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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Working Party No. 3 on Co-operation and Enforcement**

**Methodologies for Conducting Market Studies - Note by Chinese Taipei**

**20 June 2017**

*This document reproduces a written contribution from Chinese Taipei submitted for Item 2 of the 125th meeting of the OECD Working Party No. 3 on Co-operation and Enforcement on 20 June 2017.*

*More documents related to this discussion can be found at [www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm](http://www.oecd.org/daf/competition/market-study-methodologies-for-competition-authorities.htm)*

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## Chinese Taipei

1. The Fair Trade Commission (hereinafter referred to as the “FTC”) submitted a written report to the OECD Roundtable on Market Studies in 2008<sup>1</sup>, and responded to the OECD Questionnaire on Market Studies in 2015. This report will emphasize the FTC’s power to conduct market studies, the sources of research data, and methodologies on the basis of the above-mentioned documents.

### 1. Legal Basis of Market Studies

2. As noted in the written report submitted to the OECD in 2008, this report does not include market inquiries conducted in the investigative process in the definition of market studies. Market studies conducted by the FTC since it was established can be divided into three types: (i) research projects for specific industries or markets, e.g., a staff study report or co-study project; (ii) studies conducted by investigation departments or the “Information and Economic Analysis Office<sup>2</sup>” on specific markets; and (iii) general studies conducted by the “Information and Economic Analysis Office” on industries to keep its internal industry database up to date.

3. A market study in this report is defined as an “investigation” into business activities and economic situations under Article 2 of the Organic Act of the Fair Trade Commission<sup>3</sup>. However, the “investigation” here is different from investigation for enforcing competition laws. The FTC does not have any power to compel enterprises to provide data for its market studies and to impose penalties on any enterprise that refuse to provide information.

### 2. Sources of Data in Market Studies

4. The FTC’s four main sources of data in market studies are described as follows.

#### 2.1. Related enterprises or stakeholders

##### 2.1.1. Questionnaire survey

5. The FTC regularly or irregularly sends questionnaires to related enterprises or stakeholders to gather information relevant to production and sales so as to understand the market structure of important or specific industries. For example, the “Information and Economic Analysis Office” of the FTC every year conducts a survey on enterprises whose annual revenue reach a certain scale for updating the internal industry database.

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<sup>1</sup> <http://www.oecd.org/regreform/sectors/41721965.pdf>

<sup>2</sup> The FTC established the “Information and Economic Analysis Office” in coordination with its organizational restructuring in 2012. One goal was to enhance the FTC’s industry data collection and economic analysis capabilities.

<sup>3</sup> Subparagraph 3 of Article 2 of the Organic Act of the Fair Trade Commission.

### ***2.1.2. Field research***

6. The FTC staff also conducts field research or in-depth interviews with the main participants in an industry or market for learning about their business activities, business overview, and future operating plans. For example, for conducting surveys on market structure of gas stations in 2001, 2005, and 2008, the FTC staff had field researches of the operations of gas stations in different geographical areas.

## **2.2. Public data**

### ***2.2.1. Statistics of other government agencies***

7. The FTC collects statistical data published by other government agencies, such as the census of industry, commerce and service conducted by the Directorate-General of Budget, Accounting, and Statistics (DGBAS) and business registration data of the Department of Commerce of the Ministry of Economic Affairs. The FTC may then use the statistics to analyze the overall industry structure, market scale, output value, and industrial trends. In addition to the public government data, some government agencies will periodically provide the FTC with internal statistics or financial data of individual company obtained from their industry surveys according to the understandings between the FTC and other government agencies.

### ***2.2.2. Financial statements of enterprises***

8. Aside from statistical data obtained from other administrative agencies, the FTC can also find financial statements and operational information of listed (OTC) companies on the Market Observation Post System.

## **2.3. Data owned by the Third party**

9. Taking into consideration the characteristics of certain industries, the FTC will purchase reports of professional industry survey institutions, publications of trade associations, and various market reports, e.g., the ITIS industry report, Steel Yearbook, DigiTimes, and other specialized magazines. Thereby, the FTC may have a better knowledge of market shares and production and sales figures for enterprises in the global and domestic markets, which assist the FTC in keeping track of industry characteristics and development trends.

## **2.4. Case investigations**

10. Data gained from past investigations may also be used for ex-post evaluation of competition law enforcement. For example, the FTC conducted an internal study on “structural method screening and detection of concerted actions” in 2013. This study examined the correlation between the past penalty decisions and the structural factors of the market where the anti-competitive conducts arose. Another example relates to the merger decision. The FTC commissioned scholars to conduct the study on “ex-post evaluations of merger decisions” in 2015, using various methodologies of ex-post evaluation to examine major merger cases reviewed by the FTC in the past, in the hope of finding out which methodology being more appropriate for the FTC to assess the ex-post effect of merger decisions.

### 3. Recent Market Studies and its analytical methodologies

#### 3.1. Industry Screening Study

11. The FTC conducted industry screening studies in 2010<sup>4</sup> and 2016 to identify industries that may lack effective competition, and to further understand the underlying cause of poor market performance, as well as the necessity for intervention from the competition authority.

12. Similar methodologies were used in these two studies<sup>5</sup>. The following will elaborate the methods used in the 2016 industry screening study. The FTC first delineated the scope of each industry in accordance with “the Standard Industrial Classification of all Economic Activities” of the DGBAS. Based on data derived from the census of industry, commerce and service by the DGBA, and the FTC’s internal industry database, the FTC selected three main quantitative indicators to identify industries with high market concentration, high profit margins, and high barriers to entry.

13. Furthermore, the FTC used a number of qualitative indicators, including: (i) a high contribution to GDP and high industry linkage effect<sup>6</sup>; (ii) livelihood issues of concern<sup>7</sup>; (iii) important resources and infrastructure for national development<sup>8</sup>; and (iv) other indicators (e.g., innovation, the degree of dependence on imports and exports, etc.), to screen industries required attention.

14. In 2016 study, the FTC selected 18 industries that required further observation via the above-mentioned screening process, of which nine sectors such as petrochemical manufacturing, cement manufacturing, semiconductor packaging and testing, and power supply were in agriculture and manufacturing industry; and nine sectors such as retail sales in non-specialized stores, air transportation, cable and other subscription programming, telecommunications, and legal and accounting services were in the service industry. The FTC compared changes in detailed indicators, including the profit margin, degree of concentration, entry/exit rate (including the number of enterprises in the industry and annual income) of the 18 industries, and analyzed the level of competition in each industry.

<sup>4</sup> The Fair Trade Commission’s 2010 White Paper on Competition Policy: <https://www.ftc.gov.tw/upload/990917/%E6%94%BF%E7%AD%96%E7%99%BD%E7%9A%AE%E6%9B%B8%E5%85%A8%E6%96%87%E8%BC%B8%E5%87%BA-%E5%85%89%E7%A2%9F%E7%89%87.pdf>

<sup>5</sup> Industry screening indicators in 2010 and 2016 were slightly different, and the 2010 study further analyzed quantitative indicators.

<sup>6</sup> The value-added rate of each industry is included in the 2011 industry linkage analysis chart compiled by the DGBAS. The value-added rate refers to new product and service value created from “production factors” (labor, land, capital, and business administration). Higher value-added rates indicate a greater contribution to GDP.

<sup>7</sup> Industries that are directly concerned with consumer interests, especially those that account for a higher percentage of consumers’ expenses are given priority; such expenses refer to all expenses on goods and labor related to daily life, such as food and non-alcoholic beverages, clothing and supplies, health care, and transportation.

<sup>8</sup> This refers to industries that are concerned with national economic development momentum and have development potential, such as water, power, gas, airports, public roads, railways, ports, communication networks, and alternative energy industries induced by the rise of environmental awareness.

15. Both studies in 2010 and 2016 selected 18 industries under observation, and over half of those industries were the same, including petroleum and coal products manufacturing, fertilizer manufacturing, cement manufacturing, air transportation, and telecommunications. This result may indicate that the impact of factors related to market structure or laws and regulations in most industries has not yet disappeared. The FTC will continue to monitor the above-mentioned industries, coordinate with the relevant regulatory agencies and actively advocate competition to promote a competition culture in the market.

### 3.2. Market research into Convenient Store Chains

16. A press release of the Ministry of Economic Affairs in June 2016 pointed out that Chinese Taipei has the highest density of convenience store chains in the world. On average there is one convenience store for every 2 300 people. To understand the market structure and business activities of convenience stores, the FTC conducts a questionnaire survey of the convenience store industry every one to three years. Survey results are uploaded to the FTC's internal industry database and provide the enforcement team with the overall market background during investigation.

17. In the 2015 research, the FTC requested that the five main convenience store chains to provide enterprise's basic information, the distribution of the convenience stores, operating performance, product sales, commission from services (including service items and income from service fees), sales of self-owned brands, terms for on-/off-shelf, and additional fees collected. Moreover, FTC first time collected data from e-invoices<sup>9</sup> to analyse the sales revenues of the top five domestic convenience store chains, with a view to accurately understanding the geographical concentration of convenience stores in each township and district.

18. The results of the research showed convenience stores continue to be a retail channel on which consumers are highly dependent in daily life:

- The distribution of convenience stores in each county/city has not changed much over the past few years, and still shows that enterprises give priority to urban areas for opening convenience stores;
- On average each person visits the top five convenience store chains a total of 124 times a year; on average each person shops at a convenience store every 2.94 days, and
- Main purchase items are cigarettes, drinks, and ready-to-serve food (e.g., lunch boxes, sandwiches, etc.).

19. This market research also found that these convenience store chains often collect a variety of additional charges from their suppliers, typically including a shelf-space fee (listed in the fees for new products, trial sales) and conditional rebates (a target bonus, or sales bonus). Given that market position of the convenience store chains in the distribution channels, and the density and high market concentration the convenience store chains in Chinese Taipei, the FTC has issued the "Explanation of Regulations on Distribution Businesses" to enumerate potentially illegal types of additional charges.

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<sup>9</sup> E-invoicing has been mandated in Taiwan since 2000.

20. Besides, the FTC in 2016 and 2017 respectively imposed penalties on two convenience store chains for not fully disclosing information in the franchise recruitment process. In these two cases, the FTC also referred to the results of questionnaire survey into the convenience store industry and used the market background information (e.g., market share, the number of convenience stores) as one of the factors in determining whether or not the alleged conduct was able to affect trading order.