Organisation for Economic Co-operation and Development

DAF/COMP/WP2/A(2018)2/REV2

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21 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Cancels & replaces the same document of 19 November 2018

Working Party No. 2 on Competition and Regulation

Draft Agenda of the 66th meeting of Working Party No. 2

26 November 2018
Paris, France

To be held on 26 November 2018 (10:00-13:00) in Room CC1 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris, France.

Chris PIKE, Competition Expert
Chris.Pike@oecd.org, +33 (0)1 45 24 89 73

JT03440117

Monday 26 November (09:30-13:30)

09:30-09:35

Item 1. Adoption of the Draft Agenda

DAF/COMP/WP2/A(2018)2/REV2

09:35-09:40

Item 2. Approval of the draft summary record of the last meeting (4 June 2018)

For approval:

Summary record of the 65th meeting (June 2018) - DAF/COMP/WP2/M(2018)1

For information:

List of Participants - DAF/COMP/WP2/PL(2018)1

09:40-10:20

Item 3. Long-term theme on Competitive Neutrality

A discussion on the scope of a possible instrument as an outcome of the long-term theme of competitive neutrality which was adopted by the Competition Committee in June.

On the basis of a scoping note prepared by the Secretariat, delegates will discuss the types of formal output for this long-term theme, as well as the appropriate steps and timing.

Note by the Secretariat - DAF/COMP/WP2(2018)5

10:20-10:50

Item 4. Revision of the Competition Assessment Toolkit

The Secretariat will present a number of examples that can be considered for inclusion within the toolkit and will elaborate on the principles pursued by a regulatory reform program promoting digitalization.

Draft revision of the Competition Assessment Toolkit – Volume 1 - DAF/COMP/WP2/WD(2018)49

Draft revision of the Competition Assessment Toolkit – Volume 2 - DAF/COMP/WP2/WD(2018)50

Draft revision of the Competition Assessment Toolkit – Volume 3 - DAF/COMP/WP2/WD(2018)51

10:50 – 13:20

Item 5. Roundtable Designing Publicly Funded Healthcare Markets

For many consumers, government-funded provision is the only realistic supplier of healthcare, which is an essential input into leading a productive, fulfilling, and satisfying life. While there is little guidance on where, or how, to introduce choice and competition in these services, there has nevertheless been a steady movement towards the greater use of market mechanisms to improve the quality and efficiency of these services. This is important because the quality and efficiency of these services contributes to both productivity and inclusivity. On the first count, more efficient healthcare services not only directly boost public sector, and therefore total, productivity, but they also boost the productivity of workers across the economy (e.g. fewer long-term health problems). On the second, giving choice between publicly funded

healthcare services rather than people having to rely on "voice" to demand better services can enable poorer citizens to obtain more equal treatment, helping inclusiveness.

However, in the wake of the financial crisis, tight government budgets, and a fear of so-called neo-liberalism appear to have created push-back that has slowed and in some cases reversed this progress on pro-competitive reform of these services. In **November 2018**, the OECD will therefore hold a roundtable discussion to share the experience and lessons learned on what has worked well, and what has worked badly.

For discussion:

Background note by the Secretariat - DAF/COMP/WP2(2018)4

Notes by delegations:

Summary of contributions - DAF/COMP/WP2/WD(2018)29

Country contributions:

Austria - DAF/COMP/WP2/WD(2018)30

Estonia - DAF/COMP/WP2/WD(2018)31

Finland - DAF/COMP/WP2/WD(2018)32

Italy - DAF/COMP/WP2/WD(2018)33

Lithuania - DAF/COMP/WP2/WD(2018)34

Norway - DAF/COMP/WP2/WD(2018)35

Spain - DAF/COMP/WP2/WD(2018)36

Sweden - DAF/COMP/WP2/WD(2018)37

United Kingdom - DAF/COMP/WP2/WD(2018)52

Romania - DAF/COMP/WP2/WD(2018)48

Argentina – DAF/COMP/WP2/WD(2018)46

Bulgaria - DAF/COMP/WP2/WD(2018)39

Croatia - DAF/COMP/WP2/WD(2018)43

Indonesia - DAF/COMP/WP2/WD(2018)40

Russian Federation - DAF/COMP/WP2/WD(2018)42

Chinese Taipei - DAF/COMP/WP2/WD(2018)44

Singapore - DAF/COMP/WP2/WD(2018)45

Expert papers - Other documents:

Paper by Laura Hartman – DAF/COMP/WP2/WD(2018)47

Paper by Allan Fels and Darryl Biggar – DAF/COMP/GF(2017)7

Paper by Ramsis Croes, Johan van Manen and Misja Mikkers - DAF/COMP/WP2/WD(2018)41

13:20-13:30

Item 6. Other business

Organisation for Economic Co-operation and Development

DAF/COMP/WP3/A(2018)2/REV2

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19 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Working Party No. 3 on Co-operation and Enforcement

Draft Agenda: 128th meeting of Working Party 3 on Co-operation and Enforcement

26 November 2018

The 128th Meeting of Working Party 3 on Co-operation and Enforcement will be held on 26 November 2018 in Room 1 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris.

Despina PACHNOU, Despina.Pachnou@oecd.org, +(33-1) 45 24 95 25

JT03439912

Monday 26 November 2018

14:30-14:35

Item 1. Adoption of the draft agenda and approval of the draft summary record of the last meeting

For approval:

Draft agenda - DAF/COMP/WP3/A(2018)2/REV2

Summary record of the 127th meeting – DAF/COMP/WP3/M(2018)1

For information:

List of participants - DAF/COMP/WP3/PL(2018)1

Summary of Discussion of the Roundtable on the Extraterritorial Reach of Competition Remedies - DAF/COMP/WP3/M(2017)2/ANN2/FINAL

Executive summary of the Roundtable on the Extraterritorial Reach of Competition Remedies - DAF/COMP/WP3/M(2017)2/ANN1

14:35-17:00

Item 2. Roundtable on the Treatment of Legally Privileged Information in Competition Cases

The roundtable is part of the Competition Committee's long-term theme on Transparency and Procedural Fairness [DAF/COMP/WD(2018)6].

Almost all OECD Members contain rules on legal professional privilege, i.e. protection of attorney-client communications and documents from forced disclosure to pubic bodies and third parties. However, the scope of legal professional privilege and level of protection vary among jurisdictions.

The conditions of asserting and waiving legal professional privilege and their implications for competition cases are assessed by competition authorities and, ultimately, courts. In jurisdictions recognising legal professional privilege, there need to be procedures allowing parties to competition proceedings to claim privilege and resist disclosure of potentially privileged information, as well as ways of reviewing these claims.

The roundtable will examine the implications of the protection of documents produced in the context of attorney-client relationship for companies and competition agencies, issues regarding collection and use of potentially privileged information in competition proceedings, and obstacles to the exchange of information between jurisdictions with unequal levels of protection.

For discussion:

Background note by the Secretariat - DAF/COMP/WP3(2018)5

Notes by delegations:

Summary of contributions - DAF/COMP/WP3/WD(2018)39

Country contributions:

Australia - DAF/COMP/WP3/WD(2018)51

Hungary - DAF/COMP/WP3/WD(2018)40

Japan- DAF/COMP/WP3/WD(2018)41

Latvia - DAF/COMP/WP3/WD(2018)42

Mexico - DAF/COMP/WP3/WD(2018)53

Norway - DAF/COMP/WP3/WD(2018)43

Spain - DAF/COMP/WP3/WD(2018)44

United Kingdom - DAF/COMP/WP3/WD(2018)49

United States - DAF/COMP/WP3/WD(2018)45

EU - DAF/COMP/WP3/WD(2018)46

Russian Federation - DAF/COMP/WP3/WD(2018)47

South Africa - DAF/COMP/WP3/WD(2018)48

Ukraine - DAF/COMP/WP3/WD(2018)52

BIAC - DAF/COMP/WP3/WD(2018)50

17:00-17:30

Item 3. Long-term theme on Transparency and Procedural Fairness

At the meeting of Competition Committee of June 2018, the delegates asked the Secretariat to produce a note on the possible formal output of the OECD long-term theme on transparency and procedural fairness.

The objective of developing a formal output would be to consolidate the extensive work done so far at the OECD and the International Competition Network and establish common principles. These principles will serve as a point of reference for Members and non-Members when considering domestic policy reforms, and as a benchmark for OECD accession and peer reviews.

At the meeting of Working Party 3 on 26 November 2018, the delegates will discuss the possible content of a formal output, and appropriate steps and timing, based on the note to be prepared by the Secretariat. The aim is for the Secretariat to prepare the first draft of an instrument for discussion in 2019.

For discussion:

Note by the Secretariat - DAF/COMP/WP3(2018)7

For information:

Scoping Note on Transparency and Procedural Fairness -DAF/COMP/WD(2018)6

17:30-17:50

Item 4. Revising the Recommendation concerning Effective Action against Hard Core Cartels [C(98)35/FINAL]

At the meeting of Working Party 3 on 5 June 2018, the Secretariat presented a report reviewing developments in the fight against cartels since the adoption of the Recommendation of the Council concerning Effective Action against Hard Core Cartels [C(98)35/FINAL], and a note proposing a revised Recommendation [DAF/COMP/WP3(2018)4]. The report and note have been revised by the Secretariat to incorporate feedback by delegations.

The delegates will discuss the new version of the Recommendation at the meeting of Working Party 3 on 26 November 2018, with the aim to finalise it and submit it to Council during the first months of 2019.

For discussion:

Note by the Secretariat - DAF/COMP/WP3(2018)4/REV1

For information:

Report by the Secretariat - DAF/COMP/WP3(2018)3

17:50 – 18:00

Item 5. Future topics

Delegations are encouraged to propose topics to be discussed in 2019.

Organisation for Economic Co-operation and Development

DAF/COMP/A(2018)2/REV2

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20 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Draft Agenda: 130th meeting of the Competition Committee

27-28 November 2018, CC1

The 130th Meeting of the Competition Committee will be held on 27-28 November 2018 in Room 1 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris.

Antonio CAPOBIANCO, Senior Competition Expert
Antonio.Capobianco@oecd.org, +(33-1) 45 24 98 08

JT03440034

Tuesday 27 November 2018

09:30-09:35

Item 1. Election of the Chairman and Vice Chairmen for 2019

The Competition Committee will be called to elect the Chairman of the Competition Committee and the Bureau members who will serve as Vice-Chairmen for 2019.

09:35-09:45

Item 2. Adoption of the draft agenda

DAF/COMP/A(2018)2/REV2

09:45-09:50

Item 3. Approval of the draft summary record of the last meeting

For approval:

Summary record of the 129th Competition Committee meeting - DAF/COMP/M(2018)1

For information:

List of participants - DAF/COMP/PL(2018)1

Summary of Discussion of the roundtable on Algorithms and Collusion - DAF/COMP/M(2017)1/ANN2/FINAL

Executive Summary of the roundtable on Algorithms and Collusion - DAF/COMP/M(2017)1/ANN3/FINAL

Summary of Discussion of the roundtable on Competition Issues in Aftermarkets - DAF/COMP/M(2017)1/ANN4/FINAL

Executive Summary of the roundtable on Competition Issues in Aftermarkets - DAF/COMP/M(2017)1/ANN5/FINAL

Summary of Discussion of the roundtable on Safe Harbours and Legal Presumptions in Competition Law - DAF/COMP/M(2017)2/ANN1/FINAL

Executive Summary of the roundtable on Safe Harbours and Legal Presumptions in Competition Law - DAF/COMP/M(2017)2/ANN2/FINAL

Summary of Discussion of the Hearing on Common Ownership - DAF/COMP/M(2017)2/ANN3/FINAL

09:50-10:00

Item 4. Report by Working Party Chairmen and Co-ordinators

The Chairmen of Working Party No. 2 and of Working Party No. 3 will report on the meetings of the Working Parties held on 26 November. The UNCTAD co-ordinator may report on UNCTAD related developments. The ICN co-ordinator will report on recent work and projects by the ICN.

10:00-13:00

Item 5. Roundtable on the Suspensory Effects of Merger Notifications and Gun Jumping

For discussion:

Background Note by the Secretariat - DAF/COMP(2018)11

Notes by delegations:

Summary of contributions – DAF/COMP/WD(2018)13

Country contributions:

Australia - DAF/COMP/WD(2018)75

Austria - DAF/COMP/WD(2018)76

Belgium - DAF/COMP/WD(2018)77

Chile - DAF/COMP/WD(2018)137

Czech Republic - DAF/COMP/WD(2018)78

Denmark – DAF/COMP/WD(2018)79

Estonia – DAF/COMP/WD(2018)80

France - DAF/COMP/WD(2018)121

Germany – DAF/COMP/WD(2018)81

Hungary – DAF/COMP/WD(2018)82

Ireland – DAF/COMP/WD(2018)83

Israel – DAF/COMP/WD(2018)84

Japan – DAF/COMP/WD(2018)85

Korea – DAF/COMP/WD(2018)145

Lithuania – DAF/COMP/WD(2018)86

Mexico – DAF/COMP/WD(2018)87

New Zealand – DAF/COMP/WD(2018)144

Portugal – DAF/COMP/WD(2018)89

Slovak Republic - DAF/COMP/WD(2018)142

Slovenia – DAF/COMP/WD(2018)90

Spain – DAF/COMP/WD(2018)91

Turkey – DAF/COMP/WD(2018)92

United Kingdom – DAF/COMP/WD(2018)93

United States – DAF/COMP/WD(2018)94

EU – DAF/COMP/WD(2018)95

Costa Rica – DAF/COMP/WD(2018)96

India – DAF/COMP/WD(2018)97

Indonesia – DAF/COMP/WD(2018)98

Russian Federation – DAF/COMP/WD(2018)99

Chinese Taipei – DAF/COMP/WD(2018)100

Ukraine – DAF/COMP/WD(2018)101

BIAC - DAF/COMP/WD(2018)138

Gun jumping, has recently become an important area of enforcement for many competition authorities, leading to a number of decisions and to high monetary fines. Gun jumping can be defines as the failure to notify a transaction under the merger control rules, or a late notification or breaches of the standstill obligations. The Roundtable will discuss the practical and legal challenges of avoiding, detecting and punishing gun jumping and its treatment in different jurisdictions. The Roundtable will discuss in particular how to reconcile the justified interests of pre-merger control regimes with the need of businesses to realise merger efficiencies in a timely manner. Particular attention will be given to international mergers that require parallel notifications in different jurisdictions, but also to how agency should set priorities in prosecuting cases of alleged gun jumping.

Lunch break 13:00-14:30

14:30-17:00

Item 6. Peer Review of Brazil

For discussion:

Draft Report by the Secretariat – DAF/COMP/WD(2018)74

An In-Depth review of Brazil's Competition Law and Policy will take place on Tuesday 27 November in the afternoon (14:30-17:00). This review will be led by Lead Examiners and it will be open to members, associates, participants and to the European Union. The review will be performed based on a Secretariat report to be circulated in advance of the meeting.

17:00-17:45

Item 7. Annual Reports on Competition Policy

Delegations listed below are invited to submit their annual report for 2017. Following a recommendation by the Bureau, only some Delegations will be allocated time to make presentations on a key development that has taken place during the relevant period (e.g. a legal reform, a new policy approach, an important decision, etc.). Delegations are welcome to contact the Secretariat to suggest a topic for an oral presentation at this session if they wish to do so. The Secretariat will collect these expressions of interest and coordinate with the Chair of the Competition Committee. It will subsequently contact Delegations to ensure a consistent approach to such presentations.

Annual Reports due at this meeting:

Australia - DAF/COMP/AR(2018)31

Austria - DAF/COMP/AR(2018)32

Canada - DAF/COMP/AR(2018)33

Chile - DAF/COMP/AR(2018)34

France - DAF/COMP/AR(2018)35

Germany - DAF/COMP/AR(2018)36

Hungary - DAF/COMP/AR(2018)37

Iceland - DAF/COMP/AR(2018)38

Italy - DAF/COMP/AR(2018)39

Japan - DAF/COMP/AR(2018)40

Korea - DAF/COMP/AR(2018)41

Latvia - DAF/COMP/AR(2018)42

Netherlands - DAF/COMP/AR(2018)43

New Zealand - DAF/COMP/AR(2018)44

Norway - DAF/COMP/AR(2018)45

Portugal - DAF/COMP/AR(2018)13

Slovenia - DAF/COMP/AR(2018)46

Switzerland - DAF/COMP/AR(2018)47

United Kingdom - DAF/COMP/AR(2018)48

European Commission - DAF/COMP/AR(2018)49

Bulgaria - DAF/COMP/AR(2018)50

Costa Rica - DAF/COMP/AR(2018)29

Egypt - DAF/COMP/AR(2018)51

India - DAF/COMP/AR(2018)52

Indonesia - DAF/COMP/AR(2018)28

Malta - DAF/COMP/AR(2018)53

Peru - DAF/COMP/AR(2018)54

South Africa - DAF/COMP/AR(2018)55

Chinese Taipei - DAF/COMP/AR(2018)56

Ukraine - DAF/COMP/AR(2018)30

17:45-18:00

Item 8. Discussion on Brazil request for associate status [CONFIDENTIAL]

Wednesday 28 November 2018

10:00-13:00

Item 9. Joint Meeting of the Competition Committee and the Committee on Consumer Policy

See separate agenda available under DAF/COMP/A(2018)2/ANN/REV2

15:00-17:30

Item 10. Roundtable on Excessive Pricing in Pharmaceuticals

For discussion:

Background Note by the Secretariat - DAF/COMP(2018)12

Notes by delegations:

Summary of contributions – DAF/COMP/WD(2018)102

Country contributions:

Canada – DAF/COMP/WD(2018)103

Denmark – DAF/COMP/WD(2018)104

Israel – DAF/COMP/WD(2018)105

Italy – DAF/COMP/WD(2018)106

Lithuania – DAF/COMP/WD(2018)107

Netherlands – DAF/COMP/WD(2018)108

Spain – DAF/COMP/WD(2018)109

United Kingdom – DAF/COMP/WD(2018)110

United States – DAF/COMP/WD(2018)111

EU – DAF/COMP/WD(2018)112

India – DAF/COMP/WD(2018)113

Indonesia – DAF/COMP/WD(2018)114

Kazakhstan – DAF/COMP/WD(2018)115

Russian Federation – DAF/COMP/WD(2018)116

South Africa – DAF/COMP/WD(2018)117

Chinese Taipei – DAF/COMP/WD(2018)118

Ukraine – DAF/COMP/WD(2018)119

BEUC – DAF/COMP/WD(2018)120

BIAC - DAF/COMP/WD(2018)149

Competition enforcement against excessive pricing in pharmaceutical markets takes place at the intersection of two challenging topics for competition law. In the absence of exclusionary conduct or cartelization, excessive pricing is often viewed as a temporary and self-correcting market failure, or, conversely, as a problem to be addressed through sector-specific regulation; as a result, competition agencies only exceptionally bring excessive pricing cases. On the other hand, markets for pharmaceutical products have important features that led them to be intensively regulated – which significantly affects how competition takes place and when competition enforcement is thought to be appropriate in the pharmaceutical sector. This Roundtable will discuss various issues that arise as regards excessive pricing of pharmaceutical products. These include: the appropriateness of antitrust enforcement against purely exploitative practices in a research-intensive sector; suitable methodologies to identify excessive pricing in this sector; the interaction between competition law and sectoral regulation; the various tools available to competition agencies to promote competition and lower prices in pharmaceutical markets; and market developments more generally.

17:30-18:00

Item 11. Other business and Future Work

For information:

Future Roundtable Topics – DAF/COMP/WD(2018)7

Competition Delegates will be called to decide topics for substantive discussions to be held in June 2019. Delegates should feel free to send to the Secretariat as soon as possible any other suggestion that they would like to submit to the Committee's consideration.

Organisation for Economic Co-operation and Development

DAF/COMP/A(2018)2/ANN/REV2

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23 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Cancels & replaces the same document of 22 November 2018

Draft Agenda: Joint meeting of the Competition Committee & the Committee on Consumer Policy

28 November 2018, CC1

To be held on Wednesday 28 November from 10:00 to 13:00 at the OECD Conference Centre, in Room CC1.

Antonio CAPOBIANCO, Senior Competition Expert
Antonio.Capobianco@oecd.org, +(33-1) 45 24 98 08

JT03440320

Wednesday 28 November 2018

10:00-11:30

Item 1. Discussion on Personalised Pricing in the Digital Era

For discussion:

Note by the Secretariat - DAF/COMP(2018)13

For information:

Paper by Alexandre de Streel - DAF/COMP/WD(2018)150

Summaries of contributions - DAF/COMP/WD(2018)146

Contributions:

Hungary - DAF/COMP/WD(2018)122

Mexico – DAF/COMP/WD(2018)153

Netherlands - DAF/COMP/WD(2018)124

Portugal - DAF/COMP/WD(2018)125

Spain - DAF/COMP/WD(2018)126

United Kingdom - DAF/COMP/WD(2018)127

United States - DAF/COMP/WD(2018)140

EU - DAF/COMP/WD(2018)128

Russian Federation - DAF/COMP/WD(2018)152

BEUC - DAF/COMP/WD(2018)129

BIAC - DAF/COMP/WD(2018)123

Digitalisation and the uprising of new data-driven business models have generated a lively debated between policy makers and scholars on the benefits and possible costs of personalised pricing practices. Personalised pricing can be seen as a form of price discriminating where costumers are charged prices for the same product or services as a function of their willingness to pay, which can be estimated using personal data collected in digital environments. Personalised pricing results thus in each consumer paying a different price and, in a digital era where data analytics and pricing algorithms are becoming common business practice, this could potentially lead to "perfect price discrimination", with implications for consumer welfare. In light of the ambiguous and multi-dimensional effects of personalised pricing, delegates from the Competition Committee and the Committee on Consumer Protection will examine if and how competition and consumer policy can help addressing some of the risks of personalised pricing, while preserving its economic benefits.

11:30-13:00

Item 2. Discussion on Quality Considerations in Zero-price Economy

For discussion:

Note by the Secretariat - DAF/COMP(2018)14

For information:

Summaries of contributions - DAF/COMP/WD(2018)147

Contributions:

Germany - DAF/COMP/WD(2018)130

Hungary - DAF/COMP/WD(2018)131

Israel - DAF/COMP/WD(2018)132

Italy - DAF/COMP/WD(2018)148

Japan - DAF/COMP/WD(2018)143

Mexico - DAF/COMP/WD(2018)141

Spain - DAF/COMP/WD(2018)133

United Kingdom - DAF/COMP/WD(2018)134

United States - DAF/COMP/WD(2018)139

EU - DAF/COMP/WD(2018)135

Russian Federation - DAF/COMP/WD(2018)138

BEUC - DAF/COMP/WD(2018)136

BIAC - DAF/COMP/WD(2018)151

The question of zero price products is not entirely new to competition and consumer protection enforcers. However, digital platforms have introduced a range of new business models that result in authorities having to examine zero price markets more often, and address novel questions such as privacy protection. The roundtable can cover three primary questions associated with quality in zero price markets: what constitutes a dimension of quality competition in a zero price market? How to overcome the challenges associated with competition analysis in the zero price economy? How to address demand-side concerns in the zero-price economy? This roundtable will explore the various markets in which firms decide to set prices to zero in order to obtain consumer data, consumer attention to advertisements, or a consumer relationship that can be used to sell complements or premium services.

2nd Meeting of High Level Representatives of Asia-Pacific Competition Authorities

CC4 OECD Conference Centre, Paris **28th November 2018**

The OECD Meeting of High Level Representatives of Asia-Pacific Competition Authorities will bring together high-level representatives from the authorities of the Region as a forum to share experiences and discuss topics of common interest. We expect this second meeting to serve for jurisdictions to understand better certain aspects of other jurisdictions' laws, practices and policies and to help identify best practices amongst their regional peers. The themes for this second meeting will be: the capacity building needs and plans for the region and the advocacy work that Competition Authorities can do to level the playing field, namely in the context of competitive neutrality and the role for SOEs. The meeting will allow jurisdictions to discuss the work they have done in this area with their peers.

Draft Agenda

Wednesday 28th November (CC4)	
14:30 – 14:40	**INTRODUCTORY REMARKS** • Antonio Capobianco, Acting Head of Division, OECD
14:40 – 15:00	**PRIORITISATION** • **Ruben Maximiano,** *OECD* • **Wouter Meester,** *OECD*
15:00 – 16:45	**TOWARDS COMPETITIVE NEUTRALITY : THE ROLE OF COMPETITION AUTHORITIES** Competition law alone is not sufficient in ensuring a level playing field for SOEs and private enterprises. Some jurisdictions have adopted competitive neutrality frameworks to tackle such issues, whilst in other advocacy is the only tool available for competition authorities. In all such scenarios advocacy of Competition Authorities can play an important role, with its exact scope varying depending on the jurisdictions' legal framework as well as legal and economic culture. This session will be an opportunity for jurisdictions to share actions they have undertaken to advocate for competitive neutrality. Session Chair: Ruben Maximiano, OECD Presentation by ***Professor Deborah Healey, University of New South Wales, Australia*** *Confirmed interventions (order may change):* • **Mr. Ruben Maximiano,** *Senior Competition Expert, OECD*

	• **Mr. Hyungbae Kim**, *Director General, Korean Fair Trade Commission (KFTC)* • **Mr. Marcus Bezzi**, *Executive General Manager, Australian Competition and Consumer Commission, ACCC* • **Mr. Kurnia Toha** ,*Chairman of KPPU* • **Mr. Toh Han Li**, *Chief Executive, Competition and Consumer Commission of Singapore, (CCCS)* • **Mr. Arsenio Baliscan**, *Chairman, Philippine Competition Commission (PCC)* • **Mr. Tsai-Lung HONG**, *Commissioner, CTFTC* • **Ms. Julie Walker**, *Commissioner, New Zealand Commerce Commission (NZCC)* **OPEN FLOOR**
16:45 – 18:15	**CAPACITY BUILDING NEEDS AND PLANS** Session Chair: Ruben Maximiano, *OECD* • **Mr. Yeong-Soo Bae**, *Director General OECD/KPC* • **Mr. Sadaaki Suwazono**, *Deputy Secretary-General for International Affairs, JFTC* • **Mr. Marcus Bezzi**, *Executive General Manager, Australian Competition and Consumer Commission (ACCC)* • **Mr. Eddy de Smijter**, *Head of International Division, EU Commission* • **Mr. Dato' Sri Hishamudin Md Yunus**, *Chairman, Malaysia Competiton Commission (MyCC)* • **Mr. Rasul Butt**, *Senior Executive Director, Hong Kong Competition Commission* • **Ms. Sapae Kyi Maung**, *Officer, Department of Trade, Ministry of Commerce of Myanmar* **OPEN FLOOR**
18:00– 18:30	**Looking Forward: options for future meetings** Session Chair: António Gomes, *Acting Deputy Director, OECD* • Invited Guest Speaker: **Mr. Alexandre Barreto**, *President, CADE* **OPEN FLOOR**

Organisation for Economic Co-operation and Development

DAF/COMP/GF/A(2018)1

Unclassified

English - Or. English

26 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Cancels & replaces the same document of 26 October 2018

Global Forum on Competition

Draft Agenda: Global Forum on Competition

29-30 November 2018

The 17th meeting of the Global Forum on Competition will be held on 29-30 November 2018 in Room 1 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris.

Ms. Lynn ROBERTSON, Manager GFC, LACCF, Competition Expert, OECD Competition Division. E-mail address: Lynn.ROBERTSON@oecd.org, Tel.: +(33-1) 45 24 18 77.

JT03440516

Thursday 29 November 2018

Chair: Frédéric Jenny, Chairman of the OECD Competition Committee

OPENING SESSION

09:00-09:30

Opening Remarks

Ludger Schuknecht, OECD Deputy Secretary-General

Introductory Comments

Frédéric Jenny, Chair, OECD Competition Committee

SESSION I: HOW CAN COMPETITION CONTRIBUTE TO FAIRER SOCIETIES?

09:30-12:00

The term "fairness" has emerged increasingly as part of the discourse of many antitrust enforcers without a universal definition, particularly in the competition context. Fairness, while innate to most individuals, is fluid, subject to the influence of many factors: culture, education, experience, society. Behavioural scientists have attempted to examine how fairness works; is defined relative to economic theory; and how "fairness" plays out in markets. While common tendencies may emerge, no consensus has been observed. Concerns with fairness in societies may reflect a growing, and positive desire, to reduce societal inequalities, and ensure that opportunities are shared more broadly across society, whether amongst individuals or firm. Taken in this context, does fairness have a role to play in economic theory; and how can competition authorities and judges interpret fairness without becoming moralistic or undermining the proven criteria that underpin competition enforcement? This session will explore the concept of fairness, whether and how it can relate to competition and what fairness can mean in practical terms to competition enforcers. The session will be led by a panel of experts from different policy areas to debate the question and discuss with delegates in an interactive Q&A format.

Chair: Johannes Laitenberger, Director-General of the Directorate-General, Competition (DG COMP), European Commission

Panellists:

- **Pinar Akman**, Professor of Competition Law & Director of Centre for Business Law and Practice, University of Leeds
- **Jonathan B. Baker**, Research Professor of Law, American University Washington College of Law
- **Arsenio M. Balisacan**, Chairman, Philippine Competition Commission

Documentation:

Contribution from Greece - DAF/COMP/GF/WD(2018)1

Documentation is also available at: oe.cd/cfs.

GFC official photo for all participants (12:00-12:20)

Buffet Lunch hosted by the OECD – Expresso Café, OECD Conference Centre (12:20-14:30)

SESSION II: GENDER AND COMPETITION

14:30-15:30

Competition policy usually thinks in terms of consumers and firms, government and regulators. Traditionally, consumers have been considered only by their willingness to pay, their (rational) preferences, their ability to substitute between products offered by firms. Meanwhile firms are treated as entities that are defined by the profit-maximising objectives of their owners, and only rarely seen as collections of people. Competition policy is therefore largely gender blind and prides itself on its objectivity. This session will explore whether a gender lens might in fact help deliver objective competition policy by identifying additional relevant features of the market, and of the behaviour of consumers and firms. We will also discuss whether a competition perspective can help inform policymaking on gender equality.

Chair: Frédéric Jenny, Chair, OECD Competition Committee.

Speaker:

- **Estefania Santacreu-Vasut**, Associate Professor in Economics, ESSEC Business School

Documentation:

Paper by Estefania Santacreu-Vasut and Chris Pike (OECD Competition Division): DAF/COMP/GF(2018)4

Documentation is also available at: oe.cd/gnc.

Keynote Address by Margrethe Vestager, European Commissioner for Competition, followed by a Q&A with the delegates (15:30-16:30)

SESSION III: REGIONAL COMPETITION AGREEMENTS: BENEFITS AND CHALLENGES

16:30-18:30

Regional competition agreements (RCAs) hold great potential for both developed and developing jurisdictions, for instance by promoting convergence in competition laws and instruments, ensuring effective and efficient cross-border enforcement, or by supporting young authorities in their efforts to create a competition framework coherent with international standards. However, serious obstacles to the success of RCAs can undermine the harvesting of these benefits. This roundtable discussion will explore the potential benefits and challenges of RCAs. During the session, the different approaches will be examined of geographic regions that have adopted a regional competition framework (including regional competition provisions and a regional competition authority) in order to strengthen their competition law and policy in their pursuit of increased regional integration. The session will specifically focus on RCAs between three or more jurisdictions (so excluding bilateral agreements) that are located in the same geographic region, as they usually offer deeper levels of integration and a higher degree of co operation

on competition enforcement than bilateral agreements. The discussion will be supported by an inventory of RCAs that will be developed by the OECD and shared before the session

Chair: Frédéric Jenny, Chair, OECD Competition Committee.

Presentation by Wouter Meester, Competition Expert, OECD

Panellists:

- **Mor Bakhoum**, Affiliated Research Fellow, Max Planck Institute for Intellectual Property and Competition
- **G. Deniz Both**, Independent Researcher, specialising in International Competition Law and Trade Law
- **Mario A. Umaña**, Lead Trade and Competition Specialist, Integration and Trade Sector, Inter-American Development Bank

Documentation:

Call for contributions: DAF/COMP/GF(2018)1
Background note by the Secretariat: DAF/COMP/GF(2018)5
Paper by Mario A. Umaña, IDB: DAF/COMP/GF(2018)6

Contributions from:

Albania - DAF/COMP/GF/WD(2018)2
Australia with New Zealand- DAF/COMP/GF/WD(2018)3
Bulgaria - DAF/COMP/GF/WD(2018)5
European Union - DAF/COMP/GF/WD(2018)6
Japan - DAF/COMP/GF/WD(2018)7
Kazakhstan - - DAF/COMP/GF/WD(2018)60
Kenya - DAF/COMP/GF/WD(2018)8
Latvia - DAF/COMP/GF/WD(2018)9
Mexico (COFECE) - DAF/COMP/GF/WD(2018)10
Russian Federation - DAF/COMP/GF/WD(2018)11
Serbia - DAF/COMP/GF/WD(2018)12
Singapore - DAF/COMP/GF/WD(2018)75
South Africa - DAF/COMP/GF/WD(2018)13
Sweden with Denmark, Finland, Iceland and Norway - DAF/COMP/GF/WD(2018)14
United States - DAF/COMP/GF/WD(2018)15
CARICOM - DAF/COMP/GF/WD(2018)62
Summaries of contributions - DAF/COMP/GF/WD(2018)16

Documentation is also available at: oe.cd/rca.

Cocktail hosted by INDECOPI Peru – G. Marshall/R. Okrent rooms, Château de la Muette, OECD (18:30-21:00)

Friday 30 November 2018

SESSION IV: INTRODUCTORY PLENARY: INVESTIGATIVE POWERS IN PRACTICE

09:00-10:00

Competition authorities assume a crucial and challenging mission: protecting competition in the markets. This mission requires intensive evidence and data gathering. To meet this end, competition authorities are armed with various investigative powers ranging from voluntary interviews to searches in non-business premises. This session will allow participants to discuss practical issues and share best practices regarding the use of investigative powers through three breakout sessions.

Chair: Frédéric Jenny, Chair, OECD Competition Committee

Contributions from:

Albania - DAF/COMP/GF/WD(2018)17
Australia (BO1) - DAF/COMP/GF/WD(2018)18
Australia (BO2) - DAF/COMP/GF/WD(2018)67
Austria - DAF/COMP/GF/WD(2018)19
Botswana - DAF/COMP/GF/WD(2018)20
Brazil - DAF/COMP/GF/WD(2018)21
Bulgaria - DAF/COMP/GF/WD(2018)22
Chile (FNE) - DAF/COMP/GF/WD(2018)23
Croatia - DAF/COMP/GF/WD(2018)64
Dominican Republic - DAF/COMP/GF/WD(2018)24
EU (BO1 and BO3) - DAF/COMP/GF/WD(2018)25
EU (BO2) - DAF/COMP/GF/WD(2018)74
Hong Kong, China - DAF/COMP/GF/WD(2018)26
Hungary - DAF/COMP/GF/WD(2018)65
Kenya - DAF/COMP/GF/WD(2018)27
Korea - DAF/COMP/GF/WD(2018)63
Malaysia - DAF/COMP/GF/WD(2018)69
Mexico (COFECE) - DAF/COMP/GF/WD(2018)28
Moldova - DAF/COMP/GF/WD(2018)30
Mongolia - DAF/COMP/GF/WD(2018)31
Peru - DAF/COMP/GF/WD(2018)66
Portugal - DAF/COMP/GF/WD(2018)32

Russian Federation - DAF/COMP/GF/WD(2018)33

Serbia- DAF/COMP/GF/WD(2018)34

Singapore - DAF/COMP/GF/WD(2018)35

Slovak Republic - DAF/COMP/GF/WD(2018)36

South Africa - DAF/COMP/GF/WD(2018)37

Sweden - DAF/COMP/GF/WD(2018)38

Chinese Taipei - DAF/COMP/GF/WD(2018)39

Ukraine - DAF/COMP/GF/WD(2018)58

United Kingdom - DAF/COMP/GF/WD(2018)40

United States - DAF/COMP/GF/WD(2018)41

Summaries of contributions - DAF/COMP/GF/WD(2018)42

Documentation:

Call for contributions: DAF/COMP/GF(2018)2

Issues note by the Secretariat – Breakout session 1 (BO1): DAF/COMP/GF(2018)7

Issues note by the Secretariat – Breakout session 2 (BO2): DAF/COMP/GF(2018)8

Issues note by the Secretariat – Breakout session 3 (BO3): DAF/COMP/GF(2018)9

Documentation is also available at oe.cd/invpw

BREAKOUT SESSIONS: INVESTIGATIVE POWERS IN PRACTICE

10:00-12:00

Breakout Session 1: Unannounced inspections in the digital age

This session will discuss challenges and best practices regarding the unannounced inspections in a world where information is mostly produced and stored digitally.

- **Moderator: Sophie Bresny, Head of the Inspection Unit, *Autorité de la concurrence*, France**

Breakout Session 2: Requests for information: Limits and effectiveness

This session will explore requests for information, one of the most often used investigative powers, with a focus on the effective use and limitations of power to request information.

- **Moderator: Mario Ybar, National Economic Prosecutor, Chilean Competition Authority (FNE)**

Breakout Session 3: Due process in relation to evidence gathering

This session will be devoted to due process and the protection of rights of subjects and third parties, without hindering effective investigations.

- **Moderator: Amir Nabil Gamil Ibrahim, Chairperson, Egyptian Competition Authority**

WRAP-UP PLENARY: INVESTIGATIVE POWERS IN PRACTICE

12:00-13:00

Chair: Frédéric Jenny, Chair, OECD Competition Committee

1. Report by Moderators

2. General Discussion

3. Summary and final remarks by session Chair

Lunch Break (13:00-15:00)

SESSION V: COMPETITION LAW AND STATE-OWNED ENTERPRISES

15:00-17:00

Like private firms, state-owned enterprises (SOEs) might seek to maximise profit, even if they ultimately re-invest the surplus that they earn. Alternatively, their objective might be to expand their output, or they may have another goal. Regardless of their objectives, there remains a risk that their actions, agreements and mergers may sometimes harm consumers, causing competition agencies to sometimes investigate their behaviour. However, in undertaking such investigations there will be particular challenges, some relating to the status of these organisations, some to their different objectives which may affect the analytical tools that an agency uses.

This session will look at investigations into anticompetitive conduct, mergers, and agreements by SOEs, both those owned or controlled by a competition authority's own government, and those owned or controlled by other governments. In particular, it will examine the type of conduct that they have engaged in, the rationale for doing so, the key analytical questions that arose in these cases, and the way in which their status and objectives affected those investigations. In doing so, we aim to draw out the main challenges of enforcing competition law against SOEs and look for ways to address them.

Chair: Frédéric Jenny, Chair, OECD Competition Committee

Speaker: **Deborah Healey**, Professor, Faculty of Law, University of New South Wales

Contributions from:

Algeria - DAF/COMP/GF/WD(2018)43

Argentina - DAF/COMP/GF/WD(2018)44

Botswana - DAF/COMP/GF/WD(2018)45

Brazil - DAF/COMP/GF/WD(2018)46

Costa Rica (SUTEL) - DAF/COMP/GF/WD(2018)47

Latvia - DAF/COMP/GF/WD(2018)49

Korea - DAF/COMP/GF/WD(2018)68

Malaysia - DAF/COMP/GF/WD(2018)70

Mexico (COFECE) - DAF/COMP/GF/WD(2018)50

Mexico (IFT) - DAF/COMP/GF/WD(2018)29

Mongolia - DAF/COMP/GF/WD(2018)51

Romania - DAF/COMP/GF/WD(2018)4

Russian Federation - DAF/COMP/GF/WD(2018)52

Singapore - DAF/COMP/GF/WD(2018)72

South Africa - DAF/COMP/GF/WD(2018)53

Sweden - DAF/COMP/GF/WD(2018)54

Tunisia - DAF/COMP/GF/WD(2018)71

Ukraine - DAF/COMP/GF/WD(2018)59

United States - DAF/COMP/GF/WD(2018)55

BIAC - DAF/COMP/GF/WD(2018)73

CUTS International - DAF/COMP/GF/WD(2018)56

Summaries of contributions - DAF/COMP/GF/WD(2018)57

Documentation:

Call for contributions: DAF/COMP/GF(2018)3

Background note by the Secretariat: DAF/COMP/GF(2018)10

Paper by Deborah Healey: DAF/COMP/GF(2018)11

Documentation is also available at oe.cd/csoes

FINAL SESSION: OTHER BUSINESS AND PROPOSALS FOR FUTURE WORK

17:00-18:00

Chair: Frédéric Jenny, Chair, OECD Competition Committee

Organisation for Economic Co-operation and Development

DAF/COMP/WP2/WD(2018)44

Unclassified

English - Or. English

8 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Working Party No. 2 on Competition and Regulation

Designing publicly funded healthcare markets – Note by Chinese Taipei

26 November 2018

This document reproduces a written contribution from Chinese Taipei submitted for Item 4 of the 66th OECD Working Party 2 meeting on 26 November 2018.

More documents related to this discussion can be found at

http://www.oecd.org/daf/competition/designing-publicly-funded-healthcare-markets.htm

Please contact Mr Chris PIKE if you have any questions about this document
[Email: Chris.Pike@oecd.org]

JT03439181

Chinese Taipei

This report mainly introduces the publicly funded healthcare planned by Chinese Taipei, and shares law enforcement experiences with healthcare service competition.

1. Chinese Taipei's Healthcare Industry

1.1. Implementation of National Health Insurance

1. Chinese Taipei began implementing National Health Insurance (NHI) in March 1995 as a mandatory social insurance[1]. Citizens have enjoyed equal rights to healthcare since participating in NHI, and healthcare institutions contracted by the National Health Insurance Administration (NHIA) provide healthcare services when insured persons become sick or injured, or give birth, and then report their healthcare expenses to the NHIA. While citizens are not required to pay the healthcare expenses when they go to the doctor, they still need to bear "administrative registration fees" and "items not covered by the NHI", as well as the transportation fees for going to the healthcare institution or transferring to other healthcare institutions. Healthcare services provided by the NHI include outpatient services, inpatient services, Chinese medicine, dental services, and other services related to childbirth, rehabilitation, homecare, and chronic mental illness rehabilitation. The scope of treatment and care includes diagnosis, examination, testing, consultation, surgery, medication, special materials, treatment, nursing, and insurance wards.

1.2. 93% of Healthcare Institutions (Hospitals and Clinics) are Contracted by National Health Insurance

2. Healthcare expenses accounted for 3.6% of Chinese Taipei's GDP in 2016. In 2016, there were about 22,384 contracted healthcare institutions[2], of which 490 were hospitals, 83% of which were private hospitals and 17% were public hospitals. There were about 20,000 clinics, of which 98% were private clinics and 2% were public clinics. About 93% of healthcare institutions in Chinese Taipei have joined the NHI, and provide

[1] In principle, insurance premiums are shared by the insured person, insured unit, and the government, but the sharing ratio may vary for different subjects. For employees, the premium sharing ratio is such that the insured person (employee) bears 30%, the insured unit 60%, and the government 10%. For employers, the insured person (employer) bears the whole amount of the insurance premium.

[2] Categories of healthcare institutions in Chinese Taipei include: 1. Hospitals: Hospitals, chronic illness hospitals, psychiatric hospitals, Chinese medicine hospitals, dental hospitals, and hospitals for the compulsory treatment of sex offenders; 2. Clinics: Clinics, Chinese medicine clinics, dental clinics, medical rooms, and public health centers; 3. Other healthcare institutions: Blood donation institutions and pathology institutions. Healthcare institutions shall be registered with the local competent authority of health and have a business permit in accordance with the Medical Care Act and Establishment Standards for Medical Institutions before practicing healthcare.

accessible healthcare to citizens. Furthermore, about 99.7% of citizens are covered by the NHI, which is designed with a no gatekeeper system[3], allowing citizens to freely choose where they want to seek medical attention. Hence, the healthcare market of Chinese Taipei is characterized by fair competition.

2. Publicly Funded Healthcare Markets

2.1. Implementation of Multiple Payment Systems

3. The NHI payment system has adopted a third-party payment mechanism, and established a unified payment standard based on healthcare services covered by the NHI, so that the NHI payment system is reasonable and fair. Furthermore, the NHIA began implementing the global budget system[4] in July 2002, maximizing the use of healthcare resources with a limited budget. Various payment strategies were developed under the global budget system, such as case payment, pay for performance, integrated care, and Chinese Taipei Diagnosis Related Groups (Tw-DRGs), which control healthcare expenses within a reasonable range while ensuring the quality of healthcare services.

4. Chinese Taipei established a quality assurance program to ensure the quality of healthcare services provided by each department under the global budget system. The evaluation results for healthcare institutions are used in global budget negotiations for the following year, and administrative review procedures, the self-discipline of service providers, peer reviews, and the establishment of clinical practice guidelines ensure the quality of healthcare provided to citizens.

5. Furthermore, Chinese Taipei continues to introduce new healthcare services in coordination with healthcare technology developments and actual clinical needs. The payment standards for relatively imbalanced items, such as critical care services, are appropriately adjusted after budget allocation. After the global budgets are discussed by healthcare institutions, then the healthcare services covered by the NHI and payment standards are revised together with representatives of agencies, experts, scholars, insured persons, employers, and providers of healthcare services covered by the NHI, in order to

2.2. Avoiding Wastage of Healthcare Resources

6. The healthcare expense review system is a necessary mechanism of the NHI to avoid wasting healthcare resources and ensure healthcare service quality. The review of healthcare service cases focuses on the items, quantity, and quality of healthcare services. Computer and data analysis technologies are used extensively to rapidly review the data submitted by healthcare institutions. The computer screens abnormal cases for review and management to increase review efficiency. Due to the large number of cases under the NHI, medical records are randomly retrieved and reviewed by medical and pharmaceutical experts. A digital review is currently being promoted to strengthen the

[3] The gatekeeper system is a referral system where basic level physicians are responsible for examining and referring patients to a suitable healthcare institution.

[4] Procedures for implementing the global budget system begin before the start of each year. Healthcare institutions and payers negotiate the global budget for healthcare expenses in the following year based on the content of healthcare services.

smart review system, helping medical and pharmaceutical experts carry out more accurate reviews and avoid wasting healthcare resources, thereby protecting the safety of insured persons and ensuring the quality of healthcare services.

7. Chinese Taipei continues to integrate care services, including the Family Doctors Integrated Care Initiative and the Patient-Centered Integrated Care Program, in the hope of improving cooperation between departments in a healthcare institution or between healthcare institutions, so that they may utilize their expertise and reduce the repetitive use of medications, diagnosis, and treatment. Starting in 2017, resource integration efforts have been expanded to encompass nationwide healthcare resource sharing, thereby encouraging healthcare institutions to upload patients' treatment, prescription and examination (testing) data to the NHI healthcare information cloud system, so that it may be accessed by other healthcare institutions when other doctors treat the same patient. This will reduce unnecessary and repetitive treatment, medication and examinations (tests).

8. Chinese Taipei has established a healthcare classification system to promote the balanced development of healthcare resources, and uses six strategies: (1) Enhancing basic healthcare service capabilities, (2) Guiding citizens' referral habits and adjusting the portion paid by patients, (3) Raising the critical care payment standard of hospitals, and guiding hospitals to reduce services for minor symptoms, (4) Strengthening cooperation between hospitals and clinics to provide continuous care services, (5) Enhancing citizens' self-care knowledge and capabilities, and (6) Strengthening healthcare institution management. The strategies drive the reasonable distribution of healthcare institutions and personnel to facilitate the division of labor and cooperation.

2.3. Hospital Evaluation System

9. Based on the core values of "patient safety" and "healthcare quality" expected of hospitals, the Ministry of Health and Welfare (MOHW) began conducting hospital evaluations, teaching hospital evaluations, and psychiatric care institution evaluations in accordance with the Medical Care Act in 1988. Visits are made to qualified hospitals for follow-up and guidance to continue monitoring the healthcare service quality of hospitals. Hospital evaluations include administration and healthcare; teaching hospital evaluations include teaching resources and management, teacher training, interdisciplinary teaching and academic exchanges, research and teaching results, and the training results of clerks, doctors, and other students and medical personnel. Hospital evaluation results are divided into "qualified" and "excellent", and there are three levels for necessary and key items, such as manpower allocation, environmental safety, equipment repair, and crisis management, specifically "excellent", "compliant" and "non-compliant or requires improvement". The above-mentioned evaluation results are announced on the MOHW's website for the consideration of citizens when choosing a healthcare institution.

10. Furthermore, the MOHW began implementing the hospital emergency medical classification system in 2009, requiring hospitals with first aid responsibility to provide appropriate emergency medical services based on their emergency medical classification, and they may not delay services without proper cause. Starting in 2018, the 199 hospitals nationwide with first aid responsibility were incorporated into 14 emergency referral networks based on areas where patients live, where they seek medical attention, and the hospital's emergency medical classification. Each network has a hospital with critical first aid responsibility as the base hospital, and integrates hospitals with moderate and

general first aid responsibility in the network to provide emergency room patients with upward, parallel, and downward referral services.

2.4. Healthcare Information Disclosure – Reducing Information Asymmetry between Doctors and Patients

11. Disclosure of information on healthcare quality: In addition to the hospital evaluations described above, Chinese Taipei also regularly discloses information on healthcare quality. Citizens can access related information on the NHIA's website before seeking medical attention. The disclosure of healthcare quality information encourages contracted healthcare service providers to improve the quality of healthcare services provided by individual healthcare institutions, and improves citizens' understanding of healthcare quality and use, which they consider when they are choosing a healthcare institution.

12. Establishment of the My Health Bank system: Citizens can use the system to rapidly access their most recent medical records, examination and test results, and preventive healthcare data for the self-management of their health. Doctors can also refer to the data when citizens are seeking medical attention, reducing the information asymmetry between doctors and patients, and increasing the safety and effectiveness of healthcare.

13. Accessing information on other healthcare institutions: Basic information on healthcare institutions in Chinese Taipei that are disclosed on the Internet for public access include the location of the healthcare institution, registration fee, services, departments, clinic hours, and violations. Furthermore, healthcare institutions that apply for healthcare expenses over a certain amount are required to disclose their financial statements for joint supervision by all sectors.

3. Competition in Healthcare Services is Mainly Non-price Competition

14. The establishment of healthcare institutions (hospitals and clinics) requires approval from the competent authority of health in accordance with the Medical Care Act. In 2016, there were about 22,384 contracted healthcare institutions, of which 97% were private healthcare institutions and 3% were public healthcare institutions. About 93% of healthcare institutions in Chinese Taipei joined the NHI. Hence, even though healthcare institutions are divided into public and private healthcare institutions based on their organization, payment by the NHIA to the healthcare institutions for citizens' medical expenses are based on a unified standard under the NHI system. Moreover, healthcare services covered by the NHI are the main source of income of healthcare institutions. Although healthcare institutions may set their own standards for the "administrative registration fee" and "healthcare services not covered by the NHI", such as vaccines[5], price differences of wards, medications and tests not covered by the NHI,

[5] For vaccinations required when citizens are traveling to high-risk countries or regions, due to special medical requirements, or as required by specific subjects, the government imports vaccines on a case-by-case basis, mainly to ensure that specific groups are able to gain the vaccines and immunity they need. Vaccines are usually in short supply in the international market, and it is difficult for Chinese Taipei to purchase vaccines, which are usually more

the municipality and county (city) competent authority announces the maximum healthcare fee (cap) that may be charged by healthcare institutions in accordance with Article 21 of the Medical Care Act. Hence, there are still considerable limitations imposed on their price competition. In other words, public and private healthcare institutions in Chinese Taipei can only engage in price competition in relation to the "administrative registration fee" and "healthcare services not covered by the NHI" due to the constraints of the National Health Insurance Act and Medical Care Act. Therefore, price is not the focus of competition between healthcare institutions, and both public and private healthcare institutions mainly engage in non-price (quality) competition. The quality competition strategies adopted by healthcare institutions include the acquisition of new equipment, attracting outstanding professionals, and improving the hospital's evaluation results.

15. In addition, the competent authority of competition law in Chinese Taipei has made dispositions related to the concerted actions of medical associations, such as jointly deciding to raise the registration fee and limiting basic level doctors to taking Sundays off every other week, but such cases are very rare.

4. Conclusion

16. With the implementation of mandatory national health insurance in Chinese Taipei, 99.7% of all citizens now participate in the NHI, which provides complete coverage, high accessibility to healthcare, and low premium rates. Multiple payment systems, a healthcare expense review system, and a national healthcare resource sharing and healthcare classification system are utilized to effectively control healthcare expenses, avoid wasting healthcare resources, and also maintain healthcare service quality. Overall, the NHI provides complete healthcare and has gained high satisfaction among citizens. As for competition in healthcare services, public and private healthcare institutions in Chinese Taipei can only engage in price competition in relation to the "administrative registration fee" and "healthcare services not covered by the NHI" due to the constraints of the National Health Insurance Act and Medical Care Act, and there are still considerable constraints on such fees. Therefore, there are very few cases of competition law violations in the healthcare service market, and the only cases are those where medical associations jointly decide to raise the registration fee and limit basic level doctors to taking Sundays off every other week. In practice, the healthcare service market of Chinese Taipei mainly engages in quality competition.

expensive, due to the small domestic market and not being an infected area. Better prices and a more stable supply of vaccines can be secured by having the government sign procurement contracts with vaccine manufacturers.

Organisation for Economic Co-operation and Development

DAF/COMP/WD(2018)100

Unclassified

English - Or. English

2 November 2018

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Suspensory Effects of Merger Notifications and Gun Jumping - Note by Chinese Taipei

27 November 2018

This document reproduces a written contribution from Chinese Taipei submitted for Item 5 of the 130th OECD Competition committee meeting on 27-28 November 2018.

More documents related to this discussion can be found at

www.oecd.org/daf/competition/gun-jumping-and-suspensory-effects-of-merger-notifications.htm

Please contact Mr. Antonio Capobianco if you have any questions about this document
[E-mail: Antonio.Capobianco@oecd.org]

JT03438717

Chinese Taipei

To share enforcement experience of the Fair Trade Commission (hereinafter referred to as the "FTC"), this paper outlines the current merger regime in Chinese Taipei, and provides several case examples in relation to gun jumping.

1. Merger control regime in Chinese Taipei

1. Amendments to the Fair Trade Act (hereinafter referred to as the "FTA") in 2002 changed merger control from an "ex-ante approval regime" to a "pre-notification regime" in consideration of the relevant legislation in other countries with long histories of competition law enforcement. Currently there are five types of mergers[1] subject to the merger control under the FTA while six types of transactions are exempt from notification[2]. Both market share[3]and turnover[4]are adopted by the FTC as criteria for the notification thresholds. In other words, for any transaction or acquisition falling within one of the merger types, unless specified otherwise, one or all of the merger parties involved are required to notify the FTC solely or jointly when the combined or individual market share of the merger party(s) meets either of the thresholds, or when their respective annual sales amounts satisfy the turnover thresholds.

1 The term "merger" defined in the FTA refers to:
an enterprise and another enterprise are merged into one;
an enterprise holds or acquires the shares or capital contributions of another enterprise to an extent of more than one-third of the total voting shares or total capital of such other enterprise;
an enterprise is assigned by or leases from another enterprise the whole or the major part of the business or properties of such other enterprise;
an enterprise operates jointly with another enterprise on a regular basis or is entrusted by another enterprise to operate the latter's business; or
an enterprise directly or indirectly controls the business operation or the appointment or discharge of personnel of another enterprise
2 Any of the following circumstances are exempt from merger review under the FTA:
Where any of the enterprises participating in a merger, or its 100% held subsidiary, already holds no less than 50% of the voting shares or capital contribution of another enterprise in the merger and merges such other enterprise;
Where enterprises of which 50% or more of the voting shares or capital contribution are held by the same enterprise merge;
Where an enterprise assigns all or a principal part of its business or assets, or all or part of any part of its business that could be separately operated, to another enterprise newly established by the former enterprise solely;
Where an enterprise, pursuant to the proviso of Article 167, Paragraph 1 of the Company Act or Article 28-2 of the Securities and Exchange Act, redeems its shares held by shareholders so that its original shareholders' shareholding falls within the circumstances provided for in Article 10, Paragraph 1, Subparagraph 2 herein;
Where a single enterprise reinvests to establish a subsidiary and holds 100% shares or capital contribution of such a subsidiary;
Any other designated type of merger is promulgated by the competent authority.
3 The market share thresholds set out in the FTA are as follows:
A post-merger market share reaches one third of the market share;
Prior to the merger, one of the merger parties has one fourth of the market share.
4 The turnover thresholds established by the FTC are as follows:
The combined worldwide sales in the preceding fiscal year of the enterprises in the merger exceed NT$40 billion and the domestic total sales of each of at least two of the enterprises in the merger in the preceding fiscal year also surpass NT$2 billion.
The enterprises in the merger are not financial institutions and the domestic total sales of one of the merging parties in the preceding fiscal year exceed NT$15 billion while the domestic total sales of one of the other merging parties in the preceding fiscal year also surpass NT$2 billion.
The enterprises in the merger are financial institutions and the domestic total sales of one of the merging parties in the preceding fiscal year exceed NT$30 billion while the domestic total sales of one of the other merging parties in the preceding fiscal year also surpass NT$2 billion.

2. Up to the present, the FTC has not obtained search and seizure power to conduct unannounced onsite inspections into alleged gun jumping cases. However, tools for administrative investigations are applicable to merger violations, for example, notifying the related parties and relevant agencies to submit necessary documents, and notifying the related parties to appear at the FTC's office to make statements. Once a breach of a notification requirement is found, the FTC may impose appropriate administrative sanctions on the merger parties. Under the FTA, the FTC may (1) prohibit such merger, (2) prescribe a period for such enterprise(s) to divest, (3) dispose of all or a part of the shares, (4) transfer a part of the operations, (5) remove certain persons from positions, or (6) make any other necessary dispositions. In addition, the FTC may also impose an administrative fine(s) between NTD 200,000 and NTD 50 million on the merger party(s) in violation of the FTA and imposed certain conditions or obligations, ordering the merger party(s) to file a notification.

2. FTC's empirical experience in gun jumping cases

3. The FTC generally becomes informed of gun jumping through complaints filed by internal employees, referrals given by other government agencies or media reports. Most merger violations, which the FTC has investigated, can be categorized into two different scenarios: 1) where an enterprise fails to notify a relevant transaction or acquisition of control that requires notification; or 2) where it proceeds with the transaction or acquisition that has been prohibited by the FTC. As mentioned above, the potential sanctions include administrative fines, and dispositions to prohibit mergers at issue, or to command the enterprise to file a merger notification. When determining administrative fines, the FTC will consider various factors including motivation, purpose, and expected improper benefit of the violation; the degree of harm incurred from the violation, the duration of the unlawful conduct and benefits derived therefrom.

4. Since 1999, the FTC has investigated 15 cases concerning merger violations in the cable TV market, department store retailing market, food industry and taxi industry as well as the market composed of public natural gas utilities. These cases are mainly related to horizontal and conglomerate mergers. The scale of most infringing enterprises is not large so the proportionate fines are not noticeably high. Furthermore, the number of merger violations has remained around one or two every year, but in the last three years, the annual number has decreased to less than one (i.e. two cases over three years). It shows that there may not be many gun jumping cases in Chinese Taipei. One of the possible factors contributing to this experience is that the FTC continues to advocate for competition in industries and communicate with stakeholders in relevant markets. Another factor that may apply to large-scale enterprises is the importance of business reputation and goodwill.

5. For a listed company, any change that may significantly affect its share structure or management will often attract media attention. Through media reports, the FTC can closely monitor changes in shares of or control over such a company. While doing so, in the case where a listed company fails to file a notification prior to a merger, the FTC, relatively speaking, can promptly detect the alleged violation and initiate an ex-officio investigation. Given that the FTC's investigation may adversely impact on business reputation and goodwill, the listed merger party(s) may not choose to circumvent the mandatory notification obligations to engage in gun jumping, and may not risk an increased level of scrutiny or being prohibited by the FTC from proceeding with the merger. As a result, the FTC observes that the listed merger party(s) tends to file a merger notification in a timely

and proper manner when the change falls into any of the merger types set out in the FTA, and the listed merger party(s) satisfies any of the statutory notification thresholds.

3. Case Examples

3.1. Failure to notify acquisitions of shares and controls of five public natural gas utilities[5]

6. The FTC received a complaint from a retired government employee alleging that Family A violated the FTA to acquire controls over five public natural gas utilities, and requesting an investigation into these acquisitions.

7. In Chinese Taipei, there were 25 public natural gas enterprises- each was a de jure monopolist engaging in supply of "household natural gas" and "non-household natural gas" in its designated area. Given the differences of prices, regulations and customers between these two products, the FTC defined the relevant product market as the "household natural gas market". Regarding the relevant geographic market, every public natural gas enterprise is restricted to operate and supply natural gas in the area delineated by the competent authority under the Natural Gas Enterprise Act. For example, a geographic segmentation in a municipality has to be same as a "district", but in a county (or city) the geographic market is defined in line with the area covered by a "township" (or "urban area").

8. After the FTC's investigation, it found that Family A acquired more than one third of shares of five public natural gas utilities and controlled their business operations, and appointments or discharges of personnel through 7 companies controlled by, controlled and affiliated with Family A or some second-level relatives in Family A. Every legal entities and related persons involved in the acquisitions were required to notify the FTC, and a failure to file a merger notification constituted a violation of the FTA.

9. Notwithstanding this case only involved changes in ownership percentages of the public natural gas utilities (neither horizontal nor vertical mergers), held by controlling companies, the FTC determined NTD 1.2 million as a basic amount of an administrative fine in consideration of high market shares of public natural gas utilities and the maximum fine, approximated NTD 1 million imposed on similar violations by the FTC in the past. Among the infringing enterprises, the fine amount of one public natural gas utility increased to NTD 1.8 Million due to its high sales volume and the fine amount of another utility decreased to NTD 600,000 with its lower sales volume. The individual amounts of the remaining infringing enterprises were calculated on the basis of the number of seats on Board of Directors, ranging from NTD 200,000 to 900,000. The aggregate fines amounted to NTD 5.4 million in this case. Following the FTC's order, the infringing enterprises filed merger notifications in August 2018. Until now, they are still under the FTC's investigation.

3.2. Failure to notify frequent joint operations of two cable TV operators

10. The National Communication Commission (NCC) informed the FTC of alleged joint operations of Company B and Company C without going through merger review under the FTA. Both companies competed with each other in the relevant market along

5 Subparagraph 5, Article 3 of the Natural Gas Enterprise Act provides that natural gas utility enterprise refers to enterprises, which supply natural gas to households, commercial sectors, and service businesses via natural gas conduit network.

with overlapping shareholders. The NCC assumed that the two companies might not be familiar with the provision of joint operations under the FTA, leading to an unintentional failure to notify in violation of the FTA.

11. Given that the cable TV industry in Chinese Taipei was governed under specific regulations, the relevant markets were defined as "cable radio and television services markets in Wanhua district and Zhongzheng district in Taipei". In May 2014, the relevant markets simply comprised two operators, i.e. Company B and C. For the second quarter of 2014, their respective market shares were 76.5% and 23.5%.

12. The FTC's investigation found that Company B began to deal with monthly fees of Company C's customers, and they engaged in various coordination conducts, including joint collection of fees for cable TV, sharing control rooms and a television production studio, and joint purchase of equipment in relation to cable TV, as well as co-production of TV programs and co-promotion. Furthermore, same employees worked for the two companies at once in personnel, financial, engineering, secretary and legal departments, and the companies also jointly organized educational trainings. There was evidence that the two companies jointly operated businesses to provide cable TV services on a regular basis and they were fully integrated in aspects of administration, personnel and financial management. Furthermore, with market shares reaching the notification thresholds, the two companies were obligated to notify the FTC of the relevant merger. The FTC concluded that the failure to notify constituted a violation of the FTA, and imposed NTD 850,000 and NTD 250,000 on Company B and Company C respectively and ordered them to file a merger notification. To comply with the FTA and the FTC's decision, the two companies filed a merger notification in March 2017, which was cleared by the FTC afterwards.

13. In this case, factors considered in determining fines included:

1. Company B and Company had engaged in unlawful joint operations for more than a year.
2. In 2013, the sales amount of Company B was NTD 360 million, and the sales amount of Company C was NTD 120 million.
3. In the second quarter of 2014, the numbers of subscribers for Company B and Company C approximately added up to 52,000 and 16,000 households respectively. Compared to 6o,ooo to 110,000 subscribers of other cable TV operators in their own designated areas in Taipei City and few cable TV operators located in the proximity of New Taipei City, the two companies had relatively less subscribers.
4. The two companies violated the FTA for the first time and fully cooperated during the FTC's investigation process.

3.3. Enterprises implemented a merger despite it been prohibited by the FTC

14. The aforementioned cases refer to the scenario in which enterprises fail to file merger notifications to the FTC when their market shares or turnovers reach the statutory thresholds. Nevertheless, the following two cases – unlawful mergers between the top two Karaoke TV businesses, and an unlawful merger between two manufacturers of instant noodle- illustrate another scenario in which two competitors proceed with the merger in defiance of the FTC's prohibitive decision.

3.3.1. Unlawful mergers between the top two Karaoke TV (KTV) businesses:

15. On 9 May 2003, KTV I and KTV II filed a merger notification to the FTC and noted that KTV I attempted to merge KTV II with an agreed condition where KTV I would be a surviving company and KTV II would a disappearing company after completing the merger. While the FTC did not prohibit the merger, the two KTV businesses discontinued the merger due to divergent opinions on future planning of business operations.

16. Upon a later complaint, the FTC launched an investigation into an alleged violation of KTV I. Its investigation indicated that KTV I. provided false information. in the notification as of 9 May 2003. Consequently, the FTC made a decision on 4 August 2004 to fine KTV I NTD 400,000.

17. On 26 December 2006, KTV I and KTV II notified a new merger proposal to the FTC; nevertheless, the merger was prohibited by the FTC on 9 March 2007. The FTC's further investigations pointed out that, in spite of the FTC's prohibitive decision, the two companies continued to engage into frequent joint operations and acquired controls over business operation and personnel for two times. For these two separate violations, the FTC imposed NTD 1.5 million and NTD 4 million on KTV I, and NTD 3 million and NTD 5 million on KTV II, in 2010 and 2014 respectively.

3.3.2. An unlawful merger between two manufacturers of instant noodle:

18. On 10 September 2008, the FTC prohibited a merger between Company D and Company E, both were manufacturers of instant noodle. However, the FTC's investigation found that in October 2008 Company D acquired controls of business operations or personnel of Company E, amounting to gun jumping conduct. As a result, Company D was fine NTD 500,000 on 24 February 2009.

19. In fact, Company D held 33.3 % of Company E shares before it proposed an acquisition of shares for the first time. On 2 July 2010, Company D attempted to acquire 17.45 % of Company E shares and thereby Company D could own 50.75% of Company E shares. For this new proposed merger, the FTC made a decision to prohibit it on 1 September 2010. In April 2018, Company D filed the FTC a new proposal with the aim of acquiring 20 % of Company E shares so as to hold 53.3% shares in total. This merger is still under the FTC's review.

4. Conclusion

20. A "pre-notification regime" has been expressly adopted under the FTA in Chinese Taipei. Briefly speaking, for any transaction or acquisition falling into one of the merger types defined in the FTA without application of exclusionary types, the merger party(s) involved is required to file the relevant merger to the FTC when the merger party(s) meets any of the notification thresholds. Gun jumping constitutes a violation of merger provisions of the FTA, which may trigger the FTC's investigation.

21. When tackling with gun jumping cases, the FTC determines fines on a case-by-case basis and takes into consideration all factors set forth in the relevant law and regulations. The FTC will also order infringing enterprises to file relevant mergers.

22. As mentioned above, there are only few cases in the cable TV market, food industry and public natural gas touching on gun jumping issues. These cases are mainly related to horizontal and conglomerate mergers with relatively smaller merger parties and lower

administrative fines. The important reasons to explain the low number of merger violations may be the high percentage of clearance of reviewed mergers[6] and the FTC's constant advocacy as well as increasing public awareness of the FTA.

6 The 2017 yearbook of statistics in relation to the FTC enforcement activities showed that there were 894 merger notifications received by the FTC from 2002 to 2017, of which only 7 mergers were prohibited and 99.21% of mergers were cleared.

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DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Excessive Pricing in Pharmaceutical Markets - Note by Chinese Taipei

28 November 2018

This document reproduces a written contribution from Chinese Taipei submitted for Item 9 of the 130th OECD Competition Committee meeting on 27-28 November 2018.

More documents related to this discussion can be found at

www.oecd.org/daf/competition/excessive-pricing-in-pharmaceuticals.htm

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Chinese Taipei

This paper presents an overview of the pharmaceutical industry in Chinese Taipei and the enforcement activities of the Fair Trade Commission (hereinafter referred to as the "FTC") in relation to pharmaceutical pricing.

1. The FTC's stance on pricing issues

1. The rise and fall, or fluctuation, of prices is generally a reflection of overall economic activity. After considering operational costs, supply and demand of commodities as well as marketing strategies, prices set by individual enterprises at their own discretion in a relevant market can be attributed to the consequence of the market operating freely. In other words, the Fair Trade Act (hereinafter referred to as the "FTA") does not apply to pricing issues that do not involve any abuse of monopoly power, concerted action, resale price maintenance and other anticompetitive conduct. There is generally no room for the FTC to intervene in market price setting under the FTA if prices are determined by the effective operation of market forces.

2. The FTC only conducts investigations into anticompetitive price decisions in relevant markets[1]. Where anticompetitive practices are found through its investigations, the FTC may impose appropriate administrative penalties on the enterprises in breach of the FTA depending on the gravity of the violations. Furthermore, the FTC usually communicates with those market players that may be involved in excessive pricing or abnormal high prices. The FTC also outlines its views to the public on price changes in the form of press releases or seminar discussions prior to events that may result in significant price increases. In doing so, the FTC seeks to proactively prevent enterprises from contravening the FTA while initiating investigations where necessary.

3. For example, prices of daily necessities often increase before three traditional holidays[2] and the typhoon season (from summer to autumn) in Chinese Taipei. This phenomenon can be ascribed to various factors, including pubic expectation for future price rises, a temporary imbalance of supply and demand as well as widely reported price

[1] In March 2017, the FTC initiated an investigation into two infant formula companies for price increases in nine types of infant formula. The FTC's investigation found that these two companies were not monopolists as defined under the FTA. While product features of infant formula showed a stronger brand preference for individual consumers, which might lead to consumer's dependency on specific brand to some extent, there was no evidence to prove the existence of abuse of a dominant market position in consideration of the availability of substitutes in the relevant market. Furthermore, when dealing with excessive pricing cases, the FTC needs to take various factors into account to determine whether the alleged price is "excessive" or "unfair". In this case, the FTC was of the opinion that the prices of infant formula were affected by a number of considerations rather than by a single factor, i.e. import costs. It concluded that the price increases were an outcome due to interactions between different reasons, including marketing costs, operational costs and market acceptance, and did not satisfy the criteria of excessive pricing.

[2] Three traditional holidays include Lunar New Year (usually during the end of January to mid-February), Dragon Boat Festival (mid-June) and Mid-Autumn Festival (late September).

changes in the media. With these factors, the general public tends to buy more daily necessities than necessary and the resultant demand boost may exacerbate the perceived price gouging. Therefore, Congressmen are likely to require governmental agencies to intervene in the market and take action to stabilize prices for the wellbeing of the society and their expense on necessities. Accordingly the government has established a "special task force of stabilizing commodity prices" comprising relevant governmental agencies (including the FTC), in order to carry out inspections of supply and demand conditions in markets in relation to daily necessities in exceptional circumstances.

2. The pharmaceutical[3] industry in Chinese Taipei[4]

4. With rapid growth of an aging population in Chinese Taipei, the demand for healthcare goods and services continues to expand. The Business Monitor International (BMI) statistics showed that pharmaceutical spending per capita had increased from USD 223.1 in 2012 to USD 240.6 in 2016. To reduce healthcare costs, the government uses a variety of tools to control health expenditure, for example adjustment of National Health Insurance (hereinafter referred to as the "NHI") premium rates, a new co-payment policy and price control of drugs under the NHI scheme. In particular, a biennial price adjustment of drugs covered by the NHI is working to decelerate the growth rate of the pharmaceutical industry, which has experienced modest growth since the inception of the NHI system.

5. BMI statistics further indicated that the domestic pharmaceutical industry reached NTD 181.57 billion in 2016. Brand name drugs manufactured by foreign pharmaceutical companies made major contributions to pharmaceutical sales while domestic pharmaceutical firms mainly produced and sold generic drugs. In 2016, pharmaceutical sales income from brand name drugs amounted to NTD 117.37 billion, which represented 64.6% of total sales of pharmaceutical products. Sales income from generic drugs and non-prescription medicines (over-the-counter drugs) in 2016 were NTD 50.44 billion and NTD 13.76 billion respectively, which accounted for 27.8% and 7.6% of pharmaceutical sales.

6. The pharmaceutical industry in Chinese Taipei includes "Active Pharmaceutical Ingredients", "Western medicine preparations", "Biologics" and "Chinese medicines", among which western medicine makes up the most important part for the industry. Overall, there are approximately 320 pharmaceutical manufacturing companies in recent years, of which 125 firms producing western medicine preparations passed audits with standards of Pharmaceutical Good Manufacturing Practice (GMP) under the Pharmaceutical Inspection

[3] Article 6 of the Pharmaceutical Affairs Act provides that " The term "drugs" as used in this Act shall refer to any of the following raw materials and preparations:
1) Drugs which are listed in the Chinese Pharmacopoeia, or in the Pharmacopoeia of other countries, the official National Formularies or any of their supplements recognized by the central competent health authority;
2) Drugs which are not included in the preceding Subparagraph but are used in diagnosing, curing, alleviating or preventing the diseases of human beings;
3) Other drugs which are sufficient to affect the body structure and physiological functions of human beings; or
4) Drugs which are used in preparing such drugs set forth in the preceding three Sub-paragraphs."

[4] 2017 Yearbook of Pharmaceutical Industry

Co-operation Scheme (PIC/S). In any event, production and manufacturing as well as marketing for every type of medicine in Chinese Taipei are governed by relevant regulations issued by health-related governmental agencies.

7. Regarding the international trade of pharmaceuticals in Chinese Taipei, total medicines exports reached NTD 17.32 billion in 2016 while total imports were much higher, at NTD 94.98 billion. The top five countries that received Chinese Taipei exports were the United States, Australia, China, Japan and India, and the top five countries from which imports were received were Germany, the United States, France, Switzerland and Japan.

3. National Health Insurance System

8. Since 1995, Chinese Taipei has implemented the NHI system, a compulsory social insurance program. Under the NHI the dedicated insurer is obligated to pay medical bills for any disease, injury or incidents in relation to pregnancy and birth within an insurance policy period except the insured' deductible (as applicable). The purpose of NHI system is to help ease the financial burden of medical costs in the case of illness, injury or incidents during maternity. Current medicine covered by the NHI totals 16,000 items, which enable most people to receive comprehensive medical care services. As mentioned above, the demand for healthcare continues to grow with a larger aging population. The recent 10 years healthcare statistics show that the total NHI expenditure on medicines had increased from NTD 123.6 billion in 2008 to 183.5 billion in 2017, with an average annual growth rate of around 4.5%. Of the total expenditure, nearly 50% related to chronic illness, and 30% related to catastrophic illness.

9. For a prescription drug granted a permit by the competent authority through a process of review and registration, any pharmaceutical firm or medical care institution with the permit, complying with the principle of listing NHI drugs, can submit an application to the National Health Insurance Administration (NHIA) to propose to list the drug into NHI system. However, over-the-counter drugs, medicines designated by physicians, pharmacists and/or assistant pharmacists, preventative vaccines, non-essential pharmaceutical products (including contraceptive pills, hair tonic, dark spots remover, patches for quitting smoking and shampoo) or any other pharmaceutical products without cost-effectiveness may not be included in the NHI system.

10. The current medicine prices are specified in the "NHI Pharmaceutical Benefits and Reimbursement Schedule", which is subject to the "NHI Act". Thus contracted medical care institutions can follow the listed price in the Schedule to apply for reimbursement of costs incurred from medical treatments. The NHIA will regularly conduct a survey to collect actual transaction prices paid by each medical care institution so as to calculate national average prices for individual pharmaceutical products. On the basis of survey results, the NHIA may reflect bargain prices reported by the contracted medical service institutions on price decreases in medicines where appropriate and applicable.

11. To provide more choices in pharmaceutical markets, enhance the competitiveness of generic drugs and ultimately promote market competition, the NHI system intends to develop polices to accelerate the NHI review process of generic drugs and diminish the price caps between generic drugs and brand name drugs. For example, benchmark prices of generic drugs will be equal to 80% or 90% of corresponding brand name drugs. In addition, for those brand name drugs covered by the NHI for over 15 years, their prices will

be adjusted to be the same as the prices charged for generic drugs in compliance with PIC/S GMP. Through these policies, the NHI system can offer more options for hospitals and clinics, and to some extent provide contracted medical care institution incentives to purchase and prescribe generic drugs.

12. For the health of citizens and residents in Chinese Taipei, the NHI Act is enacted to develop the NHI system, thereby ensuring availability of and access to health services. In this regard, the NHI reimbursement scheme can be treated as a government action carried out by the NHIA under the NHI Act, which is exempt from the FTA. Nevertheless, competition among pharmaceutical firms, particularly in pharmaceutical markets where the NHI reimbursement scheme is not applicable, is still governed by the FTA. Below are two cases investigated by the FTC – one relates to exclusionary conduct and the other relates to excessive pricing.

4. Cases in the pharmaceutical sector

4.1. Exclusionary conduct in the antidepressant drug market

13. Company A was the exclusive agent of 10mg Epram Tablets (a generic drug) whereas Company B was the exclusive distributor of 10mg Lexapro film-coated tablets (a brand name drug). These two antidepressant drugs contained the same active ingredient, Escitalopram, both used in the treatment of depression. The FTC was informed that in September 2008, Company A and other potential bidder(s) were invited by the Medical Center C to submit tenders. In the end Company B won the bid at a unit price of NTD 1, which was unreasonably significantly lower than the tender price of Company A, NTD 9. Following this, the FTC initiated an ex-officio investigation.

14. During the investigation, the FTC found that 10mg Lexapro film-coated tablets and 10mg Epram tablets were paid by the NHI at the price of NTD 34.4 per tablet (for the brand name drug) and NTD 27.5 per tablet (for the generic drug) respectively. In terms of the procurement process of drugs, medical care institutions are generally required to comply with the Government Procurement Act to obtain quotations and compare tender prices. After actual purchase prices were paid to winning bidders, they would make claims to the NHIA for reimbursement as prescribed in the approved pricing schedule.

15. The FTC's further investigation revealed that winning a tender to supply drugs to a medical center could be seen as a stepping stone for a pharmaceutical firm to improve its engagement in the relevant drug market competition. In other words, Company B, as an incumbent with noticeable market share, would have faced enormous competitive pressure if Company A had won the tender at issue in September 2008. Furthermore, the NHI approved price of a10mg Lexapro film-coated tablet was NTD 6.9 higher than that of a10mg Epram tablet. As long as medical care institutions intended to obtain more profit with a higher pharmaceutical price gap (i.e. the difference between the NHI reimbursement price and the actual purchase price), Company A was unlikely to win the tender even in a scenario where it offered 10mg Epram Tablets for free. Therefore, no rational economic reasons were found to explain why Company B offered the tender at only NTD 1.

16. The data provided by the health competent authority also showed that in the domestic market of Escitalopram-based drugs, 10mg Epram Tablets only had market shares of 1.61%, 4.89% and 5.36% from 2008 to 2010. It demonstrated that Company B's tender with the unjustified low price excluded Company A from the relevant market to the extent

where Company A could not compete effectively. The FTC concluded that Company B's exclusionary conduct, which caused the trade counterpart to enter into the deal by improper means, resulting in potential restricted competition and distortion of fair competition, constituted a violation of the FTA.

17. The FTC ordered Company B to cease its unlawful act, and imposed NTD 3 million on Company B after taking the following factors into consideration:

1. motivation, purpose, and expected improper benefit of the acts;
2. benefits derived from the unlawful act;
3. the violator's scale, operational conditions, and its market position;
4. whether or not the type of illegal acts involved in the violation had been the subject of correction or warning by the central competent authority;
5. types of, number of, and intervening time between past violations, and the punishment for such violations; and
6. remorse shown for the act and extent of cooperation in the investigation.

4.2. Different prices charged by the Regaine for its hair tonic

18. A legislator enquired with the FTC as to whether it was a violation the FTA where the Regaine charged domestic consumers an unreasonably high price, three to four times the price on the website hosted overseas. Following the enquiry, the FTC initiated an ex-officio investigation into the allegedly excessive pricing of the Regaine's supplier.

19. Regine's hair tonic is not covered by the NHI. It is a medicine designated by physicians, pharmacists and/or assistant pharmacists under the Pharmaceutical Affairs Act. Its main element, Minoxidil, was used first to treat high blood pressure with the function of relaxing the muscles in the walls of blood vessels. Then Minoxidil was applied to increase blood flow to scalps to treat Androgenetic alopecia (also known as male pattern baldness). During the FTC's investigation, it found that the Ministry of Health and Welfare (MHW) had issued more than 60 permits for hair tonic products containing Minoxidil. Considering that many suppliers provided substitute hair tonic products in Chinese Taipei, the FTC defined the product market as the "hair tonic products market".

20. The FTC's investigation indicated that the domestic price of Regine's hair tonic was indeed higher than the price listed on the website hosted overseas. However, prices domestic consumers paid were usually lower than the list price set by the Regine's supplier due to frequent member discounts or other promotional discounts for non-members, which were offered by domestic "brick-and-mortar" distributors and/or retailers. In addition to Regine's hair tonic, "brick-and-mortar" businesses also provided consumers substitute hair tonic products containing the same major element from. Domestic consumers were able to compare prices through the internet and purchase Regine's hair tonic or other substitute products online.

21. Furthermore, Regine's hair tonic transported by air generally accompanied higher operational costs, including expenses with regard to inspection, registration and management as well as sales required by the Food and Drug Administration, the MHW. As specified in the declarations for imported Regine's hair tonic provided by the supplier, the unit cost was much higher than the list price of Regine's hair on the website hosted

overseas. Following its investigation, the FTC concluded that the Regine's supplier did not violate the FTA.

5. Conclusion

22. As mentioned above, the FTC's role does not extend to price issues unless these concerns result from anticompetitive conduct. Regarding daily necessities, the FTC will conduct inspections to aim to prevent prices from being manipulated by individual businesses before major traditional holidays (i.e. the Lunar New Year, Dragon Boat Festival and Mid-Autumn Festival) and the typhoon season.

23. For the pharmaceutical industry in Chinese Taipei, drug prices under the NHI system are not decided by pharmaceutical firms themselves or the relevant product markets. When a pharmaceutical firm's drug is listed in the NHI system, its price will be regulated by the NHIA. Therefore, the pharmaceutical firm needs to consider the approved price when negotiating with every medical care institutions, which may lead to drug price gap in the NHI system. The price gap represents that approved prices the government is willing to pay to medical care institutions are often higher than the prices charged by pharmaceutical firms agreed through procurement processes. This may lead to a restriction of profitability of pharmaceutical firms, disadvantageous conditions for biopharmaceutical development and negative impacts on incentives for research and development. As a result of the NHI system, there are very few cases in relation to excessive pricing in Chinese Taipei.

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Global Forum on Competition

INVESTIGATIVE POWER IN PRACTICE – Breakout session 2: Requests for Information – Limits and Effectiveness - Contribution from Chinese Taipei

- Session IV -

30 November 2018

This contribution is submitted by Chinese Taipei under Session IV of the Global Forum on Competition to be held on 29-30 November 2018.

More documentation related to this discussion can be found at: oe.cd/invpw.

Please contact Ms. Lynn Robertson [E-mail: Lynn.Robertson@oecd.org], if you have any questions regarding this document.

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Investigative Powers in Practice

Breakout session 2 - Requests for Information: Limits and Effectiveness

– Contribution from Chinese Taipei –

This report introduces the regulations regarding requests for information in Chinese Taipei and also shares the experience of law enforcement associated with specific industries.

1. Regulations regarding the collection of evidence and requests for information in the Fair Trade Act

1. The Fair Trade Commission (FTC) is an independent administrative agency under the Executive Yuan (the cabinet). The FTC conducts investigations and decides administrative sanctions in accordance with the Fair Trade Act, but all of its administrative practices must be in line with the Administrative Procedure Act in principle. Article 39 of the Administrative Procedure Act stipulates, "Where it is necessary for the purpose of inquisition into facts and evidence, an administrative authority may give any related person a written notification, requiring that he appear to give his opinions. The notification shall give such details as the purpose of the inquiry, the time and place where the person notified is required to appear, whether or not he is allowed to appoint another person to appear on his behalf, and the consequence for failure to appear." Meanwhile, it is also set forth in Article 40 of the same act, "An administrative authority may request the parties or third parties to provide documents, information and other materials as may be necessary for the purpose of inquisition into facts and evidence." In other words, the guidelines for the investigation of facts and collection of evidence by administrative agencies are provided in the Administrative Procedure Act.

2. Since any investigation of violations of law must be conducted in accordance with due process, further regulations on investigation procedures are specified in the Fair Trade Act. As stipulated in Article 27 of the Fair Trade Act, for instance, when conducting investigations, the FTC may notify the parties and related parties to appear to make statements, notify the parties and third parties to submit books and records, documents, and any other necessary materials or evidence, as well as dispatch personnel for any necessary onsite inspection of the office, place of business, or other locations of the parties and any related third party. In the meantime, it is further specified in Paragraph 3 of Article 27 of the same act that any party to be investigated by the FTC according to Paragraph 1 may not evade, obstruct, or refuse to cooperate without justification. In Article 44, it is also prescribed that the FTC may impose an administrative penalty of no less than NT$50,000 and no more than NT$500,000 on any party violating Article 27 Paragraph 3. If such a party continues to evade, obstruct or refuse to cooperate without justification upon another notice, the FTC may continue to issue notices of investigations and consecutively impose an administrative penalty of no less than NT$100,000 and no more than NT$1 million each time until the party accepts the investigation, appears to respond, or renders related books,

documents, or evidence. In other words, when the FTC investigates cases to obtain necessary information, the concerned parties or related parties have the obligation to cooperate. However, due to the fact that the concerned parties are often in possession of more information associated with the purposes, approaches and subjects of violations of law than related parties, their cooperation throughout the investigation is naturally more necessary and important. Since the FTC was established, there have been 24 cases in which sanctions were imposed on the parties and third parties for refusing to provide related information or refusing to appear to give their statements. The fines ranged from NT$20,000 to NT$250,000.

3. As for information not associated with confirmation of violation, such as information related to product substitutability and market definition, the FTC can also request that related parties provide information with regard to the number and amounts of transactions, or industrial survey reports. Sometimes related parties (including trading counterparts, competitors and market survey institutions) refuse to provide such information, but whether such related parties should be penalized is determined in accordance with the conditions of each case.

4. According to Article 18 of the Freedom of Government Information Law, the availability of government information has its limits, such as restricted access to the public or the provision of information about the trade secrets or business operations of a person, legal person or group if making available to the public or the provision of such information will hamper the rights, competitive position or just interests of such a person, legal person or group. In practice, when encountering situations in which related parties have the obligation to keep information confidential and are not willing to or refuse to provide information, the FTC will explain to them that government agencies are also obligated to keep information confidential. Afterwards, concerned parties and third parties will normally be more willing to cooperate with the FTC's requests for information.

2. Contents and Application of Information Requested

5. Normally, the FTC decides the object (parties or third parties) from which to request information, the approaches and the content after taking into consideration the type of violation, the characteristics of the industry involved, the market structure and the level of complexity of the case. Therefore, the procedure for the investigation may differ from case to case.

6. Initially, the parties from which information is to be requested are decided according to the facts of the violation. Besides informers and offenders, the FTC also investigates all trading counterparts and competitors affected by the violation and requests that they provide related information. The content of the information that the FTC requests includes the transaction process, product prices, the quantity transacted, trading counterparts, the amount of sales, industrial characteristics, conventional business practices and competitors. The approaches adopted to obtain information include 1) sending written requests for the parties and third parties to provide books, documents and other necessary information or evidence, 2) requesting that concerned parties and third parties appear to make statements, 3) conducting onsite investigations, 4) holding meetings, and 5) administering questionnaire surveys. The manpower and time invested in investigations depends on the investigation approaches that the competition agency takes. For example, at least two staff members are needed each time and it takes hours to record the party's statement. In practice, the investigation approaches are applied flexibly in accordance with

the number of parties involved, the characteristics of the industry concerned, the level of complexity of the case and the cooperativeness of the parties from which the FTC requests information. Although the FTC does not have the authority to conduct a dawn raid, for important cases that involve cross-border concerted actions, the FTC can cooperate with foreign competition authorities that have the authority to search enterprises and seize objects. Both sides will share information on the progress of the investigation as well as exchange experiences with regard to the collection of evidence and investigation of cases.

7. After obtaining information, the FTC has to confirm its authenticity and properly use the information to clarify facts, the condition of the industry involved and the level of impact of the violation on competition and order in the relevant market. In addition to the parties and third parties, the FTC will also send written requests for the competent authority of the industry involved or related trade associations or groups to provide information regarding the process and characteristics of transactions in the industry, market structure, output value, productivity, as well as descriptions of the violation in question or related facts. The FTC can also consult with the Ministry of Finance to acquire information about the sales and business scope of concerned enterprises. After the investigation is concluded, the information from informers, offenders, related parties (such as trading counterparts and competing businesses) and descriptions and related data from the competent authorities of related industries are compared for consistency to assess the authenticity of the information acquired. Then, based on experience or the results of economic analysis, the FTC evaluates the level of impact of the violation on competition and order in the market.

3. Case Examples

3.1. Case of channel agents (vertical restriction)

8. In 2016, the FTC imposed a fine of NT$40 million on a channel agent for engaging in unjustifiable discriminatory treatment likely to lead to competition restraints by offering different transaction terms to cable TV services.

9. During the investigation, the FTC issued written requests for the offender and seven cable TV services to explain the standard for calculation of channel licensing fees and to provide the licensing agreement, numbers of subscribers and related information. At the same time, the FTC also requested that the National Communications Commission provide its opinion about the condition of the industry and disputes over channel licensing fees.

10. In addition, the FTC also made requests for information from others to understand whether cable TV services had the need to purchase channels which the offender offered and whether not acquiring such licensing had any effect on the competitiveness of cable TV services in getting trading counterparts (consumers). In this case, the FTC requested that TV rating survey companies provide the average results of rating surveys on all cable and wireless TV channels. The information that the FTC obtained indicated that nine of the 11 channels that the offender represented ranked among the top 50 in channel ratings. Reports from both the National Communications Commission and cable TV channel rating surveys showed that "news" channels were the most popular, including two news channels that the offender represented. In the meantime, the questionnaire survey administered by the FTC revealed that given that cable TV fees remained the same, when the cable TV services pulled out the channels that the offender represented, 71% of consumers would switch to other cable TV services. In addition, it was also indicated that there existed a rather large gap in the number of subscribers between cable TV services that had acquired

licensing from the offender and others that had not. Hence, the FTC concluded that not acquiring licensing from the offender had a certain level of influence on the capacity of cable TV services to find trading counterparts (consumers). In other words, cable TV services did have the need to purchase channels that the offender represented, so that they could have more comprehensive channels to gain subscribers.

3.2. Case of KTV operators (merging parties concealing important information)

11. In 2004, the FTC fined Holiday KTV for providing false information in the merger notification that the company filed regarding its intention to merge with Cash Box KTV, a horizontal competitor. The FTC looked into the case after receiving complaints from private citizens and karaoke operators that Yang Sheng company (a supplier of karaoke products for Holiday KTV) was actually controlled by Holiday KTV and the person in charge at the time, but Holiday KTV did not disclose the information in the merger notification. During the investigation, the FTC 1) issued written requests for independent KTV operators to make their statements with regard to their business relationships with karaoke tape agents and fill out the questionnaire, 2) requested that Yang Sheng company and Holiday KTV come to the FTC to explain the relationship between the two companies, 3) requested that the Taipei City Government provide the business registration information of Yang Sheng company, 4) requested that banks provide data regarding the capital flows of Yang Sheng company, and 5) requested that music companies provide proof of payment of licensing fees from Yang Sheng company.

12. Cross-checks made to the above-mentioned evidence and other information revealed that while Holiday KTV or any of its affiliates had never been in possession of any shares of Yang Sheng company, the father of the person in charge of Holiday KTV at the time had transferred money to Yang Sheng company and the land that Yang Sheng company had provided as collateral for the company's bank loan had also come from an affiliate of Holiday KTV. All the aforesaid financial aid had way exceeded the capital of Yang Sheng company, proving that Holiday KTV had already gained direct or indirect control of the rights of management of Yang Sheng company by providing the company with financial and business support. Once Holiday KTV merged with Cash Box KTV, it would account for 60% of the karaoke tape licensing market (the karaoke tape buyer market) and gain significant market status. At the same time, as a result of its controller-affiliate relationship with Yang Sheng company, Holiday KTV could influence the business of karaoke tape agents through Yang Sheng company as well as the licensing practices of music companies. Apparently, because the relationship between Holiday KTV and Yang Sheng company could have affected the FTC's overall assessment of the merger application, the FTC concluded that the merger notification from Holiday KTV contained false information and decided to sanction the company.

4. Conclusions

13. The purpose of the competition policy in Chinese Taipei is to maintain trading order and consumers' interests, ensure free and fair competition, and promote economic stability and prosperity. Whenever any enterprises violate the Fair Trade Act, the FTC will launch investigations in accordance with Article 27 of the Fair Trade Act to collect information needed to assess an act in breach of duty under administrative law or the resulting consequence (effect). Besides requesting that informers, offenders and related parties (trading counterparts and competitors) make their statements and provide the books,

documents and other necessary information or evidence, the FTC will also issue written requests to the competent authority of the industry and related trade associations and groups to obtain their opinions and related information.

14. The parties and third parties have the obligation to accept the FTC's investigations. The FTC has imposed sanctions on the parties and third parties refusing to provide information with regard to facts about the violation in question. Nonetheless, the FTC has never imposed sanctions on parties failing to provide information not associated with the confirmation of facts of violation (such as the substitutability of related products and information related to market definition). Furthermore, in principle, government agencies have the obligation to keep information involving the business or management secrets of individuals, legal persons or groups confidential. In practice, related parties are willing to cooperate and provide information in most cases after finding out that government agencies are obligated to keep information confidential.

15. After an investigation is concluded, the FTC makes cross reference to the explanations and data from the parties, third parties (including trading counterparts and competitors) and competent authorities of different industries to judge the consistency and authenticity of the information acquired to clarify related facts and the condition of the industry in question. Experience and economic analysis are applied to evaluate the level of impact of the unlawful act on competition and order in the relevant market. Investigation does have its limitations because requests for information and the verification of such information require the investment of large amounts of manpower and time, especially in merger cases which involve statutory review periods[1]. Moreover, the availability of related evidence concerning the unlawful act may gradually dwindle as time passes, and for this reason the FTC can adopt a flexible approach so that it can determine from whom to request information and how to request it in accordance with the complexity of each case in order to increase the effectiveness of such requests for information.

16. Since the FTC was established, it has made active efforts to participate in activities associated with international competition issues and established reliable channels of exchange and communication with the competition authorities of different countries. In recent years, cooperation with the competition authorities of other countries has enabled both sides to have a firm grasp of each other's investigation progress and exchange experience regarding the collection of evidence and case investigation via cooperation agreements or the Recommendations Concerning International Cooperation on Competition Investigations and Proceedings. The FTC will adhere to the same principle and continue to exchange information and experiences with other countries to protect market freedom and maintain fair competition order.

[1] As set forth in Paragraph 7 of Article 11 of the Fair Trade Act, "Enterprises shall not proceed to merge within a period of 30 working days starting from the date the competent authority accepts the complete filing materials, provided that the competent authority may shorten or extend the period as it deems necessary and notifies in writing the filing enterprise of such change." Again in Paragraph 8 of the same article, it is specified, "Where the competent authority extends the period in accordance with the proviso of the preceding paragraph, such extension may not exceed 60 working days." In other words, once a filed merger notification enters the review period, the FTC, in principle, has to decide whether it objects to the merger within 30 working days. Even if the review period is extended, the total period may not exceed 90 working days.

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Annual Report on Competition Policy Developments in Chinese Taipei

-- 2017 –

27-28 November 2018

This report is submitted by Chinese Taipei to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 27-28 November 2018.

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1. Executive Summary

1. This report covers the activities of the Fair Trade Commission (FTC) of Chinese Taipei from 1 January to 31 December 2017.

2. There were new amendments to Chinese Taipei's competition law, the Fair Trade Act (FTA), during the year 2017, and the FTC stipulated and amended 6 guidelines in addition to abolishing 1 guideline in accordance with the FTA amendments in 2017.

3. Regarding competition enforcement, the FTC processed 2,151 cases, including 1960 cases received in 2017 and 191 cases carried over from 2016. By the end of 2017, 2,022 cases had been closed and 129 cases were pending. The FTC handed down 13 decisions related to anti-competitive practices: 1 on the abuse of dominance, 1 on concerted actions, 3 on resale price maintenance, and 8 on vertical restraints.

4. The FTC reviewed 52 merger cases in 2017, which included 9 carried over from 2016 and 43 received in 2017. By the end of 2017, the FTC had completed the reviewing of 44 cases, none of which were prohibited, and 8 were pending.

5. In 2017, the FTC participated in various consultation meetings with other government agencies related to competition issues and organized 73 seminars for the public sector, students, and local governments for advocacy. The FTC also held 5 seminars for the various business sectors in order to explain the leniency program, administrative fines, and new amendments to the FTA.

2. Introduction

6. This report describes key competition law and policy developments in Chinese Taipei during 2017.

2.1. Competition law of Chinese Taipei

7. The Fair Trade Act (FTA) is the competition law of Chinese Taipei. The purpose of the FTC is to maintain trading order, protect consumers' interests, ensure free and fair competition, and promote economic stability and prosperity[1]. The FTC covers regulations on not only restrictive business practices, including monopolies, mergers, concerted actions, and vertical restraints (RPM, boycotting, tie-ins and other restrictive business practices), but also on unfair trade practices, including false, untrue or misleading advertisements, the counterfeiting of commodities or trademarks, the improper offering of gifts or prizes, as well as damage to business reputation and other deceptive or obviously unfair conduct capable of affecting trading order.[2]

[1] Article 1 of the Fair Trade Act: "This Act is enacted for the purposes of maintaining trading order, protecting consumers' interests, ensuring free and fair competition, and promoting economic stability and prosperity."

[2] In 2017, 61 cases of complaints and FTC self-initiated investigations fell into the category of unfair trade practices. The FTC also initiated investigations into 38 cases of unfair trade practices.

8. The FTA has been amended 8 times since it took effect in 1992. The 6th amendment enacted on February 4, 2015 was considered to be the widest in range, the largest in scale and the most influential in terms of legal reforms[3].

2.2. Institutional design

9. The Fair Trade Commission (FTC)[4] is Chinese Taipei's primary competition authority[5]. The FTC was established in 1992 and reformed in 2011 under the newly-enacted "Organic Act of the Fair Trade Commission." The FTC is an independent government entity at the ministerial level and is responsible for the enforcement of the FTA and the Multi-Level Marketing Supervision Act.

10. The FTC consists of seven full-time commissioners who are appointed by nomination by the premier and approval by the Legislative Yuan (the Congress) for a 4-year term and may be reappointed. When making the appointment, the premier shall designate one of the commissioners as the chairperson and another as the vice chairperson. The commissioner appointees must have knowledge and experience with regard to law, economics, finance, taxation, accounting, or management. All commissioners must be politically impartial, are not allowed to participate in political party activities during their terms of service, and must also perform their duties independently according to related laws. In particular, the terms of seven commissioners are staggered, and four of them took office in February 2017.

11. The Commissioners' Meeting is the highest policy making organ of the FTC and is charged with drafting fair trading policy, laws and regulations, and with investigating and handling various activities impeding competition, such as monopolies, mergers, concerted actions, and other restraints on competition or unfair trade practices by enterprises. Moreover, it is also responsible for developing policy, completing regulations as well as investigating cases concerned with multi-level marketing.

12. Provisions on exemption from following the petitioning procedure have been added to the FTA, which allows concerned parties to file with judicial agencies for remedies by adopting the administrative litigation procedures directly to respond to sanctions imposed by the FTC according to the FTA. Those provisions also highlight the status of the FTC as an independent agency.

3. Changes to competition laws and policies, proposed or adopted

3.1. Summary of new legal provisions of competition law and related legislation

13. Article 11 of the FTA was amended on June 14, 2017. The amendment included two parts:

[3] Please refer to "Annual Report (2015) on Competition Policy Developments in Chinese Taipei" DAF/COMP/AR(2016)50).

[4] Please refer to the FTC's website at http://www.ftc.gov.tw/internet/english/index.aspx.

[5] The FTC is also the competent authority of the Multi-Level Marketing Supervision Act, and please refer to https://www.ftc.gov.tw/internet/english/doc/docDetail.aspx?uid=1297&docid=13426.

- Revision of the duration of the business merger review from calendar days to workdays: According to Paragraphs 7 and 8 of Article 11 of the Fair Trade Act, the FTC had been required to complete a merger review within 30 calendar days after receiving all of the merger filing materials, but the period could be extended for another 60 calendar days if deemed necessary. Although the FTC in principle completed the review within the statutory time, the review period would be compressed when the period included continuous holidays, especially when the case being reviewed involved concerns about competition restraints and more time was needed to collect related information, solicit opinions and perform a competition evaluation. Therefore, the calendar days were revised to become workdays in this amendment to suit practical needs.
- Enhancement of the thoroughness of merger review procedures: Paragraphs 10 and 11 were added to Article 11 of the Fair Trade Act in this amendment. The new provisions specify that the FTC, if it is deemed necessary when reviewing a merger application, may request that external academic research institutions provide economic analysis and opinions regarding the industry in question for reference in case analysis. In addition, with hostile takeovers, the FTC is required to ask the party to be acquired its opinion and make the decision in accordance with Article 13 in order to enhance the thoroughness of the merger review procedures.

3.2. Other relevant measures including amended guidelines

14. The FTC stipulated and amended 6 guidelines as well as abolished 1 guideline in accordance with the FTA amendments in 2017, and the significant stipulations and amendments are as follows:

- Formulation of the "Fair Trade Commission Disposal Directions (Policy Statements) on the Vertical Integration or Joint Operation between Liquefied Petroleum Gas Packing Enterprises and Retailers."
- Amendments to:
  - "Fair Trade Commission Disposal Directions (Guidelines) on the Application of Article 25 of the Fair Trade Act";
  - "Fair Trade Commission Disposal Directions (Policy Statements) on Communications Related Enterprises";
  - "Fair Trade Commission Disposal Directions (Policy Statements) on the Use of Endorsements and Testimonials in Advertising";
  - "Fair Trade Commission Disposal Directions (Policy Statements) on Cross-Industry Operation of Digital Convergence Related Enterprises"; and
  - "The Notification Form of Enterprises Filing for Merger" in the "Directions for Enterprises Filing for Merger."
- Abolition of the Factors Considered for the "Application Relationship between the Labeling of Product Toponym-Added and Article 21 of the Fair Trade Act."
- Recently, with the rapid development of technology and the trend of economic globalization, the relevant economic and legal issues arising from digital economy have been highly valued by the international competition community. In the face

of the digital era, the FTC established the "Task Force for the Digital Economy on Competition Policy" in April 2017 to closely monitor the development of emerging business models and to actively figure out the possible competition issues and related solutions in advance.

4. Enforcement of competition laws and policies

4.1. Action against anticompetitive practices, including agreements and abuses of dominant market positions

4.1.1. Summary of Activities

15. The FTA permits the existence of monopolies as long as they do not abuse their market power. Concerted actions are strictly forbidden by the FTA. However, while some exceptions are allowed for, these do require the FTC's prior approval and its decision is based on the public interest. The FTA bans resale price maintenance in principle, but allows exceptions with justifiable reasons. For other types of vertical restraints, the FTA requires the FTC to apply the rule-of-reason standard.

16. In 2017, the FTC processed 2,151 cases, including 1,960 cases received in 2017 and 191 cases carried over from the preceding year. By the end of 2017, 2022 cases had been closed, and 129 cases were pending. A total of 141 complaint cases applicable to the FTA were concluded in 2017 and, of these, 43 concerned anti-competitive practices.

17. Decision rulings on complaints and FTC self-initiated investigations were undertaken in relation to 116 cases in 2017, and only 13 of these fell into the category of anti-competitive practices. The FTC also initiated investigations into 10 anti-competitive cases.

Table 1. Decision Rulings by the FTC in 2017

Unit: Number of cases

Year	Anti-competitive Practices	Abuse of Monopoly*	Mergers	Concerted Actions	Resale Price Maintenance	Vertical Restraints
2017	13	1	-	1	3	8

Note: The number of illegal actions may exceed the number of cases involving decision rulings because a case may involve more than one illegal action.
*: In October 2017, the FTC imposed a fine of NT$23.4 billion on the US company, Qualcomm Incorporated (Qualcomm), for its violation of Subparagraph 1 of Article 9 of the FTA for abusing its monopolistic status in the market for baseband chips that comply with CDMA, WCDMA and LTE mobile communications standards. And in August 2018, the FTC and Qualcomm, under the direction of the joint panel of the Intellectual Property Court to seek settlement, reached a litigation settlement with respect to the FTC decision regarding the dispute of exercising patent rights.

4.1.2. Description of significant cases, including those with international implications

Case 1: Exclusionary Agreements between Cable TV System Operators and Management Committees of Apartment Buildings

18. The FTC decided at the 1,344th Commissioners' Meeting on August 9, 2017 that the practice of signing agreements that included exclusionary terms with management committees of apartment buildings adopted by Daan Wenshan Cable Television Co., Ltd. (hereinafter referred to as DWS), Chin Ping Tao Cable Television Co., Ltd. (hereinafter referred to as CPT) and Tian Wai Tian Communication Inc. (hereinafter referred to as TWT) was an illegitimate way to impede competitors from entering or competing in the market where they operated. In addition to ordering the three companies to correct the unlawful act within two months after receiving the disposition, the FTC also imposed on them administrative fines of NT$900,000, 1.2 million and 1.6 million, respectively.

19. The FTC's investigation indicated that DWS was currently the cable TV service provider in the Daan District of Taipei City and CPT that in the Zhongshan and Songshan Districts of Taipei City, the two firms respectively accounting for 51.1% and 47.7% of the corresponding markets. Starting in November 2014 and December 2015, respectively, the two companies signed cable TV service agreements with apartment building management committees that included exclusionary terms to prevent such committees from seeking cable TV services from other cable TV service providers; otherwise, related special price offers would be canceled while undue fees would also be collected as breach-of-contract penalties. In the meantime, TWT, operating in the Sanchong and Luzhou Districts of New Taipei City where the company claimed 41.9% of the market, also adopted the same practice beginning in 2012. Starting in June 2015, letters were sent to apartment building management committees having signed cable TV service agreements to warn them against allowing other cable TV service providers to set up reception equipment in the community or to demand that they remove equipment already set up.

20. The FTC believed that the purpose behind DWS, CPT and TWT signing exclusive terms with apartment building management committees and even sending warning letters to them was to impede competitors (especially those new to the market) from competing, while the practice adopted was neither necessary for the companies' business operations nor justifiable. Moreover, the stipulated imposition of punitive breach-of-contract fines would raise competitors' management costs and at the same time reduce their capacity to engage in price competition, whereas the interests of residents (consumers) who chose not to transact with DWS, CPT or TWT or decided to switch to different trading counterparts would thus be jeopardized. Since DWS, CPT and TWT had a certain dominating status in the relevant markets, their adoption of the illegitimate practice to impede competitors from entering or competing in the market obviously had negative effects on competition in the relevant markets and the interests of consumers. The conduct was likely to restrict competition in violation of Subparagraph 3 of Article 20 of the Fair Trade Act.

Case 2: Application of the Mechanism for Suspension of Investigation under the Fair Trade Act

21. Game Credits Company A develops prepaid products such as gifts, wireless, games, long distance, music, and debit cards. To sell "Gold Diamond Game Cards",

which contain the game credits of an exclusive dealing model, Game Credits Company A signed contracts with physical distributors including the four major domestic convenience store chains. This contract contains an exclusive dealing term, which restricts the distributor from selling game cards of other companies that use the same technology. In addition, the complainant had been developing a similar technology and system to Game Credits Company A, but could not sell game cards that used the same technology in the four major convenience store chains due to their exclusive dealing contracts with Game Credits Company A (the complainant indicated that convenience stores account for over 80% of game card sales), unless it used the system of Game Credits Company A. Therefore, the complainant was of the opinion that Game Credits Company A had violated Subparagraph 5, Article 20 of the Fair Trade Act.

22. The FTC immediately conducted an investigation after receiving the complaint from the complainant. Both parties involved in the complaint were asked to provide evidence and explanations at the FTC on several occasions. Physical distributors, including convenience stores and numerous game companies and digital content providers, were also investigated. While the investigation was still ongoing and before the FTC made its final decision, Game Credits Company A gave the FTC a commitment in writing to adopt specific measures in accordance with Article 28 of the Fair Trade Act and the "Principles of the Fair Trade Commission Regarding Suspension of Investigation".

23. The FTC solicited the opinions of the complainant and physical distributors regarding the specific measures proposed by Game Credits Company A. After revision by Game Credits Company A, the final measures included shortening the effective period of exclusive dealing in contracts with distributors; not prohibiting, restricting or obstructing convenience stores from selling game cards of other companies that use the same technology as the "Gold Diamond Game Card" after the effective period of exclusive dealing in existing contracts expires; and not using an exclusive dealing term to restrain physical distributors from working with its competitors when extending or resigning contracts.

24. The FTC had not made the final decision regarding disposition or non-disposition in the period of time from which it received the complaint from the complainant to before Game Credits Company A made its commitment, i.e., the investigation was still ongoing. The case did not involve conduct that severely restrained competition, e.g., a monopoly, concerted action, or vertical price restriction. Due to the definition of market scope and the impact of the exclusive dealing term on market competition, the FTC did not have sufficient evidence to determine if Game Credits Company A was in violation of the law, and therefore decided that Article 28 of the Fair Trade Act on the suspension of investigation was applicable in this case.

25. Game Credits Company A committed to shortening the period of exclusive dealing, giving the complainant the opportunity to sell game cards that used the same technology as "Gold Diamond Game Cards" in convenience stores or to distributors that had already signed contracts with Game Credits Company A. If the complainant (or potential competitors) were to successfully negotiate an agreement with the convenience stores, then it would be able to compete with the "Gold Diamond Game Cards" sold by Game Credits Company A in the near future. It would also allow new entrants such as the complainant to gain stable distribution channels, which would benefit their deployment, investment, and innovation. Hence, the measures that Game Credits Company A

committed to were sufficient to "rebuild competition opportunities" and restore competition.

26. Taking into consideration that Article 28 of the Fair Trade Act on the suspension of investigation was applicable in this case, that the measures were sufficient to eliminate concerns that the conduct was in violation of the law, and also the administrative cost of further investigation as well as the cost of overseeing the commitment being fulfilled, the FTC decided at its Commissioners' Meeting to approve the measures committed to by Game Credits Company A and suspend the investigation.

27. Game Credits Company A produced evidence of fulfilling its commitment within the period specified by the FTC, and had already issued notices to physical distributors with whom it had entered into contracts to shorten the effective period of the exclusive dealing term. These distributors were able to discuss selling game cards of other companies that used the same technology as the "Gold Diamond Game Card". Even though there have not been any major changes in the domestic market for "prepaid/stored-value products provided to game companies or digital content providers", the FTC has required that Game Credits Company A provide it with copies of its contract and related documents when extending or resigning contracts with physical distributors to supervise its commitment fulfillment. The same requirement applies to new contracts signed with distributors. The FTC will continue to monitor Game Credits Company A's fulfillment of its commitment. The FTC will take this case into consideration to impose a heavier penalty if it finds that Game Credits Company A violated its commitment or engaged in the same conduct, and decides that the illegal conduct is punishable after conducting a separate investigation.

4.2. Mergers and acquisitions

4.2.1. Statistics on the number, size and type of mergers notified and/or controlled under competition laws

28. Mergers involving parties reaching a certain sales volume or a particular level of market share require the giving of notification to and obtaining no objection from the FTC. The FTC makes its decision based on whether the benefits to the economy as a whole will exceed the anti-competitive effects of the proposal.

Table 2. Notifications for Mergers

Unit: Number of cases

Year	Cases under Processing		Total	Results of Processing				Cases Pending at Year-end
	Carried Over from 2016	Received in 2017		Mergers not Prohibited	Mergers Prohibited	Termination of Review	Combined into other Cases	
2017	9	43	44	11	-	33	-	8

Table 3. Statistics on Enterprise Mergers

(Unit: Number of cases)

Year	Cases not Prohibited	Type of Merger (Article 10, Paragraph 1 of the Fair Trade Act)				
		Subparagraph 1	Subparagraph 2	Subparagraph 3	Subparagraph 4	Subparagraph 5
2017	11	1	7	1	3	5

Note: More than one type of merger may be applicable in some cases. Therefore, the total number of cases under different types of mergers exceeds the total number of approved cases.

4.2.2. Summary of significant cases

Case 1: Merger between Chang Wah Electromaterials, Chang Wah Technology, Singapore-based SHAP and SH Electronics Taiwan

29. The FTC decided at the 1,320th Commissioners' Meeting on Feb. 22, 2017 that it would not prohibit the merger between Chang Wah Electromaterials Co., Ltd. (hereinafter referred to as Chang Wah Electromaterials), Chang Wah Technology Co., Ltd. (hereinafter referred to as Chang Wah Technology), Singapore-based SH Asia Pacific Pte. Ltd. (hereinafter referred to as SHAP) and SH Electronics Taiwan Co., Ltd. (hereinafter referred to as SH Electronics Taiwan) by citing Article 13 (1) of the Fair Trade Act.

30. Chang Wah Electromaterials and its affiliate Chang Wah Technology intended to jointly purchase 100% of the shares of SHAP, and Chang Wah Electromaterials would be the enterprise with the ultimate control. The condition met the merger patterns described in Subparagraphs 2 and 5 of Article 10 (1) of the Fair Trade Act. At the same time, the market shares of Chang Wah Electromaterials and SHAP (including its affiliate SH Electronics Taiwan) also reached the filing threshold specified in Subparagraph 2 of Article 11 (1) of the same act while the proviso in Article 12 did not apply. Therefore, a merger notification was filed.

31. Since the sales of LED lead frames produced by Chang Wah Technology and IC lead frames made by SH Electronics Taiwan, a subsidiary of SHAP, had been placed in the charge of Chang Wah Electromaterials, it was a vertical merger. After assessment, the FTC concluded that related regulatory measures, technological thresholds and import duties did not constitute any entry barrier in the relevant market whereas there would still be competitors from different countries to cope with. Furthermore, downstream buyers had strong price negotiation power. Hence, it would be difficult for the merging parties to abuse their market power. In addition, the merger would only change existing business relations into cooperation inside the same group. The market shares and structure of the relevant market would remain the same and post-merger market foreclosure was impossible. Therefore, the FTC decided that the merger could not lead to any competition restraint and did not prohibit the merger by citing Article 13 (1) of the Fair Trade Act.

Case 2: Merger between CPC and Tuntex Gas Corp.

32. The FTC decided at the 1,315th Commissioners' Meeting on Jan. 18, 2017 not to prohibit the merger between Chinese Petroleum Corporation (hereinafter referred to as CPC) and Tuntex Gas Corporation (hereinafter referred to as Tuntex Corp.) by citing Article 13 (1) of the Fair Trade Act.

33. CPC filed with the FTC a merger notification regarding its intention to acquire Tuntex Gas Corp. CPC would pay cash in consideration for the total shares of Tuntex Gas Corp. to absorb the company. After the merger, CPC would be the surviving company and Tuntex Gas Corp. would be the dissolved company. The condition complied with the merger pattern prescribed in Subparagraph 1 of Article 10 (1) of the Fair Trade Act. In the meantime, as the share of the relevant market that CPC accounted for achieved the threshold specified in Subparagraph 2 of Article 11 (1) of the Fair Trade Act while the proviso in Article 12 of the same act was not applicable, CPC therefore filed the merger notification.

34. At the time of filing the merger notification, CPC was the sole importer and supplier of liquefied natural gas (hereinafter referred to as LNG) in the country. Tuntex Gas Corp. had entered the market to compete, but had failed to win any LNG procurement project and, as a result, had never done any business. Since potential horizontal competition existed between the merging parties, the merger was considered to be a horizontal one.

35. After performing a general assessment, the FTC concluded that the merger would have no effect on the structure of the domestic LNG market. Pricing in the market was still under government control. There was no significant unilateral effect and no coordinated effect existed. The countervailing power would not be affected, whereas the influence on market entry was also limited. In addition, since the merger would have the overall benefit of facilitating government policies, preventing the wastage of resources and saving an ailing enterprise, the FTC therefore made the decision that the overall benefit would outweigh the disadvantages that would be incurred from likely competition restraints and did not prohibit the merger.

5. The role of competition authorities in the formulation and implementation of other policies, e.g., regulatory reform, trade and industrial policies

36. In its first amendment in 1999, the new provision of the FTA required that the FTA 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 FTA. This amendment thereby affirms that the spirit and content of the FTA is the core of economic policy.

37. The FTC has completed a comprehensive review of all relevant laws and regulations since 2001 to minimize potential conflicts among laws, advocate free and fair competition, and ensure the presence of a healthy operating environment in which all businesses are able to compete fairly. As a result, the FTC will continue to be aware of developments in various markets, perform reviews of other laws to determine whether they are in compliance with the FTA and consult with relevant industry competent authorities to prevent related laws and regulations from impeding competition.

38. In 2017, the FTC organized and participated in various consultation meetings with other government authorities related to competition issues, as summarized in the following:

- Participated in the meeting of the "Taichung City Waste Removal and Treatment Agency Annual Business Symposium" held by the Environmental Protection Bureau of Taichung City to suggest that the bureau refer to the relevant regulations of the aviation industry or the barreled gas industry regarding the issue of the price increase for waste disposal and treatment in Taichung City, so

as to avoid unnecessary misunderstandings due to transaction information asymmetry.

- Providing written comments on the "Draft Digital Communications Act" to the National Communications Commission and recommending that the Commission consider the competition among service providers of digital convergence when drafting digital convergence-related regulations.
- As for the draft of the "Payment Standard for Passenger Ships in the Sun Moon Lake Waters of Nantou County" proposed by the Nantou County Government, the FTC recommended that the County Government take care to avoid conflict with the legislative purpose of Article 1 of the Fair Trade Act where the related regulations affect the market competition. The opinions of the FTC were adopted by the Ministry of Transportation and Communications, and then the Ministry sent an official letter and asked the County Government to amend the Payment Standard accordingly on May 10th, 2017.
- Participated in the "Notices Confirmation Meeting on the before-and-after Implementation of the New Tobacco and Alcohol Tax Act" organized by the Ministry of Finance to express related opinions. In addition, the FTC also commented on the content of the "Joint Inspection Operation Plan for Smuggling, Distribution and Identification of Tobacco" formulated by the Ministry of Finance. The FTC's comments were adopted by the Ministry.
- Participated in the meeting on "Review and Countermeasures of Issues related to Price Changes in the Milk Powder Market" held by the Department of Consumer Protection, Executive Yuan to discuss and express related suggestions based on its authority.
- Participated in the meeting on "Receiving Service Reward of the Real Estate Brokerage Industry and Consumer Rights Protection" organized by the Department of Consumer Protection, Executive Yuan to reiterate that the goal of the FTA is to promote market competition and eliminate price control regulations concerning proposing to amend the standard of service rewards to the Real Estate Broking Management Act. Considering that operating conditions of operators are different, the individual operator should determine the price according to its operating conditions, and this opinion has been included in the minutes.
- Participated in the meeting on "Draft Amendments of Some Provisions to the Veterinarian Act." The current stipulation regarding the medical expenses standard formulated by the Veterinary Association and submitted to the local competent authority for verification was deleted from the daft according to the FTC's opinions.
- The FTC received written inquiries concerning "What are the disputes, developments and the position of the government in light of Uber's operations?" and "Does Uber comply with the relevant laws and regulations in terms of supervision, taxation and insurance?" from the Ministry of Transportation and Communications. The FTC then provided its views based on maintaining a neutral stance on traditional taxis or those who use innovative networks from the perspective of the FTA. The FTC hopes that the two parties have the same competitive basis and are able to abide by the FTA when conducting business operations. In addition, the FTC also expects the sector regulators to introduce

competition to related regulations when considering whether to welcome new innovative entrants to the market, so that innovative or traditional players can freely and fairly compete to maintain trading order and consumer rights, and eventually promote economic stability and prosperity.

6. Resources of competition authorities

6.1. Resources overall (current numbers and change over previous year)

6.1.1. Annual budget:

39. NT$321.054 million in 2017 (approximately equivalent to US$10.719 million in December 2017).

6.1.2. Number of employees (person-years):

40. There were 207 employees at the end of the year 2017, including all staff in the operations and administrative departments and 7 full-time Commissioners. The operations departments include the Department of Service Industry Competition, Department of Manufacturing Industry Competition, Department of Fair Competition, Department of Planning and Department of Legal Affairs. Over 93% of employees have bachelor degrees with majors in different subjects at the university level.

41. In terms of the educational background percentages, 26%, 32%, and 42% of the employees majored in law and related fields, economics and related fields, and other related fields (including information management, statistics, and public administration), respectively.

42. As a result, the structure of the human resources of the FTC is as follows:

Table 4. Structure of FTC Human Resources

Category	No. of employees
Lawyers	54
Economists	67
Other professionals & support staff	86
All staff combined	207

6.2. Human Resources (person-year) applied to:

6.2.1. Enforcement against anti-competitive practices and merger review

43. Apart from the Department of Fair Competition, which has 28 staff and is responsible for unfair competition practices, such as false and misleading advertisements, counterfeiting and multi-level sales cases, the Departments of Service Industry Competition and Manufacturing Industry Competition of the FTC handle all kinds of anti-competitive cases, including the abuse of dominant market positions, merger reviews, cartels and various vertical restraints.

44. The Department of Service Industry Competition is responsible for cases related to the services and agricultural sectors, and the Department of Manufacturing Industry

Competition is responsible for cases related to the manufacturing sector. There are 26 staff members in the Department of Service Industry Competition and 28 in the Department of Manufacturing Industry Competition.

6.2.2. Advocacy efforts

45. In 2017, 10 of the 28 staff members in the Department of Planning of the FTC were primarily in charge of public outreach programs. However, since most of the outreach programs for competition advocacy were case-oriented, almost every department staff member played an active role in outreach activities. The FTC organized 73 seminars in 2017 for the public, students, and local governments to introduce the regulations of the FTA.

46. Furthermore, in 2017, the FTC held 5 seminars for the various business sectors to introduce the leniency program, administrative fines, and the new amendments to the FTA in order to ensure acquaintance with the new provisions of the FTA.

47. The FTC launched the Fair Trade App on December 27, 2017 and the content of the App includes a Reporting Mailbox, Regulatory Zone, Advocacy Zone, and the Latest News, etc. People are free from time, place and equipment to report alleged violations to the TFTC, and check the updated information, such as the competition regulations, high-profile cases and related speeches at any time.

6.3. Period covered by the above information:

48. January through December 2017.

7. Summaries of or references to new reports and studies on competition policy issues

49. The FTC studied and published reports on competition policy issues in 2017 with the following titles. All of them are only available in Chinese:

- Research on the Effectiveness of the Implementation of the Leniency Program in Main Competition Jurisdictions
- Research on the Economic Effects of Market Foreclosure under Competition Law
- Research on the Exchange of Sensitive Information and Concerted Actions between Businesses Regulated by Competition Law
- Research on the International Liner Shipping Market and Competition Law Regulations