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Annual Report on Competition Policy Developments in Chinese Taipei

-- 2021 --

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Chinese Taipei

1. Executive Summary

1. This report covers the activities of the Fair Trade Commission (FTC) of Chinese Taipei from January 1 to December 31, 2021.
2. The latest amendment to the Fair Trade Act (FTA) came into effect on June 14, 2017. There has been no change in the FTA since then.
3. Regarding competition enforcement, the FTC processed 2,497 cases, including 2,295 cases received in 2021 and 202 cases carried over from 2020. By the end of 2021, 2,355 cases had been closed and 142 cases were pending. In particular, the FTC handed down 4 concerted actions.
4. The FTC reviewed 79 merger cases in 2021, which included 17 carried over from 2020 and 62 received in 2021. By the end of 2021, the FTC had completed the reviewing of 69 cases, none of which was prohibited, and 10 were pending.
5. In 2021, the FTC participated in various consultation meetings with other government agencies related to competition issues and organized 45 seminars for students, customers, business communities, and local governments in order to explain the FTA, particularly the leniency program and the prohibition against concerted actions.

2. Introduction

6. This report describes key competition law and policy developments in Chinese Taipei during 2021.

2.1. Competition law of Chinese Taipei

7. The Fair Trade Act (FTA) is the competition law of Chinese Taipei. The purpose of the FTA is to maintain trading order, protect consumers' interests, ensure free and fair competition, and promote economic stability and prosperity¹. The FTA covers regulations not only on 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 2021, 51 cases of complaints fell into the category of unfair trade practices. The FTC also launched self-initiated investigations into 28 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 reforms³.

2.2. Institutional design

9. The Fair Trade Commission (FTC)⁴ is Chinese Taipei’s primary competition authority⁵. 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 approved 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 the seven commissioners are staggered, and three of them took office in February 2019.

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 revised legal provisions of competition law and related legislation

13. The FTC stipulated 3 and amended 27 guidelines as well as abolished 22 guidelines providing more transparent and standardized regulations in order to guide market trading order and efficiently cope with complicated economic affairs. The significant revisions and amendments are as follows:

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. Please refer to <https://www.ftc.gov.tw/internet/english/doc/docDetail.aspx?uid=1297&docid=13426>.

1. Formulation of the “Fair Trade Commission Directions on Consultation Services before Enterprises Filing Merger Notification.”
2. Amendments to:
 - “Regulations on Payment of Rewards for Reporting of Illegal Concerted Actions ”;
 - “Directions for Enterprises Filing for Merger”;
 - “Fair Trade Commission Disposal Directions (Policy Statements) on Cable Television Related Enterprises”;
 - “Fair Trade Commission Disposal Directions (Guidelines) on the Application of Article 21 of the Fair Trade Act”; and
 - “Fair Trade Commission Disposal Directions (Guidelines) on Cases Relating to Multi-level Marketing.”
3. Abolition of “Fair Trade Commission Disposal Directions (Policy Statements) on the Vertical Integration or Joint Operation between Liquefied Petroleum Gas Packing Enterprises and Retailers” and “Fair Trade Commission Disposal Directions (Guidelines) on Big Enterprises’ Payment to Small and Medium-sized Enterprises.”

4. Enforcement of competition laws and policies

4.1. Action against anti-competitive practices, including agreements and abuses of dominant market positions

4.1.1. Summary of Activities

14. 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.

15. In 2021, the FTC processed 2,497 cases, including 2,295 cases received in 2021 and 202 cases carried over from the preceding year. By the end of 2021, 2,355 cases had been closed, and 142 cases were pending. A total of 104 complaint cases applicable to the FTA were concluded in 2021 and, of these, 49 concerned anti-competitive practices.

16. Decision rulings on complaints and FTC self-initiated investigations were undertaken in relation to 84 cases in 2021, and only 10 of these fell into the category of anti-competitive practices.

Table 1. Decision Rulings by the FTC in 2021

Year	Anti-competitive Practices	Abuse of Monopoly	Mergers	Concerted Actions	Resale Price Maintenance	Vertical Restraints
2021	10	-	-	8	1	1

Note: Unit = Number of cases.

The number of illegal actions may exceed the number of cases involving decision rulings because a case may involve more than one illegal action.

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

Case 1: Domestic Airlines Met Together to Fix Prices

17. The FTC launched an ex officio investigation into the joint decision made by UNI Air, Mandarin Airlines and Far Eastern Air with regard to prices of plane tickets for domestic air routes during their meetings in 2019. At the 1,548th Commissioners' Meeting on June 16, 2021, the FTC concluded that the practice of UNI Air, Mandarin Airlines and Far Eastern Air to negotiate prices of plane tickets for domestic air routes was in violation of Article 15 (1) of the FTA and therefore imposed administrative fines of NT\$1.6 million, NT\$0.95 million and NT\$0.85 million on UNI Air, Mandarin Airlines and Far Eastern Air, respectively.

18. Traveling by air is more expensive than taking other means of transportation, but it is faster and therefore often the top choice of people coming and going between Taiwan and offshore islands like Penghu and Kinmen and between Taipei and Taitung. In 2019, UNI Air, Mandarin Airlines and Far Eastern Air held meetings during which they discussed and achieved the consensus to “maintain ticket prices starting in April 2019” and “keep group ticket prices in the third quarter of 2019 at least at the same level as in the previous year.” Although the three companies claimed the decisions had been promises made without serious thinking or answers given to go along with the others and the actual prices had to be determined in accordance with market supply and demand, the investigation of the FTC indicated that the representatives of all three companies were all personnel with the responsibility to plan ticket prices or make price decisions. Even if they had only given oral agreements or expressed support to go along with the others during price discussions, it was enough to cause the companies to head in the direction of “preventing the lowering of prices” of domestic plane tickets or “maintaining” price levels in their price decision in 2019. As a consequence, the domestic airline companies all ended up maintaining ticket prices or not lowering ticket prices.

19. In 2019, the seven air routes involved in this case, namely, Taipei, Taichung and Kaohsiung to Penghu, Taipei, Taichung and Kaohsiung to Kinmen, and Taipei to Taitung, were either operated by UNI Air, Mandarin Airlines and Far Eastern Air or by two of them. In other words, the aggregate market share of the three airline companies was 100%. That means that when the three companies discussed ticket prices as mentioned above and achieved a consensus, consumers became unable to benefit from competition between the three enterprises and obtain more preferential prices. For this reason, the mutual understanding established by the three airline companies was already able to affect the supply-demand function in the market associated with these air routes. It was in violation of the regulation against concerted actions set forth in the FTA.

20. The FTC would like to point out that although companies in the profession may have to meet or get together because of business needs, making price plans through discussions during such gatherings or jointly deciding the future management direction of the industry is likely to touch upon the concerted action regulations in the FTA. Therefore, even if people are under the influence of alcohol during such gatherings, they should exercise control in order not to break the law.

Case 2: Drug Companies Implemented Anticompetitive Agreement

21. The FTC received complaints that TTY Biopharm, Otsuka Pharmaceutical and Lotus Pharmaceutical had engaged in a concerted action when marketing colon cancer drugs. At the 1,542nd Commissioners' Meeting on May 11, 2021, the FTC decided that

TTY Biopharm and Lotus Pharmaceutical had violated the regulation against concerted actions set forth in Article 15 (1) of the FTA.

22. The Ufur capsules of TTY Biopharm, the UFT capsules of Otsuka Pharmaceutical and the Furil capsules of Lotus Pharmaceutical were all prescription drugs covered by the National Health Insurance. They were made with the same ingredients in the same dosage form and in the same dose. Besides selling its own Ufur capsules, TTY Biopharm had also signed exclusive distributor agreements with Otsuka Pharmaceutical and Lotus Pharmaceutical to sell their UFT capsules and Furil capsules. The agreements with Otsuka Pharmaceutical made TTY Biopharm a normal vertical distributor and agent and the relationship was not in violation of the regulation against concerted actions set forth in the FTA. However, the agreements signed with Lotus Pharmaceutical appeared to be for delegation of distributorship on the surface; in reality, the investigation of the FTC indicated that it was the result of a mutual understanding between the two companies to prevent Furil capsules from being sold in the market.

23. The drugs produced by TTY Biopharm and Lotus Pharmaceutical were both generic drugs with substitutability for each other. Both companies were competitors at the same production and marketing stage. They signed agreements respectively in 2009, 2013 and 2018 and it was stipulated that TTY Biopharm was required to pay Lotus Pharmaceutical a certain amount of licensing fee on a regular basis in order to obtain the exclusive distributorship to sell the Furil capsules of Lotus Pharmaceutical. At the same time, the agreements also prohibited Lotus Pharmaceutical from selling the drug on its own or through others. Acting according to the agreements, TTY Biopharm paid Lotus Pharmaceutical a licensing fee each year but never placed any orders to purchase Furil capsules or sold the drug to hospitals. As a result, the Furil capsules of Lotus Pharmaceutical were never sold for a number of years. In other words, TTY Biopharm and Lotus Pharmaceutical established the exclusive distributor agreements to restrict each other's business activities. Both companies achieved the mutual understanding to prevent Furil capsules from being sold in the market. It was a concerted action and the FTC therefore imposed administrative fines on the two companies.

Case 3: Food Delivery Platform Imposed Restrictions on Restaurants

24. After holding three Commissioners' meetings on September 1, 8 and 15, 2021 to review the case, the FTC finally decided that Foodpanda Taiwan Co., Ltd. (foodpanda) had violated Subparagraph 5 of Article 20 of the FTA by imposing on collaborating restaurants restrictions that the prices posted on the foodpanda platform had to be the same as the dine-in prices and that the restaurants could not refuse orders for food or beverages to be picked up by customers themselves. In addition to ordering the company to cease the unlawful act, the FTC imposed on it an administrative fine of NT\$2 million.

25. Food and beverage delivery platforms in the country have developed rapidly in recent years and the market scale has grown significantly. In particular, due to the impact of the COVID-19 pandemic, restaurants stopped providing dine-in services and delivery platforms have become one of their principal sales channels. At present, foodpanda and Uber Eats are the two major competitors in the domestic food and beverage delivery platform market. Apart from the characteristics of the delivery platform market, the two companies also have huge groups of consumers and collaborating restaurants; therefore, they have considerable market power.

26. Besides selling food and drinks to dine-in and takeout customers, restaurants and beverage stores also accept orders through delivery platforms. The costs of products sold through different channels vary. Restaurants and beverage stores are supposed to reflect such costs in the prices, whereas consumers also have the right to choose the most

appropriate purchasing channel according to their needs. However, foodpanda demanded that the prices that collaborating restaurants posted on the delivery platform had to be the same as the dine-in prices, making it impossible for the restaurants to reflect the cost difference between dissimilar sales channels in the prices. As a consequence, dine-in customers had to split the commissions for the delivery platform with customers ordering through the delivery platform. Foodpanda had no need to worry that raising the commission percentage would cause customers to choose to dine in, since the company had the incentive and the capacity to increase the percentage. At the same time, by demanding that the prices collaborating restaurants posted on the delivery platform had to be the same as the dine-in prices, foodpanda could indirectly ensure that the prices the restaurants posted on other delivery platforms would not be lower than the prices posted on the foodpanda delivery platform. Even if other delivery platforms charged lower commissions, the restaurants could not decrease the prices posted on such platforms. Consumers would not be able to enjoy lower prices after the restaurants reflected other delivery platforms' smaller commissions on the food and beverage prices.

27. As the aforementioned measure weakened the effect of price competition from other delivery platforms, the network effect would end up making rational consumers continue to use a delivery platform with more collaborating restaurants. In other words, foodpanda's demand that dine-in prices and prices of delivered food and beverages had to be the same would indirectly reduce the ability of other delivery platforms to compete with foodpanda.

28. The FTC also found out that foodpanda insisted on activating the function of "customers picking up their orders" to allow customers to get their takeout orders and restaurants could not refuse orders for items to be "picked up by customers." Since the ones ordering food and beverages to be picked up by themselves were originally customers of the restaurants, if restaurants had to unconditionally accept orders to be picked up by customers placed through the platform, they not only would be unable to expand the market or get new customers, but would also have to cope with competition from themselves through the platform. The original dine-in and takeout customers were lost to the delivery platform, yet the restaurants still had to pay commissions to foodpanda to subsidize consumers (such as giving a 21% discount to customers picking up their orders). The policy encouraged customers to pick up their orders and foodpanda could acquire more commissions as a consequence. Other than that, the company could also collect more commissions and obtain a stronger pricing capacity to create competition restraints.

29. The FTC thought that restaurants could have adopted different pricing policies in accordance with the costs of various services. They should have had the liberty to decide whether to allow customers to pick up their orders. In other words, foodpanda abused its market power and forced collaborating restaurants to make the prices posted on delivery platforms the same as the dine-in prices, as well as not to refuse orders from customers intending to pick up the food and beverages themselves. The conduct was in violation of the regulation against "imposing improper restrictions on its trading counterparts' business activity as part of the requirements for trade engagement" set forth in Subparagraph 5 of Article 20 of the FTA. Besides, it could also lead to competition restraints. Therefore, in addition to ordering foodpanda to immediately cease the unlawful act, the FTC imposed an administrative fine of NT\$2 million on the company.

30. Meanwhile, the FTC also found out that both foodpanda and Uber Eats offered commission discounts to restaurants that had signed exclusive deal contracts with them and successfully attracted some restaurants to sign such contracts. At present, the practice could not be considered to be in violation of the FTA. However, delivery platforms have the economic characteristics of network effects with the big ones getting bigger. New

competitors or smaller delivery platforms have to count on consumers who use “multi-homing (consumers and restaurants using multiple platforms at the same time)” to alleviate the network effect in order to enter the delivery service market. For this reason, when platforms with dominating power in the market restrict restaurants from engaging in “multi-homing” with other delivery platforms, this could easily lead to competition restraints. The FTC is particularly concerned about this and has told foodpanda and Uber Eats, the two major food and beverage delivery platforms, that the domestic delivery platform market has become more and more concentrated. If they continue to sign exclusive deal contracts with more and more restaurants or impose substantially enforceable restrictions through signing exclusive deal contracts, they could be in violation of the FTA. The FTC will continue to keep a close watch on market developments and will intervene and investigate if any anti-competition effect is discovered.

Case 4: Supermarket Abused its Market Power to Collect Inappropriate Sponsorships

31. The FTC at the 1,566th Commissioners’ Meeting on October 20, 2021 reviewed the case regarding 13 domestic trade associations complaining about Carrefour Taiwan inappropriately collecting new store opening sponsorships and decided that the company had violated Article 25 of the FTA by asking for new store opening sponsorships from vendors that had been suppliers of Wellcome Supermarket before Carrefour merged with Wellcome and changed the name of Wellcome Supermarket to Carrefour Market. Therefore, the FTC imposed an administrative fine of NT\$1.5 million on Carrefour Taiwan.

32. For suppliers, supermarkets are an indispensable sales channel. Both sides normally cooperate on a long-term basis and most suppliers depend on logistics supermarkets. In reality, a supermarket usually charges suppliers a slotting allowance. The practice is not illegal, but this does not mean it can be done without any limitation. If a supermarket abuses its market power and asks suppliers for inappropriate surcharges, it will increase the operating cost of suppliers and deprive the suppliers of the reasonable profit they deserve. This is in violation of the spirit of fair trade. Generally speaking, most supermarket suppliers are small and medium enterprises. If a supermarket collects inappropriate surcharges, it can jeopardize the business management of a lot of suppliers and create a disadvantageous influence on overall economic development. For this reason, the collection of inappropriate surcharges is obviously unfair and able to affect trading order. It is in violation of Article 25 of the FTA.

33. Carrefour Taiwan has many outlets all over the country. The company’s sales channels include hypermarkets and supermarkets. Since it merged with Wellcome Supermarket in 2020, the number of such outlets has exceeded 300. The suppliers from which Carrefour Taiwan collected sponsorships were mostly small and medium enterprises and the quantity of products that each supplier sold through Carrefour accounted for a rather high percentage of the supplier’s annual sales. As Carrefour was the principal or even the largest trading counterpart of each supplier, any supplier having its trading relationship cut off by Carrefour would find it difficult to find a new collaborator or another way of cooperating within a short time to cover the damages resulting from losing the business partnership with Carrefour Taiwan. Apparently, Carrefour had the upper hand in its relationships with the suppliers.

34. Those originally supplying both Carrefour and Wellcome at the same time did not acquire new sales channels after Carrefour merged with Wellcome. Moreover, Carrefour asked for new store opening sponsorships based on the provisions set forth in the contract signed with suppliers in 2020, yet the operating gain and number of stores in 2021 were not the same as in 2020 when the contract was signed. However, Carrefour still asked for

new store sponsorships according to the standard specified in the 2020 contract. It was obviously unfair.

35. In addition, besides the fact that the suppliers would be likely to reflect the charges collected by Carrefour in their product prices and that the interests of consumers would be affected, it was also possible that Carrefour illegitimately transferred part of its outlet management cost to the suppliers. As a consequence, the business relations between the company and the suppliers lost their balance. For suppliers who had already paid or were expected to pay the new store opening sponsorships, the impact was rather huge. In this case, the complaint was filed with the FTC by the Taiwan Confectionery Biscuit and Floury Food Industry Association and 12 other trade associations. The members of these associations totaled over one thousand enterprises. Apparently, the fact that Carrefour Taiwan collected new store opening sponsorships at this time had a profound impact on trading order.

36. The FTC would like to remind supermarkets that the collection of surcharges from suppliers has to be reasonable and based on the results of sincere negotiations between both sides. If a large supermarket abuses its market power to collect surcharges inappropriately, it will be in violation of the FTA.

4.2. Mergers and acquisitions

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

37. Mergers involving parties reaching a certain turnover 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

Year	Cases under Processing			Results of Processing				Cases Pending at Year-end
	Carried Over from 2020	Received in 2021		Mergers not Prohibited	Mergers Prohibited	Termination of Review	Combined into other Cases	
2021	17	62	79	32	-	37	-	10

Note: Unit = Number of cases.

Table 3. Statistics on Enterprise Mergers

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
2021	32	2	26	5	10	25

Note: Unit = Number of cases.

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: Conglomerate Merger between Convenience Store Chain and Food Delivery Platform Not Prohibited

38. The FTC decided at the 1,535th Commissioners' Meeting on April 14, 2021 to cite Article 13 (1) of the FTA and not prohibit the merger between President Chain Store Corporation (hereinafter referred to as PCSC) and Connection Labs Ltd. (hereinafter referred to as Connection Labs).

39. PCSC managed the 7-Eleven convenience store chain and Connection Labs operated the "foodomo" food and beverage delivery platform. PCSC intended to merge with Connection Labs and therefore filed a merger notification with the FTC.

40. The principal business operations of Uni-President Enterprises Corporation, PCSC and Connection Labs were respectively food production, convenience stores and food and beverage delivery platform services. They were dissimilar types of business. Since PCSC and its affiliates sold some of their food and beverages and other products through delivery platforms, the FTC decided to assess the merger from the angles of a vertical merger and conglomerate merger. Connection Labs only accounted for a rather small share of the food and beverage delivery platform market, whereas there were also many upstream food and beverage businesses. In other words, there would be powerful competitors to contend with PCSC and Connection Labs in the food and beverage delivery platform market and the convenience store market. Moreover, the food and beverages and products available through food and beverage delivery platforms were diverse and substitutability existed.

41. Consumers would have many choices. Hence, this merger would not lead to any concern about vertical foreclosure in the market. Neither could it suddenly cause changes in the structure of each relevant market and the market status of the original players. Since other chain convenience stores also collaborated with other delivery platforms, the merger could even end up making the food and beverage delivery market more competitive.

42. Based on the above-mentioned reasons, the FTC concluded that the merger would not create any concerns about significant competition restraints and the overall economic benefit would outweigh the disadvantages from the competition restraints. Therefore, the FTC approved the merger by citing Article 13 (1) of the FTA.

Case 2: Merger between Telecoms Conditionally not Prohibited

43. The FTC decided at the 1,555th Commissioners' Meeting on August 4, 2021 to approve the intended merger between Far EasTone Telecommunications Co., Ltd. (hereinafter referred to as FET) and Asia Pacific Telecom Co., Ltd. (hereinafter referred to as APT) to share the frequency and networks on the 3.5GHz band with undertakings attached in order to ensure that the overall economic benefit would be greater than the disadvantages from competition restraints.

44. APT would put in two ninths of the spectrum bid bond, capital expenditure for the 5G wireless network equipment and cost of network maintenance to be the consideration to obtain the right to use the corresponding network capacity of the band of FET. The condition complied with the merger pattern of "where an enterprise is assigned by or leases from another enterprise the whole or the major part of the business or assets of such other enterprise" described in Subparagraph 3 of Article 10 (1) of the FTA. At the same time, the merging parties also achieved the merger filing threshold; therefore, a merger notification was filed with the FTC.

45. The merger was the first-ever frequency and network sharing cooperation case in the country. It was a horizontal merger. Through the merger, APT would share the 3.5GHz band (3340MHz to 3420MHz) and networks with FET to compete in the provision of 5G services. As domestic spectrum resources were scarce at that time, the merger could have led to the economic benefits of promoting sharing of spectrum resources, cutting down management costs, reducing repeated waste of infrastructure resources, increasing efficiency in the use of limited frequency resources, and improving service quality and the development of related industries.

46. Besides sharing the aforementioned frequency and networks, the agreement between FET and APT also included FET investing NT\$5 billion to acquire 11.58% of the shares as well as one seat on the board of directors of APT. After evaluating various factors associated with horizontal merger cases and obtaining the opinions of the competent authority of the industry and consumer protection agency, scholars, specialists and competitors, the FTC thought concerted actions involving exchanges of 5G service operation information or joint management could be a concern. If FET participated in the management of APT through the sharing of frequency and networks or its possession of the shares or a seat on the board of directors of APT, the competition pressure that each faced could be reduced. The frequency or intensity of APT's promotional activities might go down. Market competition would decrease. As a consequence, coordinated effects could be created and price competition in the domestic mobile broadband service market would be weakened. Furthermore, potential competitors could find it hard to enter the market in time due to related regulations in the Telecommunications Management Act and would not be able to increase the pressure to compete among existing telecommunications businesses.

47. In order to eliminate the above-mentioned concerns and ensure that the overall economic benefit could outweigh the disadvantages from competition restraints, the FTC attached the following undertakings:

- The merging parties can not engage in joint or entrusted management, cooperation or exchange of information with regard to mobile broadband service charges, terminal equipment funding, marketing activities, or management of customer and billing information by using their agreement on the shared frequency and networks on the 3.5GHz band, their shareholding or their acquisition of a seat on the board of directors.
- In the five years after the merger, the merging parties are required to provide the FTC with the following information before July 1 each year:
 1. The organizational chart, duties and actual work items of the supervisory team, a list of the team members and the company departments to which they have belonged, and the records of all the meetings (including members attending and matters discussed)
 2. The records of all the shareholders' meetings and all the board of directors' meetings

48. The FTC did not prohibit the merger but would like to remind the merging parties that the range of cooperation must be limited to the content of the merger notification and they may not engage in joint management or any concerted action in order not to violate the FTA.

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

49. 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 did not conflict with the legislative purpose of the FTA. This amendment thereby affirmed that the spirit and content of the FTA was the core of economic policy.

50. 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.

51. In 2020, the FTC organized and participated in various consultation meetings with other government authorities related to competition issues, as summarized in the following:

- Exchanged views and discussed related issues with the National Communications Commission (NCC) concerning the spectrum and network sharing mechanism of the telecoms industry.
- Participated in the meeting on “Solutions to the Lack of Workforce Caused by COVID-19 in the Construction Industry” held by the Public Construction Commission of the Executive Yuan. During the meeting, the FTC explained the issues related to the FTA and coordinated with the related agencies in order to jointly maintain trading order in the construction industry.
- Participated in the meeting on “Joint Inspection of Presold-House Sales and Review of Standard Form Contract” held by the Ministry of the Interior and shared related experience in practice.
- Participated in the meeting on “Foreign Legislative Examples on the Repair Clause” held by the Intellectual Property Office of the Ministry of Economic Affairs. During the meeting, the FTC explained the issues related to the FTA and listened to the opinions on the repair clauses of the amendments to the Patent Act.
- Participated in the several joint inspection of pre-sold-house sales handled by the Ministry of the Interior and the Consumer Protection Department of the Executive Yuan, and took the initiative to immediately deter possible violations.
- Participated in the working meeting on the “Price Stabilization Team” held by the National Development Council to discuss the feasibility of integrating price inspection activities among government agencies. During the meeting, the agencies reached a consensus that each agency would conduct price-investigating operations according to its responsibilities. In addition, the agencies also discussed related topics, such as “The Responses and Impact of International Grain Products Prices on Domestic Prices of Related Products” and “The Effects of the Early Warning System on the Production and Marketing of Agricultural Products as well as the Effectiveness of the Real-Time Adjustment Mechanism (including Price Monitoring).”

- Hosted a meeting with the NCC on “Amendments to the Fair Trade Commission Disposal Directions (Policy Statements) on Cable Television Related Enterprises.”
- Participated in the investigation activities of the joint price inspection team, and worked with the Ministry of Justice, the Council of Agriculture of the Executive Yuan, the Ministry of Economic Affairs, the Ministry of Finance, and the Consumer Protection Department of the Executive Yuan to understand the links and reasons for the price increase in staple merchandise. Furthermore, for the ingredients used by catering operators and restaurants, the said agencies managed to stabilize price fluctuations through conducting intensive and rigorous on-site inspection in the supply chain.
- Participated in meetings on the “International Maritime Transportation Stabilization Working Group” held by the Maritime and Port Bureau of the Ministry of Transportation and Communications. During the meetings, the FTC explained its views to the Bureau, related Trade Associations and businesses, and reminded relevant businesses to pay attention to the related cartel regulations under the FTA.
- In response to the pandemic, participated in the meetings of the “Central Epidemic Command Center for Severe Pneumonia with Novel Pathogens,” continued accepting reports from the public on epidemic prevention materials, and investigated cases in accordance with related laws and regulations during the COVID-19 period. Individual cases involving price gouging or the hoarding of goods in violation of laws on the prevention and control of infectious diseases, the criminal law, and the special regulations on the prevention of severe and special infectious pneumonia and the special regulations for relief and revitalization shall be transferred to judicial organs and competent authorities for prosecution and sanctions according to related laws.

6. Resources of competition authorities

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

6.1.1. Annual budget:

52. NT\$371.965 million in 2021 (approximately equivalent to US\$13.308 million in December 2021).

6.1.2. Number of employees (person-years):

53. There were 205 employees at the end of the year 2021, 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 99% of employees have bachelor degrees with majors in different subjects at the university level.

54. In terms of the educational background percentages, 18%, 50%, 4%, and 28% of the employees had majored in law and related fields, economics and related fields, both in

law- and economics-related fields, and other related fields (including information management, statistics, and public administration), respectively.

55. 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	37
Economists	103
Lawyers & Economists	8
Other professionals & support staff	57
All staff combined	205

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

6.2.1. Enforcement against anti-competitive practices and merger review

56. Apart from the Department of Fair Competition, which has 31 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.

57. 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 25 staff members in the Department of Service Industry Competition and 29 in the Department of Manufacturing Industry Competition.

58. There are 20 staff members in the Department of Legal Affairs, which is responsible for completing the competition law system, and mainly includes preparing and formulating the competition law and regulations and amendments thereof, handling administrative appeal cases, carrying out the execution of fines, handling the referral of criminal offenders for prosecution, and studying and researching legal issues related to competition law.

6.2.2. Advocacy efforts

59. In 2021, 10 of the 27 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.

60. The FTC participated in various consultation meetings with other government agencies related to competition issues and organized 45 seminars for students, customers, business communities, and local governments in order to explain the FTA, the leniency program and the prohibition against concerted actions.

6.3. Period covered by the above information:

61. January through December 2021.

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

62. The FTC studied and published reports on competition policy issues in 2021 with the following titles. All of them are only available in Chinese:

- Research on Thinking and Response of a Competition Authority under Significant Economic Changes - Taking the Impact of the Coronavirus Disease (COVID-19) Pandemic as an Example
- Research on the Transactional Behavior of Distribution Businesses and Competition Law and Regulations under the Development of the Digital Economy
- Research on Digital Markets and Merger Controls
- Research on Resale Price Restriction of Retail Commodities under the Development of the Digital Economy
- Research on the Development Status of the Industrial Paper Industry and Competition Law and Regulations in the Era of Digital and Environmental Protection
- Research on the Development Status of Digitalization of the Petrochemical Industry and Competition Law and Regulations
- Research on Marketing Strategies of the Motorcycle Industry and Competition Law and Regulations
- Research on the Development Status of the Electricity Trading Platform and Competition Law and Regulations
- Research on Law Enforcement Practices of False and Misleading Advertising
- Research on Important Cases of the Fair Trade Act - Taking False and Misleading Advertising as an Example
- Research on Applications of Empirical Analysis of Vertical Mergers