said fine reduction or exemption, evidence submission, identity confidentiality, and other matters in relation to the enforcement of the said regulations.

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Introduction

New and amended provisions of the Fair Trade Act (cont.)

◆ Article 41

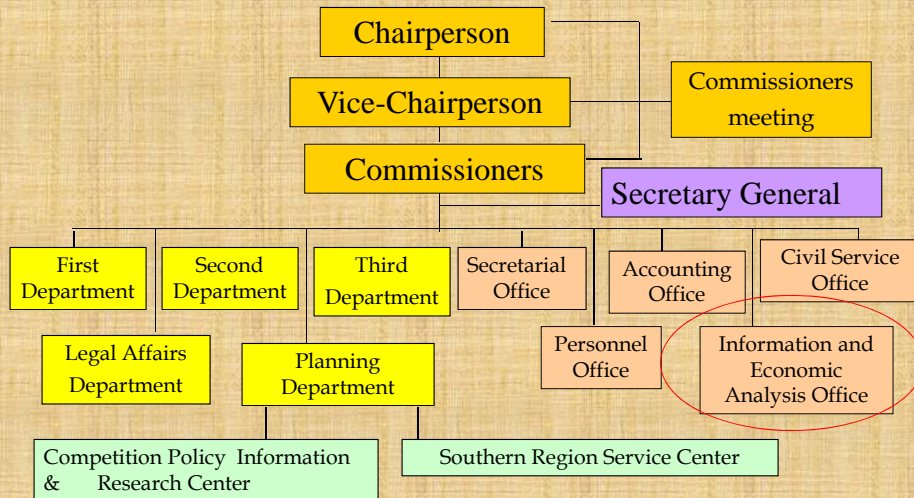
The Central Competent Authority may impose an administrative fine up to 10% of the total sales income of an enterprise in the previous fiscal year without being subject to the limit of administrative fine set forth in the preceding paragraph if the enterprise is deemed by the Central Competent Authority as in serious violation of Articles 10 and 14.

The Central Competent Authority may impose an administrative fine up to 10% of the total sales income of an enterprise in the previous fiscal year without being subject to the limit of administrative fine set forth in the preceding paragraph if the enterprise is deemed by the Central Competent Authority as in serious violation of Articles 10 and 14.

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Organization Chart in 2012

The CTFTC will establish the Information and Economic Analysis Office



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Government Structure Reform

The CTFTC will become an independent agency

	Old	New
Name	Fair Trade Commission, Executive Yuan	Fair Trade Commission
# of Commissioners	9	7
Term	3 Years	4 Years

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Case Handling in 1992-2011

Cases Received • 36,405

Cases Closed • 36,063

Case Conclusion Ratio • 99.06%

Decision Ruling • 3,611

The Fine Amounts to • NTD\$2.96 billion
(around USD\$98.67 million)

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Case Handling in 2011

Cases Received : 1,516

- Complaints: 1,360
- Cartel Applications: 6
- Merger Notification: 57
- Request for Explanation: 93

Cases Closed

- 1,494

Decision Ruling

- 272

Fine

- NTD\$233.11 million (around USD\$7.77 million)

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Enforcement Works in 2011

Cartel

- ◆ The three biggest dairy companies, Wei Chung Corp., Uni-President Enterprises, and Kuangchuan Corp., engaged in jointly raising the recommended retail price of fresh milk in violation of Paragraph 1, Article 14 of the Fair Trade Act prohibiting concerned actions, Administrative fines of NT\$12million, NT\$10million, and NT\$8million were imposed on Wei Chung Corp., Uni-President Enterprises, and Kuangchuan Corp., respectively.

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Enforcement Works in 2011

Cartel

- ▶ Three largest dairy companies had 80 percent market shares in the domestic fresh milk supply market.
- ▶ The three largest dairy companies jointly and consistently increase the recommended retail price of fresh milk and the extent of increase in the retail price reflected the raw milk cost increase to an excessive degree.
- ▶ To collect evidence, in addition to contracts or agreements, the CTFTC has also applied indirect evidence in the past to support its decisions against concerned actions. The supreme administrative court upheld the reasonable presumption the FTC used in determining if concerned action exists.

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Enforcement Works in 2011

Merger

- ◆ Chungghwa Telecom, EasyCard Corporation, and President Chain Store Corporation petitioned to jointly form a bonus consolidation and marketing company to merge their bonus point programs. The merger was not prohibited in accordance with Article 12(2) of the Fair Trade Act, but additional conditions were imposed.
 - ▶ The three participants of the proposed joint venture for the joint bonus points :
 - (a) face fierce competition from powerful competitors
 - (b) presently award extremely low percentages as bonus points, making the bonus points easily replaceable by other means of competition
 - (c) bonus points represent no real obstacles to competitors to enter into their respective markets for telecommunications, convenience stores, and mechanisms for small payments
 - ▶ Therefore the proposed joint venture will not result in restricted competition in the short run.

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Enforcement Works in 2011

Merger

- ▶ From the long term point of view: these three initial and other future participating companies may use the proposed joint bonus points program as a platform to engage in activities- such as concerted campaigns, boycotts, differential treatments, or restrictions on vertical transactions.

- ▶ The CTFTC rules that the merger was not prohibited in accordance with Article 12(2) of the Fair Trade Act, but imposed nine conditions.
 1. The three initial and future participating companies may not coerce their franchisees to inflict damage on specific companies and to refuse to supply to, purchase from, or otherwise transact with such companies.
 2. The three initial and future participating companies may not illegally prevent the franchisees of such a future participating company from entering into exclusive transactions with their franchisor.

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Enforcement Works in 2011

Merger

3. When engaging in joint marketing campaigns, the three initial and future participating companies and their franchisees may not illegally restrict the freedom of consumers to choose products to purchase.
4. The three initial companies may not obtain the personal and transactional data of the members of any future participating company.
5. A future participating company may not unduly refuse the participation of another company other than the three initial companies.
6. When providing services in connection with the joint bonus points program to another company other than the three initial companies, a future participating company may not unduly offer such a company discriminatory treatments or charge it unreasonable handling fees.

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Enforcement Works in 2011

Merger

7. One month before starting to recruit members, a future participating company shall provide its operating procedures for safe guarding , collecting, handling, and utilizing the personal and transactional data of its members to the CTFTC, and the company shall post such procedures on its website before the procedures go into effect.
8. One month before starting to recruit franchisees, a future participating company shall provide its operating procedures for promoting the joint bonus points program to the CTFTC, and the company shall post such procedures on its website before the procedures go into effect.
9. Before the end of March in each of the first five years of existence, a future participating company shall provide to the CTFTC the following information about the year before: a list of name changes to its stockholders, revenue, number of members, the conversion ratio between bonus points and cash, the number and names of franchisees, and new business items not listed in the application to join the joint bonus points program.

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Future Outlooks

Robust enforcement of the Fair Trade Act and close cooperation with regulatory agencies

Updating the Fair Trade Act and its guidelines in order to create a fair competition environment

Comprehensive competition advocacy in order to creates a quality culture of competition

Strengthening industry data systems and ability of economic analysis

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Thank you for your attention!

Chinese Taipei Fair Trade Commission's Website
<http://www.ftc.gov.tw/internet/english/index.aspx>

The screenshot displays the website's interface. On the left is a vertical navigation menu with the following items: About FTC, Laws, Regulations, Disposal Directions (Guidelines), Business Guidance, Statistics, Publications, Merger Control, and Decisions of Administrative or Privately-Confidential. The main content area features a 'News' section with a search icon and a list of recent updates. The news items are as follows:

Date	Content
2011/12/07	November, 2011 [Decisions]
2011/12/07	November, 2011 [Merger Notifications or Applications for Concerted Actions]
2011/12/13	October, 2011 [Decisions]
2011/12/13	October, 2011 [Merger Notifications or Applications for Concerted Actions]
2011/10/21	September, 2011 [Decisions]
2011/10/21	September, 2011 [Merger Notifications or Applications for Concerted Actions]
2011/09/28	August, 2011 [Decisions]
2011/09/28	August, 2011 [Merger Notifications or Applications for Concerted Actions]
2011/08/18	July, 2011 [Decisions]
2011/08/18	July, 2011 [Merger Notifications or Applications for Concerted Actions]