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**CENTRE FOR CO-OPERATION WITH NON-MEMBERS  
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## **OECD Global Forum on Competition**

### **CONTRIBUTION FROM CHINESE TAIPEI**

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## I. – COMPETITION LAW AND POLICY IN CHINESE TAIPEI

### 1. The Fair Trade Law

Taiwan's competition law is primarily contained in the Fair Trade Law. The Law was drafted in the early 1980s, along with the implementation of government development policies for economic liberalisation and internationalisation, in order to facilitate the transformation of Taiwan's economic structure into a competitive market economy.

Since the Fair Trade Law would have a significant impact on business operations, a series of public hearings were organised, to gather public opinion on the draft law. After five years in the drafting process and another five years of deliberation, the Fair Trade Law was enacted on February 4, 1991. Enforcement began a year later to allow the business communities to adjust their practices. Based on the Fair Trade Law, the Fair Trade Commission was established on January 27, 1992 to begin enforcement of the Law. The Law was amended in February 1999 and April 2000.

The Fair Trade Law has multiple objectives. In addition to ensuring fair competition, it intends to maintain trading order, protect consumers' interests, and promote the stability and prosperity of the economy as a whole.

The Fair Trade Law covers a wide range of restrictive business practices, unfair trade practices and multi-level sales. Restrictive business practices include monopolies, mergers, concerted actions, resale price maintenance, and other restrictive actions, such as boycott and discrimination. Unfair trade practices include counterfeiting, untrue or misleading advertisements or presentations, business disparagement, and other deceptive or obviously unfair actions that might affect trading order.

In principle, the Fair Trade Law permits the existence of monopolies, as long as they do not abuse their dominant market power. With respect to merger control, the Fair Trade Law in general also permits mergers of businesses, but mergers involving parties reaching a certain size must apply to the Fair Trade Commission for approval. Concerted actions are prohibited in principle, exceptions may be made, however, for concerted actions deemed by the Fair Trade Commission to benefit the overall national economy and public interest: for instance, concerted actions that unify specification, promote joint research and development, rationalise operations, boost international trade, combat recession, or assist small and medium-sized businesses.

### 2. Fair Trade Commission

The Fair Trade Commission (hereinafter the "Commission" or the "FTC") is the authority responsible for enforcing the Fair Trade Law and formulating competition policy. The FTC is an independent agency at the ministerial level and has 9 commissioners supported by a staff of two hundred.

To ensure compliance, the Fair Trade Law gives the FTC a power to issue the cease and desist order, to require the respondent to correct its illegal practices, to require divestiture of an enterprise engaging in illegal merger, and to impose administrative fines up to 50 million NT dollars (about US\$1,430,000) per offence. The FTC is equipped with investigation power for discovery of illegal practices, with certain semi-judicial power and function. Despite the fact that the court and the prosecutor

also have competence in these matters, the enforcement largely falls upon the FTC. Criminal behaviour would be referred to the public prosecutor's office if the violators fail to comply with the FTC's order. Criminal sanctions may take the form of either imprisonment up to 3 years or criminal fines up to NT\$100 million per offence or both.

### **3. Enforcement of the Fair Trade Law**

The Fair Trade Law is still a relatively new law in Taiwan, since it has been enforced for less than ten years. However, the FTC has made great progress in constructing a fair trading regime, upholding and protecting the market competition function, and pushing forward all sorts of international interchange and co-operation. Here are some positive experiences:

#### *1. Building a Fair Trade Regime*

Since its birth in 1992, the FTC has gradually built up a fair trade regime through amending the Fair Trade Law, setting guidelines and building a transparent procedure.

##### **(1) Amending the Fair Trade Law**

Beginning in 1993, the FTC began to draft the Fair Trade Law amendment. The first amendment was adopted in February 1999. The amendment was far-reaching in scope. In particular, it substantially raises the ceilings on criminal fines and administrative fines from NT\$1 million and NT\$500,000 to NT\$100 million and NT\$50 million, respectively, in order to impoverish those seriously violating the law, as most European countries and the United States have done. It also states that provisions of other laws governing competitive activities of enterprises shall take precedence over the Fair Trade Law only insofar as such provisions do not conflict with the Fair Trade Law's legislative purposes. The amendment thus clearly affirms the Fair Trade Law's status as a basic economic law.

##### **(2) Setting Case Handling Guidelines**

In keeping with the aims of transparent and standardised law enforcement, the FTC has worked steadily to set down guidelines for handling various kinds of cases, based on the FTC's cumulative work experience and on interpretation of law. The guidelines serve both to guide the FTC's investigating and disposing work, and as a reference for industry and business. The FTC has adopted some 80 guidelines for the implementation of the Fair Trade Law.

In order to ensure proper and fair imposition of the fines, the FTC has developed sentencing guidelines, requiring staff handling individual cases to take into account the motive and purpose of the violation, expected and real extra profits from the violation, the degree of damages to the trading order, violator's scale of business and its market position, violators' previous records of breaching the Law, whether the violator is co-operative with the FTC in its investigation, etc. The sentencing guidelines consist of calculation methods contributing to the speeding up of the decision-making process on the level of fines for individual cases.

Setting up guidelines is crucial to the effective enforcement of the Fair Trade Law. Guidelines not only help to avoid duplication of analysis of the application of the Law, but also help to establish consistent interpretation of the Law so that enterprises will have a more predictable business environment.

2. *Processing Cases*

(1) Investigating and Disposing Cases

The FTC has initiated or acted upon complaints to actively investigate into violations by enterprises. During the period from 1992 to 2000, the FTC had received 19,778 cases, which consisted of complaints (12,891 cases), applications for mergers (4,832 cases), applications for concerted action (100 cases), and applications for explanation (1,955 cases). In 2000, the FTC made 224 sanctioned decisions, of which only 34 cases were restrictive business practice cases, such as illegal monopolies, mergers, and concerted actions. In contrast, 170 cases (over 70% of sanctioned cases) were unfair trade practice cases. It's important to note that there are 77 sanctioned cases (more than one-third of sanctioned cases) against untrue advertisement.

(2) Taking Corrective Program

For violations that might be prevalent in one particular industry, the FTC frequently uses the "industrial wide corrective programs" to eliminate industrial-wide unlawful practices. The FTC will do the research first and then require violators to stop unlawful practices. If, after a specified period, there are still similar violations, the FTC will consider imposing severe punishment. The approach was approved to be effective in correcting some traditional violation patterns.

3. *Engaging in Deregulation Tasks*

The FTC places deregulation and regulatory reform as one of its priority tasks and has been active in the deregulation and regulatory reform process. The FTC considers the advocacy process to request relevant agencies to incorporate competition principles in their law very important. If competition principles can be fully taken into consideration when relevant agencies carry out deregulation or liberalisation programs, the relevant markets would involve less misuse of dominant market power and thus the law enforcement would be less necessary. The FTC set up the Deregulation Task Force in December 1996, and conducted a comprehensive review on a large scope of regulated sectors and their competition-related issues and laws in line with the overall process of deregulation. Through ongoing consultation with concerned authorities, many tangible successes have already achieved. For instance, during the deregulation process of Taiwan's petroleum market, the FTC advocated eliminating obstacles to market entry and stress a policy of excluding subsidisation, segregating competition, and setting new market rules. All of these concepts have been incorporated into the draft Petroleum Management Law. The FTC also proactively shared its opinions and work experience in competition policy and law with the Ministry of Transportation and Communications and the Ministry of Economic Affairs for reference in liberalising the telecommunications and electric power markets.

4. *Establishing Co-ordination and Communication Channels and Promoting Public Education*

The FTC has actively engaged in publicity activities to educate the business community and the general public to understand what the Fair Trade Law regulates, to enable them to recognise the Law and facilitating the enforcement of the Law.

## (1) Establishing Co-ordination and Communication Channels

To communicate with other ministries as well as the judiciary is critical to ensure the smoothness and consistency in implementing the Fair Trade Law. The FTC arranges regular programs, seminars, and activities with other administration agencies, judicial departments, and local authorities to promote the Fair Trade Law, and to open up opinions from all sides. These opinions are collected as a major reference for policy-making.

## (2) Promoting Public Education and Legal Counselling

The FTC offers a number of courses about the Fair Trade Law for the business community and the general public as a whole. The purpose of conducting such courses is to build up a competition culture within the enterprises and to eventually prevent violations from happening. Beginning in 1994, the FTC conducted the “Fair Trade Law Education Camp” on a regular basis, to train and educate experts on the Fair Trade Law for enterprises. Commissioners and director generals of the FTC lead this special camp, which lasted a total of 72 hours. In addition, the FTC set up a service center to provide business firms and individual persons with consulting services and answer questions so that the general public as well as enterprises could forward their questions and complaints to the FTC directly.

5. *Enhancing International Co-operation*

The FTC is very keen to engage in international activities.

## (1) Holding Bilateral Consultations and Signing Arrangements

The FTC has signed arrangements with the Australian and New Zealand competition authorities and held bilateral consultation meetings with competition authorities of the United States, Canada, New Zealand, Australia, the UK, the EC, the Netherlands and France.

## (2) Staff Visit and Exchange

The FTC has had extensive exchanges of visits with officials of competition authorities in the United States, Germany, Switzerland, France, New Zealand, and Japan. Beginning in 1999, the FTC conducted a staff exchange program with the Australian Competition and Consumer Commission on an annual basis.

## (3) Providing Technical Assistance

Beginning in 1999, the FTC joined OECD to co-host an international conference on competition policy geared toward helping developing nations develop competition law regimes and cultivate related expertise.

## (4) Establishing APEC Competition Policy Database

In May 1999, the FTC completed the initial version of a web site for the “APEC Competition Policy and Law Database”. The database contains 14 categories of information regarding 21 APEC member economies’ competition policies and laws, to be updated on an ongoing basis. The Completion of

this database demonstrates the close co-operative relationship that exists among member economies for the accomplishment of the first section of collection actions in the Osaka Action Agenda. Not only can member economies promote dialogue and study other APEC member economies' competition policies and/or laws through this database, but also the private sector, including academic organisations and business enterprises, will be able to retrieve useful information from the database for improving trade and investment.

#### **4. Difficulties and Challenges**

Although the FTC has some positive experiences that it can share with other countries, the FTC also finds it is facing some difficulties or challenges that must be overcome or solved. Here are some examples:

1. According to the Fair Trade Law, the FTC shall function independently. Although the chairman of the FTC is a member of the cabinet, the FTC need not take orders from the cabinet. However, according to the Law of Administrative Appeal, if someone feels that he or she has been injured by the decision made by the FTC, they can file an administrative appeal to the Executive Yuan (the Cabinet), which reviews the case before a suit is brought to the Administrative Court. The superior agency may change or revoke *ex officio* any administrative act that is patently unlawful or improper. The FTC's discretionary powers are thus substantially limited.
2. In many countries, competition authorities are able to screen complaints and decide whether to initiate an investigation based on the degree of public interest. In Taiwan, according to Article 26 of the Fair Trade Law, "The Fair Trade Commission may investigate and handle, upon complaints or *ex officio*, any violation of provisions of the Law that harms the public interest." However, it is not clear whether the FTC can screen complaints or not, and the majority opinion is that the FTC does not have the power to screen the complaints. In practice, the FTC has to complete investigations on all complaints, unless the FTC finds that complaints are not regarding any violation of the Fair Trade Law. Thus the FTC spends a large share of its resources on small cases and is not able to allocate more resources to deal with important ones. It needs revise the Law to solve the problem.
3. The FTC has nine commissioners. All commissioners are appointed for a three-year term and their terms expire at the same time. Commissioners can be re-appointed, but as most commissioners are from universities, they prefer to go back to their respective universities when their terms expire. Thus there is a serious problem of disruption in regard to continuation and accumulation of experience. A revision of the Law is also needed to solve the problem.

#### **5. The Future**

Taiwan's economy and economies around the world are undergoing major structural changes. Political and social developments in Taiwan are taking place at a rapid pace so the existing trading regime and economic concepts must be able to constantly accommodate and adjust to those changes. This is particularly the case as the economy moves toward liberalisation and globalisation. The adoption of fair trading policies and the work of enforcing those policies must be able to take into consideration both industry development and consumer interests if it is to bring the FTC's existing objectives and capabilities into full play. The FTC in the future will focus on the following tasks:

1. *Establish A Comprehensive, Non-discriminating, Transparent, Accountable Fair Trading Regime*

As we face such trends as economic globalisation, market liberalisation, rapid changes in the industrial structure, and rapid developments of hi-tech industries, competition authorities should continuously adjust the "game rules" of trade, establish a comprehensive, non-discriminating, transparent, and accountable competition framework taking into consideration of both rapidly growing and traditional industries, and eliminate unnecessary entry barriers. The FTC will reassess supporting regulations and case handling guidelines related to the Fair Trade Law, and reassess anti-competitive regulations in co-ordination with relevant authorities to deregulate unnecessary controls.

2. *Initiate a Self-Compliance Framework For Firms*

Although the Fair Trade Law has been in effect for more than nine years, many industries are still not well aware or familiar with its provisions. The FTC will help industries establish a framework for self-compliance so as to help avoid violations with the Fair Trade Law. Therefore, the FTC will play the role of a "supervisor of the market trading order". In order to optimally utilise limited administrative resources, the FTC will follow the precedents of the competent authorities of advanced economies in which the public's interest and overall economic interest are used as a basis for consideration in the handling of cases.

3. *Construct a Competition Framework For Deregulated Industries and 4C Industries*

In the past, public utilities such as telecommunications and power companies were classified under naturally monopolistic industries and were government regulated. But in recent years, technology has advanced rapidly. New production methods have continuously replaced old ones, those industries can segment their services, and can trade their products in the market as ordinary commodities. Therefore, the supply and demand of telecommunications services should be decided by market competition. Taiwan has in recent years made marked progress in opening to competition the telecommunications service and oil product public utility industries, and the FTC has continued to participate in establishing a post-opening market competition mechanism. In the future, the opening of controlled industries will be further broadened and deepened, and other monopoly public utilities will also be inevitably opened. In response to these economic changes, appropriate arrangements must be made so anti-competitive and unfair practices caused in the future can be corrected, and in the process, a competition framework for each public utility industry can be established.

As commercial application of Internet has boomed, the business opportunities generated by the Internet have expedited the integration of 4C industries, namely telecommunications, cable television, information communications, and e-commerce enterprises. The FTC will establish a competition framework for 4C industries, so that it will be fully prepared to handle competition issues arising from cross industry operations, and decide the timing for competition law to intervene.

4. *Expand Forward-Looking International Interchange And Co-operation*

Since the 1990s, due to a large increase in the operational scale of enterprises world-wide and the global trend toward merger and acquisition, the global competition environment has undergone fundamental changes prompting competition authorities world-wide to strengthen co-operation on issues such as transnational annexation, international cartels, and regional monopolies in order to harmonise the complex body of regulations currently in place. How best to prevent anti-competitive practices and

promote global market liberalisation are pressing questions being asked in multilateral trading blocs and bilateral trade discussions.

The FTC must have a firm grip on these developments and trends, and promote capacity building for the Fair Trade Law enforcement in response to international trends. The FTC has given top priority to international exchange programs and co-operation. In the future, the FTC will continue expanding channels of dialogue and participating in the activities of international trade organisations. The FTC will also expand its competition law frameworks technical assistance so that its contribution to the international community can continue.

## **II. – DESCRIPTION OF CASES**

### **Case 1**

A complaint alleging the Taiwan Flour Mills Association instituted a total quantity control and quota system when jointly purchasing and importing wheat for 32 flour producers, by means of co-ordination and acting in concert, and by calling meetings, which had the effect of restricting competition and violated Article 14 of the Fair Trade Law.

Summary:

The Taiwan Noodle Producers Association (the "Noodle Association") filed a complaint with the Fair Trade Commission (the "Commission") alleging that flour producers attempted to increase flour price by jointly reducing their wheat purchases.

The Commission undertook a through investigation after receiving the complaint. To obtain the information concerning the production, sales and the current market situation in the flour industry, the Commission not only sent survey of market structure to upstream flour producers and downstream wholesalers and retailers but also requested the Taiwan Flour Mills Association (the "Flour Association") to submit information on its members' production capacities, equipment utilisation rates, outputs, sales, raw materials imports, and unit prices for comparison purpose. The Commission also invited more than 10 representatives of flour producers to provide in person their justifications for the alleged misconduct. The followings are the results of the investigation.

Under the approved joint purchasing policy, the current 32 flour producers in this country appeared to have reoriented the overall industry around the principle of "co-exist and co-prosper." In 1997 and 1998, flour producers attended meetings to apportion their import quantities. In July of 1998, the Flour Association effectively intervened in each member's inventory management by implementing what it called the "Inventory Allocation and Supplementation Table." In October of 1998, a general meeting was called by the Flour Association to discuss the predetermined import quota for 1999.

According to Article 14 of the Fair Trade Law, no enterprise shall have any concerted action. It is obvious from the results of the investigation that the Flour Association used resolutions to implement a total quantity control and quota system, and had improperly intervened in each member's inventory management, in violation of Article 14 of the Fair Trade Law. The Flour Association was the entity that committed the concerted action. Its subordinate entity, the Allocation Working Group, organised "purchase allocation meetings" in which agreements were reached and then notified to each member for further implementation. Those agreements consisted of purchase quota and predetermined annual import quantities. The Flour Association's institution of a total quantity control and quota system had restricted

enterprises' freedom to determine their own purchase quantities. It improperly intervened in each member's inventory management and obstructed fair competition among enterprises. Its objective was to restrict each member's output level and thereby to reorient the overall industry around the principle of "co-exist and co-prosper."

In sum, the aforesaid actions having the effect of restricting competition constituted concerted behaviour prohibited under Articles 7 and 14 of the Fair Trade Law. For these reasons and in view of the degree to which the offences impede the trading order, the period the concerted action had lasted, the Flour Association's market position, and the fact that the Flour Association committed the acts despite knowing they were illegal, the Commission ordered the Flour Association to cease these practices within the specified period, and imposed the Flour Association a fine of NT\$20 million pursuant to the forepart of Article 41 of the Fair Trade Law. The Flour Association's actions also exceeded the scope of the decision dated December 31, 1997, ref. (86) Kong Lien Tzu No. 012, in violation of Article 16 of the Fair Trade Law. The Commission therefore rescinds the decision granting the aforementioned approval.

## **Case 2**

Taiwan Power Company improperly restricted the criteria to bid on its contract to procure truck-mounted mobile cranes, and Ying Heng, et al., fixed the bidding, in violation of the Fair Trade Law

### *Summary*

1. Crane suppliers complained that Taiwan Power Company, ("Taipower") set improper restrictions in the criteria to bid on its procurement contract of truck-mounted mobile cranes (#8700017). The restrictions required that submitted bids on the contract include truck retailer's after-sale service certificates and crane manufacturer authenticity certificates to prove that the suppliers were authorised vendors and able to provide after-sales service. They alleged that the restrictions would be likely to enable the truck manufacturers to dominate the market. The Fair Trade Commission's (the Commission's) preliminary finding was that six companies, including Ying Heng, were suspected of bid fixing.
2. Taipower procured 33 mobile cranes in April 1998, and by November of that year, it had procured a total of 80 units for a total procurement price of NT\$200 million. Before the bid opening in April 1998, Fu Ch'uan, Ying Heng's long-time co-operative supplier, had already indicated the details of the future outcome of the bid opening on its progress board, and Ying Heng had already imported 26 of the cranes. Ying Heng was the organiser of the bid fixing. He T'ai and Shun Yi controlled the truck chassis after-sales service certificates and truck chassis functional test reports. He T'ai and Shun Yi turned down requests for the certificates and reports from suppliers who were not a party to the bid fixing, so as to hoard the profits from the sales of the truck chassis. In addition, a winning bid for six cranes was apportioned to Hsi Fu. Ying Heng provided catalogues of truck chassis, the manufacturer of which it used to be an agent for, to Ching Ch'i and Hao Ch'eng, for their use in participating in the bid fixing.
3. Ying Heng, Hsi Fu, Hao Ch'eng, Ching Ch'i, He T'ai, and Shun Yi fixed the bidding for the contract. They knowingly, and through mutual communications, apportioned the number, suppliers, and amounts of the winning bids before the bid opening. These acts violated Article 14 of the FTL, which prohibits concerted acts. The Commission ordered them to immediately cease the concerted acts pursuant to the forepart of Article 41 of the FTL in force at the time of the acts.

4. The improper restrictions precluded suppliers, who could not obtain the certificates and the reports, from participating in the bidding, and they enabled the truck manufacturers and some of the crane suppliers to restrict and apportion the participants and the winners of the bidding by virtue of their control over the certificates and the reports. This was likely to compromise free market mechanisms, and it constituted obstruction of fair competition in violation of Article 19(1)(ii) of the FTL. Therefore, the Commission ordered Taipower to immediately cease its act of discriminating against other enterprises without a proper reason, pursuant to the forepart of Article 41 of the FTL in force when the act took place.

### Case 3

Merger application between Ch'un Chien CATV Co., Ltd. and Wei Da CATV Co., Ltd.

#### *Summary:*

1. Concerning the application for enterprise merger in which Ch'un Chien CATV Co., Ltd. ("Ch'un Chien") would be assigned the major assets and operations of Wei Da CATV Co., Ltd. ("Wei Da"), the 438th Commissioners' meeting on March 29, 2000 ruled that the application for merger shall be rejected pursuant to Article 11(2) of the Fair Trade Law due to the reasons that the merger as a whole would not bring about obvious economic benefits and that it would cause significant disadvantages through restraint of competition.
2. Ch'un Chien aims to take over Wei Da's major assets and operations in this merger. If successfully combined, the number of subscribers in Ch'un Chien's approved operating districts would total more than 180 thousand when the combined company begins broadcasting operation, making it the largest domestic cable operator. The scale of its operation exceeds the reasonable limit of 150 thousand subscribers for each permitted district of operation—an important indicator drawn up for the "Study of the division of cable TV operating districts in Chinese Taipei" and used by the Government Information Office as its reference in dividing up cable broadcasting and television operating districts. Furthermore, though the market status quo of direct satellite broadcasting operation does imply some degree of interchangeability between satellite and cable operators with respect to technical services, Ch'un Chien will be capable of only a limited degree of competition against direct satellite broadcasting operators for a fairly long time to come, considering the differences with regard to the type of channels they provide, the number of channels, and the fees they charge. So Ch'un Chien would be in a highly advantageous position in its current approved business. Judging by the degree of market saturation and the number of competitors in the cable television market, the realisation of the merger will result in an obvious disadvantage toward competition and it would not bring more economic benefits to upstream channel providers and end-consumers. There is, consequently, no logical necessity for the merger.
3. The realisation of the merger would indeed also reduce the initial costs for layout of the cable television system's industrial network and equipment, avoiding a waste of resources caused by overlapping networks, and by so doing Ch'un Chien would enhance its chances of acquiring cross-business operations. But according to current market practices, when stepping into telecommunications business, cable television operators mainly conduct circuit leasing business or invest in fixed line businesses; and when stepping into information telecommunications business, they mainly enter into strategic alliances with Internet service

providers. The fulfilment of the merger does not therefore have the significant relevancy or necessity for the promotion of cross-business operations for cable television operators-it has only internal economic benefits for the enterprise but no significant external economic benefits. There are no concrete proposals in the application for merger regarding how to prevent restraint of competition or externalise its internal interests.

4. Taken into consideration is also the fact that operation of a cable broadcasting and television system is a concession business which requires considerable time in preparation for establishment - three years or more to be specific - from network rollout, inspection of established engineering by authorities, to obtaining operation permit. The enterprises involved in this merger are approved cable broadcasting and television operators competing with each other in the same market district. After the combined company began operation in accordance with the Cable Broadcasting and Television Law, it would impose an entry barrier on new operators within a considerable period of time, even though new operators would enter into competition as application for new launches reopens pursuant to Article 33 of the same law.
5. To sum up, undertaking the merger would not have significant economic benefits and would result in disadvantageous competition. The case is rejected by the Commission pursuant to Article 11(2) of the Fair Trade Law.

#### **Case 4**

Twenty-seven cylindered Liquefied Petroleum Gas (LPG) distributors in southern Taiwan engaging in concerted action to raise fees for delivery and filling services and to raise the price of cylindered LPG in violation of the Fair Trade Law

#### ***Summary:***

1. This case originated from the increases of LPG prices for five times by China Petroleum from November of 1999 to March of 2000 due to the rise of international oil prices during the period of 1999 to 2000. Among those price increases, the highest one occurred on March 28, 2000, with an increase rate of 20%. It had thereby resulted in the increases of the delivery, filling and retailing prices for cylindered LPG at the downstream market. The Fair Trade Commission (the Commission) conducted this investigation after receiving numerous complaints from both consumers and end distributors. It is the finding of the FTC that the previous charges for filling and delivery of cylindered LPG was around NT\$1 per kilogram; however, agreements among distributors had raised the price to NT\$2 in the Kaohsiung-Pingtung area and NT\$2.2 in the Tainan area. This meant an extra cost of about NT\$30 per 20-kilogram cylinder, leading to the complaints from retailers about cost increases.
2. Findings:
  - (1) In the early 90's, prior to the introduction of the Fair Trade Law, the distribution of LPG was administered by the Vocational Assistance Commission for Retired Servicemen. Service charges for delivering and filling cylindered LPG were regulated at the price of NT\$1.91 per kilogram in the southern area of Taiwan. However, prior to 1996, competition between the filling stations and the differences in their costs of major transportation had driven the real delivering and filling charges down to NT\$1.2-1.4 in the Kaohsiung-

Pintung area, NT\$1.5-1.85 in the Tainan area, and NT\$2.2 in the Chiayi area. Thus, three distinct geographical markets for the delivery and filling of LPG were formed in the Kaohsiung-Pintung, Tainan and Chiayi regions.

- (2) Development of concerted action: The Commission found that among the 30 filling stations in the southern region, aside from the three in Chiayi who were not involved, the Tainan market where 8 stations were included and the Kaohsiung-Pintung market where 19 stations are included are two separate relevant markets. Prior to the March of 2000, due to lower transportation costs, stations located in the Kaohsiung-Pintung area were able to compete with those in the Tainan market. While in March, by taking the opportunity of the efforts made at Safeway Gas's Kaohsiung plant by the "LPG Safety Management Foundation", which was established by operators at different levels of the distribution chain, to raise a fund of NT\$30 million by soliciting contributions from filling station operators, a motion was put forward that the operators in the two markets decide on a three-tier pricing system that would reflect differences in their major transport expenses, with NT\$2 for the Kaohsiung-Pintung area, NT2.2 for the Tainan area, and NT\$2.5 for the Chiayi area. Operators attempting to distribute in two different areas were required to apply the prices set for each respective area to avoid abructing the new market system. With the exception of operators in the Chiayi area, all participants in the organisation agreed to the pricing scheme, and a "market stabilisation fund" was set up along the lines of the "Gas Safety Management" foundation mentioned above; contributions were said to be for a "mutual assistance fund." Operators in the Kaohsiung-Pintung area were relatively more willing to abide by the new pricing scheme, and continued to hold another meeting right after the first one was completed to form consensus regarding the new scheme among the filling station operators in the area. It was decided that implementation of the agreement could be left to the respective associations of the operators in the three areas, and while the operators in Chiayi still disagreed, the new pricing scheme had been uniformly adopted in the Tainan and Kaohsiung-Pintung areas by March 3, 2000.
- (3) Implementation of the concerted action: In order to facilitate the accomplishment of its goals of raising the prices for LPG and restraining the number of operators for downstream LPG retailers, operators of filling station held meetings at irregular intervals to collude on the means applicable to the control of the cylindered LPG market. Between the March and July of 2000, those in the Kaohsiung-Pintung area met repeatedly, first on March 3 in Kaohsiung to conclude the price-increase agreement and the establishment of stabilisation fund, then on March 10 in Pintung to confirm that the price agreement would take effect next time China Petroleum raised its price on LPG (on about March 28). It was further decided that payments by the operators to the stabilisation fund would be divided into two categories, depending on whether the volumes handled were above or below 500 metric tons, and that all operators must additionally pay a miscellaneous fee of NT\$0.2 per kilogram. To buffer the backlash from downstream retailers and make it easier to collect the fees, operators sent representatives to persuade local industry associations and to smooth over customer-swaying disputes among retailers, as well as to encourage retailers to pass expenses on to end users. Retailers who refuse to accept the scheme were threatened with supply interruption. Due to the facts that any attempt to switch to other filling stations would be rejected by the operators with various excuses, retailers were in effect deprived of the liberty to choose its own filling stations. As a result, competitive mechanisms in the entire LPG market in the southern region were seriously disrupted, affecting nearly 1000 retailers in that area.

3. The 27 firms involved in this case were all at the "filling station" level within the vertical distribution structure of the household LPG market, and were "competitors" in their respective Kaohsiung-Pintung and Tainan markets and were capable of being qualified as members of a concerted action under law. The alleged concerted action was operated through continued meetings to set fees and agreements to divide customers, which had the effect of restraining trading counterparts, prices and other business activities. Following the completion of the agreements to raise prices, measures to implement those agreements were always put forward and adopted by all members. There are 19 of the 21 filling stations in the Kaohsiung-Pintung area that involved in this case accounted for 97% of the total volume sold, sufficient to affect supply and demand functions in that market. The eight stations in the Tainan area accounted for over 80% of the volume sold there, with only an exceptionally small portion of the demand in that market served by operators from the Kaohsiung-Pintung region. The conduct of the operators involved had violated Article 14 of the Fair Trade Law, which prohibits concerted action.

The Commission based its assessment of administrative fines on several factors, including the size of the operators, their profitability, degree of co-operation with the investigation, past records, and whether they had played a leading role in the pricing scheme. The Tainan and Kaohsiung-Pintung areas constitute two separate markets, thus the Commission issued dispositions respective to those areas in accordance with the fore part of Article 41 of the Fair Trade Law. Administrative fines of between NT\$1 - 1.5 million were assessed. In the Kaohsiung-Pintung area, three involved stations-Safeway Gas, Kao Fa, and Hsin Feng-a fine of NT\$15 million was respectively imposed; Chien Huey and Kuo Hui each was fined NT\$8 million; Another 11 were fined NT\$4 million individually-Chian Chang, Yi Ch'un, Jung Chou, Feng Yi, Kao Hsiung, Shih Hsin, Tung Yi, Nan Ch'eng, Hsin Ch'eng, Hsin Lian and Ho Sun Shin; Hung Li, Ying Neng, and Ch'i Mei were fined NT\$1 million respectively. In the Tainan area, San Yan received a fine of NT\$8 million; Yi Lin, Hsueh Chia, and Ch'uan Shuai each received a fine of NT\$4 million; Chung Hua Li was fined NT\$2 million; and Lian Ho, Ta Tung, and Nan Ya each received a fine of NT\$1 million. The total amount of fines assessed for deterrent purposes was NT\$133 million.

### III. – QUESTIONNAIRE ON ANTI-CARTEL ACTIONS

1. **Citations and relevant information for hard core cartels challenged by Chinese Taipei Fair Trade Commission (hereinafter referred as the "FTC") since January 1, 2000 has been listed as Annex.**

Regarding the rationale for the level of competition sanction, The FTC has issued its sentencing guidelines to ensure proper and fair imposition of fines. The guidelines reveal the FTC will, while imposing an administrative fine, take into account the motive and purpose of the violation, anticipated and real excess profits from the violation, the degree of damage to the trading order, violator's scale of business and its market position, violators' previous records of breaching the Fair Trade Law, and whether the violator is cooperative with the FTC's investigation, etc.

**2. Facts illustrated the harmfulness of cartels could be found on cases such as the followings:**

- (a) Changes in price or output when the cartel was formed or ceased: Taichung Harbor Warehousing and Loading Co., DerLong Warehousing and Loading Co., and Taichung Harbor Administrative Bureau all engage in loading and unloading business in Taichung Harbor. From 1982, decided to keep peaceful relationship and avoid competition, they divided the loading and unloading business within Taichung Harbor. They even attended the ships dispatching meetings to negotiate with ship owners to trade with them in turn. This collusion destroyed competition between loading businesses, and restricted ship owners to choose loading company to provide services. In 1999, the lack of competition in Taichung Harbor's loading business caused the rate for loading scrap iron in Taichung Harbor is 20% to 120% higher than that in Keelung Harbor or Kaohsiung Harbor, and the efficiency for unloading scrap iron was 2,180 ton per day in Taichung Harbor and 3,164 ton per day in Kaohsiung Harbor. Besides, in 1998, the average cost for Taichung Harbor Warehousing and Loading Co. was NT\$103 per ton, and NT\$128 per ton for DerLong Warehousing and Loading Co. However, the two companies had almost the same trade volumes. Obviously the collusion severely distorted the resources allocation.
- (b) Changes in firm profits when the cartel was formed or ceased; excess profits during the cartel:  
ChungChen Co. and other four Cable TV system operators provide Cable TV signal transmission services in south Kaohsiung City. In 1999, they reached a consensus to jointly decide the subscription fee to be NT\$2,500 for half a year and do not deal with others' customers. This cartel existed from 1999 September to December, estimated excess profits for ChungChen Co. was NT\$ 40 million, NT\$ 20 million for another two system operators respectively and NT\$ 12 million for the other two.

**3.** To ensure compliance, the Fair Trade Law empowers the FTC to issue cease and desist order, to require the violator to correct its illegal practices, to require divestiture of an enterprise engaging in illegal merger, and to impose administrative fines up to NT\$50 million (about US\$1,430,000) per offence. The FTC is equipped with investigation power for obtaining documents and testimony, and discovery of illegal practices. Despite the fact that the court and the prosecutor also have competence in these matters, the enforcement still largely falls upon the FTC. Even in a court case will the judge usually asks for the FTC's opinion. Criminal behavior would be referred to the public prosecutor's office if the violators fail to comply with the FTC's order. Criminal sanctions may take the form of either imprisonment up to 3 years or criminal fines up to NT\$100 million per offence or both. The injured may seek compensation from the violator up to three times of the amount of damages.

**4.** The FTC's sentencing guidelines asks the FTC, while imposing an administrative fine, to take into account the motive and purpose of the violation, anticipated and real excess profits from the violation, the degree of damage to the trading order, violator's scale of business and its market position, violators' previous records of breaching the Fair Trade Law, and whether the violator is cooperative with the FTC's investigation, etc.

According to the Criminal Law, factors which should be considered for calculating fines and other sanctions for economic law violations or crimes in general include the followings: purpose, motive, method, living standard, moral, awareness of the violator, damage caused by the violation, and whether the violator is cooperative with the investigation.

The maximum penalty for violating the Fair Trade Law is up to NT\$100 million and/or up to 3 years imprisonment, for procurement fraud is up to NT\$ 3 million and/or up to lifelong imprisonment, for tax fraud is up to 3 times of illegal profits, for securities fraud is up to NT\$ 3 million and/or up to 7 years imprisonment.

## Appendix to the questionnaire on Anti-Cartel Actions

	Citation	Respondent's name	Product or service	Geographic area	Beginning and ending of dates	Evidence of collusion	Amount of commerce	Sanctions	Other orders
1	Five manufacturers of surgical suture line bidding for 1998 National Taiwan University Hospital procurement of surgical suture line raised the bidding prices in concert	Surgitech Corporation, Unik Surgical Sutures Mfg Co., Johnson & Johnson Medical Taiwan, Ta Sheng Co. Ltd., and B. Braun Taiwan Co., Ltd.	surgical suture line	National Taiwan University Hospital procurement of surgical suture line in 1998	1998/8	Indirect; the surgical suture line market is oligopoly, transparency of prices in the market is high. The prices for very surgical suture line fell from NT\$90-120 per line in 1995 to NT\$40-100 in 1997; however, the prices of the participants in this tendering rose substantially to around NT\$120 in 1998.	N/A	N/A	No
2	Ying Heng Co. and other five companies fixed the bidding for Taiwan Power Company's procurement of truck-mounted mobile cranes	Ying Heng Co., His Fu Co., Hao Ch'eng Co., Ching Ch'i Co., He Tai Co., and Shun Yi Co.	truck-mounted mobile cranes	Taiwan Power Company procurement of truck-mounted mobile cranes in 1998	1998/2 -- 1998/11	Indirect; through mutual communications, apportioned the number, suppliers, and amounts of the winning bids before the bid opening.	The truck-mounted mobile cranes market over the economy, about 200 million NT.	N/A	No

	Citation	Respondent's name	Product or service	Geographic area	Beginning and ending of dates	Evidence of collusion	Amount of commerce	Sanctions	Other orders
3	Two airlines engaging in concerted acts of unconditionally endorsing and transferring ticket vouchers	Far Eastern Air Transport and TransAsia Airways	Domestic airline services market	Taipei-Kaohsiung, Taipei-Tainan, and Taipei-Chiayi routes	1999/8/1 -- 2000/3	Direct;	N/A	Far Eastern is fined NT\$2 million and TransAsia is fined NT\$1.5 million	No
4	Chinese Motion Picture Advertising Association restricted media advertising prices	Taipei City Film and Theater Industry Association and the Taipei City Film Business Industry Association	Newspaper movie advertising	Taipei City and Taipei County	Rate Restrictions: 82.8.18-89.3.21; Layout Restrictions: 86.12.15-89.3.21	Direct	N/A	Imposing a fine of NT\$1.5 million on each of its members	No
5	Twenty-six premixed concrete businesses engaged in restricting supply, inflating sales prices and shortening supply times	Chia Hsin Ready-Mixed Concrete Co. and other Twenty-five companies	Premixed concrete	Taoyuan County	1998/3 -- 1998/9	Direct	During the cartel, average sales amount per month is NT\$750 million, total sales amount of the cartel is about NT\$5 billion.	No	N/A

6	Producers of teaching materials for handcraft mutually restricted each other's business activities through forming an association.	Tsai, Lily and other fourteen firms	Teaching material for handcraft	The whole economy	1998/5 – 1999/10	Direct	N/A	Imposing a fine of NT\$ 50 thousand on each member.	No
7	Liquefied petroleum gas distributors in the Tamshui area jointly raised prices	Tamshui Coal Gas Co. and other fourteen companies	Cylinder LPG	Tamshui Town	1999/5 -- 2000/5	Direct	The price for per cylinder LPG has been raised from NT\$400 to NT\$500.	Imposing a fine of NT\$100 thousand on each member.	No
8	Companies engaged in bid riggings in tendering for three street light engineering contracts by Kaohsiung City during 1996 and 1997	Shang Kuan Mechanical and Electrical Engineering Ltd., and other four companies.	Street light engineering contracts by Kaohsiung City during 1996 and 1997	Kaohsiung City	1996 -- 1997	Direct	Guarantee money for the three tendering is NT\$ 450 thousand, NT\$ 500 thousand, and NT\$ 600 thousand respectively.	No	No
9	Taiwan Flour Mills Association instituted a total quantity control and quota system via jointly purchasing and importing wheat for flour producers	Taiwan Flour Mills Association	Flour market	All over the economy	1994 -- 2000	Direct	About NT\$7 billion.	Imposing a fine of NT\$ 20 million	No

10	Five Cable TV programming providers jointly sell TV programs	Sheng Ch'I Co., Ltd., He Wei Broadcasting Co., Ltd., Mu Ch'iao CATV Co., Ltd., ERA Communications, Ltd., and Gala International, Ltd.	Cable TV programs	Kaohsiung City and Kaohsiung County	1999/12 – 2000/1/6	Direct	In 2000, total channel authorization fee cost NT\$341 million, and separately: Sheng Ch'I: NT\$93 million He Wei: NT\$77.5 m Mu Ch'iao: NT\$77.5 million ERA: NT\$62 million Gala : NT\$31 million	The FTC fined: Sheng Ch'I for NT\$9 m,  He Wei for NT\$8 m, Mu Ch'iao for NT\$8 m, ERA for NT\$4.5 m, and Gala for NT\$1.5 m	No
11	Companies jointly purchased Cable TV programs	FonShing Cable TV System Operation Co. and ChunShinHung Cable TV System Operation Co.	Cable TV programs	Kaoshiung County	1999/12 – 2000/1	Direct	Total amount is NT\$ 235,624,000, for FonShing NT\$ 161,520,000, and for ChunShinHung NT\$ 74,104,000.	Imposing a fine of NT\$ 500 thousand.	No

12	Collusive bids on a primary school's repair plan	Mr Hsieh Fu-ming, Mr Yang Hao-lin, and Ming Yi Construction Co.	Repair plan of a primary school	Tainan County	During 1994	Direct	NT\$ 3,968,000	No	No
13	Cable TV system operators jointly raised subscription fee and restricted each other's trading counterparts	ChungChen Co. and other four Cable TV system operators	Cable TV signal transmission services	South Kaohsiung City.	1999/8 – 1999/12	Direct	Illegal profits for ChungChen Co.: NT\$ 40 million, for another two system operators: NT\$ 20 million respectively, and for the other two NT\$ 12 million	Imposing a fine of NT\$ 5 million for ChungChen Co., NT\$ 2.2 million for another two system operators respectively, and NT\$ 1.8 million for the other two.	No
14	Companies jointly purchased soybean cargo without the FTC's effective approval	Fu Mao Oils Co., Ltd. and other five firms	Imported soybean	North part of Chinese Taipei	2000/4/18, 2000/5/4, 2000/5/8	Direct	N/A	Imposing a fine of NT\$ 100 thousand for each member	No
15	Three loading companies collusively divided the loading and unloading business in Taichung Harbor	Taichung Harbor Warehousing and Loading Co., DerLong Warehousing and Loading Co., and Taichung Harbor Administrative Bureau	Loading and unloading business in Taichung Harbor	Taichung Harbor	1982 – 2000	Direct	N/A	No	No

16	Three LPG suppliers jointly raised the price for cylindered liquefied petroleum gas (LPG) in the Cheng Gung Chen area of Taitung County	Kuo Tai, Ta Chung, and Yung Hsin	cylindered liquefied petroleum gas	Cheng Gung Chen area of Taitung County	2000/2 – 2000/3	Direct	N/A	Each violator is fined of NT\$ 100 thousand.	No
17	Pharmaceuticals jointly fixed price for pharmaceutical products.	Forty-eight members of Tainan Area Association for Scholarship and Fellowship in Pharmaceuticals Field	Radio-advertised pharmaceutical products	Tainan City and Tainan County	1986/11 – 2000/4	Direct	N/A	Total amount of fine is NT\$ 8.35 million.	No
18	Bid rigging in several bids for Taiwan Power Co.'s procurement of parts of power generators.	DunYao Co. and other nine firms	Parts of generators for power plants.	The whole economy	1997	Direct	N/A	No	No
19	Suppliers fixed prices for premixed concrete in Yunlin County	BaoChao Co. Ltd., and other fourteen companies	Premixed concrete	Yunlin County	1999/1 – 1999/12	Direct	NT\$ 200 million per month, NT\$ 1.8 billion during the cartel	Imposing a fine of NT\$ 100 thousand for each member.	No
20	Suppliers fixed prices for premixed concrete in Changhwei County	TaiSun Co. Ltd., and other twenty-six companies	Premixed concrete	Changhwei County	1999/1 – 1999/12	Direct	NT\$ 300 million per month, NT\$ 2.7 billion during the cartel, estimated illegal profits exceeds NT\$ 100 million.	Imposing a fine of NT\$ 100 thousand for each member.	No

21	Companies engaged in bid rigging for Taiwan Power Co.'s power distribution line construction bids during 1995 - 1999	ChingShin Water and Electricity Engineering Co. and other six companies	Taiwan Power Co.'s power distribution line construction bids	Pingdong County	1995/5 – 1999/1	Direct	N/A	No	No
22	Furniture firms jointly restricted competition through forming trade association	Chaing, charong and other furniture firms	Furniture exhibition market	All over the economy	1999 – 2000	Direct	N/A	Imposing fines for violators ranging from NT\$ 50 thousand to NT\$ 300 thousand	No
23	Restricting members to attend any exhibition held by any agency other than the two associations	Trade Association for Shoes Business in Taipei County, and Trade Association for Leather Products Business in Tainan County	Shoes exhibition market	All over the economy	1999/3 – 2000/2	Direct	N/A	Imposing a fine of NT\$ 500 thousand	No
24	Patent holders jointly licensed their patent rights to potential licensees	Philips Co. Ltd., Sony Co. Ltd., and Taiyo Yuden Co. Ltd.	CD-R	All over the economy	1997 -- 2000	Direct	Royalties in 2000 nearly equals to NT\$ 10 billion.	Philips is fined for NT\$ 8 million, Sony for NT\$ 4 million, and Taiyo Yuden for NT\$ 2 million	No

25	Distributors of cylinder LPG jointly raised price and restricted competition	Bai-I Industry Co. and other twenty-six distributors of cylinder LPG	Bottling and distribution of cylinder LPG	South part of Chinese Taipei	2000/4 2000/12	- Direct	Estimated illegal profits exceeds NT\$ 200 million	Total amount of fines equal to NT\$ 133 million	No
26	Trade Association for LPG Business in Hualian County requested members to raise retailing price	Trade Association for LPG Business in Hualian County	Cylinder LPG	Hualian County	2000/4 2000/6	- Direct	N/A	Imposing a fine of NT\$ 600 thousand	No

## IV – CONTRIBUTION TO SESSION II

By Dr. Hwang, Tzong-Leh  
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Like many economies in their early stage of economic development, Chinese Taipei used to regulate the economy in a heavy-handed manner. But the successful economic growth of the economy and changes in global trading environment of the last few decades initiated the call for transformation into a free market to sustain a further economic stability and prosperity. In a series of economic reforms starting from 1980s, the enactment of the Fair Trade Law (the “Law”) in 1992 signifies a milestone in the progressive transition and lays the foundation for the acceleration of the transition.

Based on its past experience in implementing other economic laws, the government has foreseen that sound and effective enforcement of the Law rely on sufficient awareness among the business communities, the government agencies, the academic, and the general public who are all major players in market economy. Recognising that a competition culture needs to be built among these players when the Law was first enacted, the Fair Trade Commission (the “Commission”) identified this mission as one of its priorities to ensure the efficiency and quality of enforcement work.

To better explain the Commission’s efforts in “building a competition culture”, the presentation will be made in the following three ways: strengthening public awareness, improving regulatory environment, and promoting research on competition issues.

### 1. Strengthening Public Awareness

An important function of the Commission is to conduct compliance educational programs aiming at encouraging the business communities to comply with the Law when formulating their business strategies. Another mandate of the Commission is to help the general public to understand what the Commission does for them and request them to support the Commission’s enforcement work. The Commission conducts public compliance education activities through the following means to ensure broad coverage:

- (a) To provide up-to-date enforcement information through the mass media, including radio, television, and the press, to advertise on public transport, and to release publications on the enforcement strategies, priorities and achievement;
- (b) To brief to the press on a weekly basis on the decisions of the Commissioners’ Meeting and hold special media conference where urgent matter arises such as undue pricing during natural disaster or pyramid selling scheme, to attract attention of the relevant businesses and the general public;
- (c) To administer external liaison programs to enhance communication, including two regional enquiry offices where staff handle calls and visits from the general public, the enquiry offices handle more than 10,000 calls annually;

- (d) To convene workshops, over 1000 by September 2001, for all kinds of business activities in conjunction with trade associations and other bodies;
- (e) To conduct 36 or 72-hour lecture programs for managerial-level employees of firms, providing focused discussions on aspects of the Law, the Commission has graduated 28 “classes”, bringing the number of “graduates” to over 1,550 by September 2001;
- (f) To adopt business correction programs to issue warnings and corrective measures on an industry-by-industry basis when certain improper trade practices are found to cut across entire business sector, the Commission has issued business correction programs on 35 sectors, including the real estate and the Cable TV industries; and
- (g) To response to the business communities’ request to help firms to establish frameworks for self-compliance so as to avoid violations to the Law.

## **2. Improving Regulatory Environment**

Chinese Taipei used to regulate the economy in a heavy-handed manner. Despite the passage of the Law, before 1999, the provisions of the Law were not applicable in areas where other legislation already applied. In this regard, the Commission devoted numerous resources to minimise this exemption and to create a regulatory environment which fits into the spirits of market economy. The Commission has:

- (a) Always advised the regulatory agencies during the formulation and development of laws, or consulted with government agencies to revise or repeal the existing laws so as to ensure compatibility with the spirit of market economy;
- (b) Established a task force in 1994 to investigate and examine all the existing other laws that provided a legal basis for exemptions under the Law. The task force had held 19 meetings with responsible government agencies to review such other laws and reached consensus that a total of 122 provisions in 74 laws should be amended. The review and consultation work have been integrated into the Commission’s on-going effort;
- (c) Set up a deregulation task force in 1996 to identify and remove unnecessary or undue regulatory control, to review and to assess competition in highly concentrated markets, and to identify and review trade and investment barriers. The Commission then listed initial findings in the Cable TV, the telecommunications, the petroleum and many other sectors, released sector specific guidelines to clarify the Commission’s regulatory approach under the Law, and drawn up reform plans for the Cabinet; and
- (d) Closely monitored the regulatory reform of public utilities such as telecommunications and the energy sector to prevent misuse of dominant position, cross-subsidisation and undue pricing of the incumbent. The Commission has been co-operating with the regulatory bodies to introduce competition provisions to restructure state monopolies into competitive ones and to co-regulate them in a newly de-centralised market situation.

In 1999, the Law was substantially amended. One of the new provisions requires that the Law should not be applied to acts performed in accordance with other laws only if such other laws do not

conflict with the legislative purpose of the Law. The amendment thereby affirms the spirit and content of the Law to be the core of the economic policy.

### **3. Promoting Research on Competition Issues**

The Commission has placed much importance on the improvement of enforcement quality. In order to improve the Commission's work, much attention is devoted toward the exchange of knowledge with the academic and to strengthen co-operation with counterparts overseas, so as to draw on their expertise and to help review the work of the Commission. The Commission thus

- (a) Requests scholars and experts to do researches on developing issues, convenes an annual workshop to address the research results and to receive comments from the academic and the public;
- (b) Publishes the academic journal – Fair Trade Quarterly, and awards scholarship to graduates majoring in competition law related topics so as to encourage the academic to devote themselves into this newly developed area;
- (c) Holds liaison meetings periodically with the prosecutors and judges, to exchange views on the concepts of competition laws, to harmonise the difference between the dual-track systems of the administrative and the judicial, and to co-ordinate the enforcement work where appropriate;
- (d) Convenes international conferences regularly to review the enforcement work the Commission has achieved, to compare the philosophies and the methodologies that different authorities adopted, and to explore developing and common issues with foreign competition authorities and international organisations;
- (e) Establishes the Competition Policy Information and Research Center to strengthen communications with the academic and to serve as a focal point for studying competition laws and policies. The Center currently, among other works, holds speeches on competition issues twice a month and publishes newsletter on the work of the Commission;
- (f) Participates in international conferences to keep abreast with the global trend, holds bilateral talks with foreign counterparts regularly to exchange knowledge and experience on competition issues, and conducts staff visits and exchange programs to enhance mutual understanding;
- (g) Sponsors the establishment and maintenance of the APEC Competition Law and Policy Database to pursue the collective goal of the APEC member economies in strengthening transparency of competition law and practices to help the business communities within the APEC region; and
- (h) Conducts technical assistance programs annually together with the OECD CLP Division for competition authorities in Southeast Asian countries, to facilitate the development of their own competition culture.

The above illustrates three methods used by the Commission in promoting a competition culture. Still, by the end of August 2001, the Commission has processed a total of 21,584 cases, an indication of the

fruitful results in cultivating the competition culture. The cases consist of 13,839 complaints filed by private parties, 2,017 requests for interpretation of the Law, 5,625 applications for merger approval, and 103 applications for cartel exemption.

#### **4. Conclusion**

Following the development of the economy and the transformation of economic structure, the awareness of competition culture and the enforcement of competition law become vital for realising benefits of market economy. To smooth and accelerate the transition, a process of adjusting market players' mentalities and behaviours constitutes what we called building a competition culture.

According to the experience of this Commission, only when the business communities, the government agencies, the academic, and the general public are actively involved, can we make competition law and policy effective. This will in turn benefit those major players from a well-functioned market economy and increase consumer's welfare and economic stability.

The figures provided on the Commissions' enforcement work are a reflection and demonstration of the general public's reliance on the Law and the Commission for a protection of their interests. The experience in building a competition culture has shown to be a positive one. Chinese Taipei will continue to devote its efforts in nurturing this culture.