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OECD Global Forum on Competition

CONTRIBUTION FROM CHINESE TAIPEI

-- **Building on Competition Culture (Session II)** --

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CONTRIBUTION TO SESSION II

By Dr. Hwang, Tzong-Leh
Chairman, Fair Trade Commission
Chinese Taipei, Taiwan

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.