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Minority Shareholding and coordinated effects – Note by Chinese Taipei

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Chinese Taipei

1. This report presents the enforcement framework of Chinese Taipei for minority shareholdings and discusses relevant cases. It also explains enforcement stances of Chinese Taipei on minority shareholding investments in the context of digital platforms and AI ecosystems.

1. Introduction

2. Acquiring minority shareholdings in other enterprises can serve decent business purposes, such as fostering innovation, obtaining technology, or securing a stable source of supply, and can even promote competition. However, minority shareholdings may raise competition concerns when they create a structural network of economic and financial ties and result in further links in corporate governance or information among competitors, potential competitors, vertically related enterprises, or enterprises in adjacent markets within the same ecosystem. Accordingly, competition authorities in various jurisdictions have shifted the focus of merger review from "control" toward a more forward-looking assessment of "influence" and "competitive links." Minority shareholdings are not expressly listed as a separate form of merger under the Fair Trade Act of Chinese Taipei (hereinafter "the FTA") and have therefore seldom been the subject of stand-alone competition analysis. Nevertheless, minority shareholdings may still be assessed under Subparagraphs 1 to 5, Paragraph 1, Article 10 of the FTA in conjunction with mergers involving minority shareholdings, and conditions/remedies may be imposed depending on the circumstances of each case.

3. Furthermore, in the era of the digital economy and AI, minority shareholding investments may arise in the context of digital platforms and AI ecosystems and raise competition concerns. The Chinese Taipei Fair Trade Commission (hereinafter "the CTFTC") surveyed enterprises and industry associations and found that, as AI startups require financial support, many of them are not opposed to being acquired, and acquisition may even be the ultimate goal of such startups. Therefore, if competition agencies impose unnecessary regulatory burdens on mergers and acquisitions, incentives for innovation could be weakened. In its March 2026 *Public Consultation Report and Policy Statement on Generative Artificial Intelligence and Competition*, the CTFTC stated that the four principles would fundamentally guide current enforcement: "issue-driven and evidence-based analysis," "local nexus," "market contestability," and "the rule of reason."

2. The Legal Framework for Minority Shareholding Investments in Chinese Taipei

2.1. Merger Control under Article 10 of the FTA

4. Holding or acquiring one third or more of the shares of another enterprise constitutes a merger under Subparagraph 2, Paragraph 1 of Article 10 of the FTA. Accordingly, in the context of the FTA, minority shareholdings refer to the holding or acquisition of less than one third of the shares of another enterprise. However, the shares held or acquired under that Subparagraph include those held or acquired by the group of enterprises in a controlling or subordinate relationship. Therefore, a minority shareholding in another enterprise held by an individual enterprise within a group of enterprises may still

constitute a merger under Subparagraph 2, Paragraph 1 of Article 10 of the FTA and thus be subject to merger control.

5. In addition, the merger type in which an enterprise "directly or indirectly controls the business operation or the appointment or discharge of personnel of another enterprise" as provided for in subparagraph 5 of the same Article of the FTA, in the context of minority shareholdings, is determined in practice by examining whether the acquiring enterprise has obtained more than half of the director and supervisor seats in the other enterprise and has thereby gained control over it.

6. Furthermore, in practice, the CTFTC also considers minority shareholdings when reviewing merger cases under Subparagraphs 3 (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), 4 (where an enterprise operates jointly with another enterprise on a regular basis or is entrusted by another enterprise to operate the business of the latter), or 5 of Paragraph 1 of Article 10 of the FTA. It is also common for minority shareholdings, cross-shareholdings, and interlocking directorates to occur in the same case, and in such cases the CTFTC has previously imposed conditions/remedies to address anticompetitive effects. However, in its merger analysis, the CTFTC rarely conducts a separate competition analysis of minority shareholdings focusing on incentives to compete, access to information, or coordinated effects (influence). Instead, it conducts a comprehensive assessment based on the factors for evaluating anticompetitive effects set out in the Fair Trade Commission Disposal Directions (Guidelines) on Handling Merger Filings.

7. Under Article 14 of the FTA, ex post investigations may be conducted into cartels arising from minority shareholdings, cross-shareholdings, or interlocking directorates among enterprises. Such investigations may focus on whether minority shareholdings, cross-shareholdings, or interlocking directorates are sufficient to give rise to objective conditions or plus factors conducive to tacit collusion and agreement.

8. In the same vein, under Article 20 of the FTA, ex post investigations may be conducted into anti-competitive conduct arising from minority shareholdings, cross-shareholdings, or interlocking directorates among vertically related or vertically integrated enterprises.

3. The Experience of the CTFTC in Merger Cases Involving Minority Shareholdings

3.1. Interlocking Directorates between Uni-President Enterprises Corporation and Wei Lih Food Industrial Co., Ltd.

9. Uni-President Enterprises Corporation (hereinafter "Uni-President") and Wei Lih Food Industrial Co., Ltd. (hereinafter "Wei Lih") were the two largest instant noodle manufacturers in Chinese Taipei. In 2007, Uni-President acquired a 31.84% shareholding in Wei Lih and became the second-largest shareholder of Wei Lih, a stake that was deemed to be a minority shareholding in the context of merger control under Article 10 of the FTA. In October 2008, following the election of the directors and supervisors of Wei Lih, Uni-President secured exactly half of the seats, and its Chief Executive Officer concurrently served as chairman of the board of directors of Wei Lih. The CTFTC found that personnel affiliated with Uni-President held half of the seats for directors and supervisors of Wei Lih and that the Chief Executive Officer of Uni-President served as the chairman of Wei Lih, thereby enabling Uni-President to directly or indirectly control the business operation of Wei Lih or the appointment or discharge of its personnel. This arrangement therefore constituted a merger under Subparagraph 5, Paragraph 1 of Article 10 of the FTA. The

CTFTC imposed a penalty on Uni-President for failing to file the required merger notification. The CTFTC assessed whether Uni-President had "substantial influence" over Wei Lih and reasoned that the acquisition by Uni-President of half the board seats of Wei Lih and the appointment of the chairman of the board of directors of Wei Lih indicated a shift from rivalry toward cooperation between the two companies. It is deemed that financial dependence, information sharing, and governance rights such as veto rights enable Uni-President to exercise substantial control over the business decisions of Wei Lih, thereby weakening the incentives of the two companies to compete.

10. Subsequently, the administrative court set aside the administrative decision of the CTFTC on the basis of "the principle of legal reservation" and "the principle of clarity and definiteness of law." The court held that the term "control" under Subparagraph 5, Paragraph 1 of Article 10 of the FTA must be given a strict textual interpretation, which requires a degree of domination rather than notions of "substantial influence" such as "veto rights" or "inability to unilaterally control business operations." (In the view of the court, such substantial influence might arise only contingently, depending on other uncertain factors.)

3.2. Dafu Media/Kbro Merger

11. Dafu Media Co., Ltd. (hereinafter "Dafu Media") engaged in general advertising services. Kbro Co., Ltd. (hereinafter "Kbro") had business operations in channel agency services in the upstream and cable television system in the downstream by holding equity stakes of at least 88.36% in each of 12 cable television system operators (TSOs) and by obtaining channel agency rights and subsequently sub-licensing them to other TSOs.

12. In September 2010, Dafu Media filed a merger notification with the CTFTC for the proposed acquisition of Kbro and the investee companies of Kbro by Dafu Media. The CTFTC considered that two individual shareholders together held 12.3% of the shares of Dafu Media and served as chairman and vice chairman of Taiwan Mobile Co., Ltd. and Taiwan Fixed Network Co., Ltd., and as chairman and a director of TFN Media Co., Ltd. (TFN Media Co., Ltd. also owned five TSOs.) Although the interlocking directorates and cross-shareholdings did not in themselves constitute an affiliated-enterprise relationship under the Company Act of Chinese Taipei, the CTFTC considered that the two individual shareholders had considerable influence over corporate decision-making at Dafu Media, Taiwan Mobile, Taiwan Fixed Network, and TFN Media. Thus, if the two groups were to engage in joint operations in the future, the effects would be similar to those of a horizontal or vertical merger, making it difficult for them to maintain independent operations over the long term. Accordingly, the CTFTC did not prohibit the merger but imposed conditions/remedies to eliminate potential anticompetitive effects, such as: the merging parties refrain from operating jointly on a regular basis with, or being entrusted to operate the business of, any TSO other than the merging parties; the merging parties and their controlling and subordinate companies refrain from engaging in cartels with cable television channel suppliers other than the merging parties, such as joint program sales.

3.3. The Case of Tender Offer by WPG Holdings Limited for Shares in WT Microelectronics Co., Ltd.

13. WPG Holdings Limited (hereinafter "WPG") and WT Microelectronics Co., Ltd. (hereinafter "WT") were both distributors of semiconductor components. In November 2019, WPG launched a tender offer to acquire 30% of the issued common shares of WT. WT argued that the CTFTC should order WPG to file a merger notification, on the grounds

that the tender offer by WPG for 30% of the shares of WT constituted a merger under Subparagraph 5, Paragraph 1 of Article 10 of the FTA.

14. WPG maintained that the acquisition was a financial investment. To demonstrate that it had no intention of controlling WT, WPG set out five legally binding commitments in its tender offer prospectus (valid during the current term of the board of directors of WT): to attend in shareholders meetings upon notice and to vote and exercise its shareholder rights independently; not to convene shareholders meetings; not to solicit proxies to obtain additional voting rights; not to hold more than 30% of the shares; and not to nominate candidates or stand for election to the board of directors of WT.

15. In this case, the CTFTC conducted a merger analysis focused solely on the minority shareholding. Having assessed the available objective evidence regarding the five commitments made by WPG in light of the relevant provisions of the Securities and Exchange Act, the CTFTC found that WPG had no intention or plan to exercise substantial influence over WT during the current term of the board of directors of WT. Furthermore, the CTFTC determined that, under the relevant provisions of the Company Act, the holding by WPG of 30% of the shares of WT did not result in a merger under Subparagraph 5, Paragraph 1 of Article 10 of the FTA, because it would still be difficult for WPG to influence the business operations of WT or the appointment or discharge of its personnel of WT through shareholders meetings. If WPG subsequently sought additional director or supervisor seats at WT or altered its commitments, it would be required to file a merger notification and the CTFTC could then conduct a substantive review of any change in the ability to control WT. Thus, there was no undue administrative intervention in the minority shareholding investments in this case.

3.4. Far EasTone Telecommunications/Asia Pacific Telecom Merger

16. On March 4, 2021, Far EasTone Telecommunications Co., Ltd. (hereinafter “Far EasTone”) and Asia Pacific Telecom Co., Ltd. (hereinafter “Asia Pacific”) filed a merger notification with the CTFTC concerning the proposed sharing of the spectrum and network in the 3.5 GHz band for 5G communication between the two enterprises. Under the arrangement, Asia Pacific would share such costs and expenditure as bid price for the spectrum, capital expenditures on 5G wireless network equipment, and network operation and maintenance costs in exchange for the right to access a certain proportion of the network capacity in that band. In addition, the parties agreed that Far EasTone would subscribe for common shares issued by Asia Pacific through a private placement, thereby acquiring an 11.58% shareholding in Asia Pacific. Far EasTone also planned to obtain one seat on the board of directors of Asia Pacific. The transaction involved the acquisition of a minority shareholding and also fell within the merger type of assignment or lease of the whole or a major part of the business or assets of another enterprise under Subparagraph 3, Paragraph 1 of Article 10 of the FTA.

17. Upon assessment, the CTFTC considered that the acquisition by Far EasTone of an 11.58% shareholding and one seat on the board of directors of Asia Pacific was likely to enable Far EasTone to influence personnel matters and business operations of Asia Pacific, thereby weakening incentives to compete. If Far EasTone were to intervene in business practices of Asia Pacific, such as the tariff plans, such that Asia Pacific became less active in introducing promotional offers or reduced the intensity of such promotions, market competition would be weakened. Therefore, the merger could give rise to coordinated effects, which might lead to convergence in 4G and 5G service rates among telecommunications operators in Chinese Taipei. Furthermore, implementing the spectrum-sharing agreement would necessarily require the parties to communicate, coordinate, and share certain information to jointly facilitate network deployment. As the

parties would need to recover the shared costs and expenses through profits generated under the spectrum-sharing agreement, they would be more likely to exchange information concerning the business activities or operations of each other, thereby heightening potential anticompetitive concerns over tacit collusion between the parties. Thus, the CTFTC imposed necessary conditions/remedies as behavioral remedies to ensure that the spectrum- and network-sharing arrangement between Far EasTone and Asia Pacific remained limited to technical cooperation and cost sharing and that the parties refrained from engaging in joint business operations, collaborative business discussions, or information exchanges, and to prevent Far EasTone from influencing or participating in the operational decisions of Asia Pacific.

3.5. Proposed Acquisition of Foodpanda Taiwan by Grab Holdings

18. The food delivery market in Chinese Taipei is characterized by a duopoly consisting of two major platforms: U.S.-based Uber (Uber Eats) and Germany-based foodpanda. In 2024, Uber filed a merger notification with the CTFTC for its proposed acquisition of foodpanda. The CTFTC prohibited the merger in Merger Decision No. 114001, finding that it would transform the market structure from a duopoly into a monopoly and cause clear anticompetitive effects. In 2026, Grab Holdings Limited (hereinafter "Grab"), a leading food delivery platform operator in Southeast Asia, announced plans to acquire foodpanda Taiwan Co., Ltd. (hereinafter "foodpanda Taiwan"). Although Grab is a first-time entrant into the food delivery market in Chinese Taipei, and Grab was not a direct competitor of either Uber or foodpanda Taiwan before the proposed merger, it is necessary to consider whether the 13.1% shareholding of Uber in Grab would affect the incentives of competition between Grab and Uber in the future. The main competition concern raised by the proposed merger is whether the minority shareholding would lead the "shareholding enterprise" (Uber) to internalize the effects of its own decisions of price and quantity, among others, on the investee enterprise (Grab), thereby giving rise to "unilateral effects." The case also raises the question of whether the minority shareholding would give rise to "coordinated effects." A majority of the CTFTC's commissioners considered that the shareholding links, interlocking directorates, and history of commercial cooperation between Uber and Grab would reduce the incentives and ability of the merged firm and Uber Eats to compete vigorously in the food delivery market in Chinese Taipei, and accordingly resolved to prohibit the merger. One commissioner, however, considered that the evidence was insufficient to justify prohibition and that the merger should instead be cleared subject to conditions/remedies.

4. Enforcement Stances on Minority Shareholdings in relation to AI and Digital Economy

19. In the digital and AI era, competition authorities worldwide have shifted the focus of concern regarding minority shareholdings held by the major digital technology firms from "voting control" to ecosystem foreclosure arising from such minority shareholdings in combination with "lock-in provisions involving computing power, cloud services, or technology," which deprive investees or startups of their strategic independence, as well as their motivation and incentives to become "challengers to incumbents." However, through the transfer of minority equity stakes, digital technology firms with weaker market positions may overcome ecosystem foreclosure by major technology firms and gain opportunities to transact with developers within rival ecosystems, thereby imposing competitive constraints on rival ecosystems. As such, there might be certain benefits in terms of overall effects on competition and consumer welfare.

20. Furthermore, it is difficult for a single startup to innovate independently. Obtaining funding, computing resources, and other assets through partnerships with digital technology firms that have ecosystems of their own would facilitate the innovations and developments of startups. The CTFTC surveyed enterprises and industry associations competition and found that, as AI startups require financial support, many of them are not opposed to being acquired. In its March 2026 *Public Consultation Report and Policy Statement on Generative Artificial Intelligence and Competition*, the CTFTC set out the following four enforcement principles to guide a deliberate approach to supervise minority shareholding investments: (1) "Issue-driven and evidence-based approach" — Identifying the nature of the issues in dispute, clarifying the "theories of competitive harm," and refining evidence assessments. (2) "Local nexus" — Recognizing and taking into account the distinctive features of industrial development in Chinese Taipei. Accordingly, enforcement should be tailored to local conditions and should not transplant foreign models in their entirety. (3) "Market contestability" — Fostering competition during the formation of AI ecosystems is particularly important for sustaining innovation dynamics and technological diversity. Maintaining the competitive constraint imposed by potential competitors outside the market can help ensure that incumbents do not abuse their advantages to restrict competition, thereby sustaining fair competition and promoting innovation amid rapid advances in AI technology. (4) "The rule of reason" — Rather than automatically applying a structural presumption or relying exclusively on market structure indicators to determine illegality, the CTFTC will evaluate the procompetitive and anticompetitive effects of conduct on a case-by-case basis. It will also consider the demand-side effects of generative AI competition, particularly the benefits to end users and user choice.

5. Conclusion

21. Subparagraph 2, Paragraph 1 of Article 10 of the FTA expressly provides that holding or acquiring one third or more of the shares of another enterprise constitutes a merger. According to the Supreme Administrative Court, the merger type of "directly or indirectly controlling business operations or the appointment or discharge of its personnel of another enterprise," as prescribed in Subparagraph 5 of the same Paragraph, requires the ability to exercise "absolute control," rather than merely having "decisive influence" over the decisions of another enterprise through the veto rights attached to minority shareholdings. Accordingly, under the current legal framework, not all minority shareholding investments involving shareholdings below one-third can be classified as mergers. Nor can such investments be subjected to a separate competition assessment based on the economic argument of "substantial influence." In practice, the CTFTC conducts a comprehensive competition analysis of mergers falling within Subparagraphs 2 to 5, Paragraph 1 of Article 10 of the FTA that involve minority shareholdings, including cases that also involve interlocking directorates or cross-shareholdings. Such an analysis includes assessments of minority shareholdings and any coordinated effects arising from them. Recently, the CTFTC has fully recognized the significance of minority shareholdings in assessing market competition during merger review. In the proposed merger between Grab and foodpanda Taiwan, the CTFTC has begun examining how minority shareholdings held by an enterprise that is not a party to the merger may affect the incentives of the merging parties to compete and their coordinated effects.

22. In addressing the emerging challenge of "ecosystem foreclosure" posed by AI and the digital economy, the CTFTC recognizes that, despite the likely entrenchment of existing ecosystems induced by minority shareholding investments, the conditions and capacity for innovation by early-stage startups can have mutually beneficial relationships with digital

ecosystems. Therefore, the CTFTC has adopted a deliberative enforcement stance toward minority shareholding investments in AI and the digital platform economy. Guided by the four enforcement principles set out in the *Public Consultation Report and Policy Statement on Generative Artificial Intelligence and Competition*, the CTFTC seeks to strike an appropriate balance between maintaining dynamic competition and avoiding over-enforcement.