

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

Working Party No. 2 on Competition and Regulation

RECENT DEVELOPMENTS IN RAIL TRANSPORTATION SERVICES

-- Chinese Taipei --

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1. This report will focus on the developments and competition in the rail industry in western Chinese Taipei. In preparing this report, the Fair Trade Commission (FTC) consulted with the Ministry of Transportation and Communications (MOTC), the competent authority of the railway industry.

1. An Overview of the Rail Industry in Chinese Taipei

2. Pursuant to Article 3 of the Railway Act, the railway systems shall be operated in principle by the state in Chinese Taipei. Any construction, extension, transfer or operation of private railways shall be approved by the MOTC. Currently, the general railway system in Chinese Taipei is operated by the Government. There is no plan to privatize rail transportation and its infrastructure in the near future. As set forth in Article 4 of the Railway Act, the TRA, an agency under the MOTC, is in charge of the administration matters of state-owned railways, including planning for the mid-term and long-term developments as well as construction projects of railway system, and making decisions on important investments, resources allocation, management and marketing strategies, and operation of passenger and freight transportation services. Therefore, the government will budget for the investment proposals by the TRA in general railway infrastructure when the MOTC concluded that the investment proposals meet the current demand.

3. Due to the high density of population in the western plains, the MOTC started in the 1990s to push for the plan of high-speed rail construction to cope with the intercity transportation. In 1998, the THSR Corporation (THSR) won the bid and signed a contract with the MOTC to obtain the concession of building the high-speed rail system and operating rail service for 35 years. The system will be rendered back to the government when the term is expired. The high-speed rail is the first major BOT (build-operate-transfer) transportation project. The total building cost of the system was around NT\$431.6 billion (US\$14.5 billion), NT\$105.7 billion (about 21%) was funded by the Government and THSR covered the remaining amount. The high speed rail was built since 1999 and has been operated since Jan. 5 2007. To date, there is only one high-speed rail system operated by a single enterprise in Chinese Taipei. Based on the current regional development and transportation environment, there will be no plan to build another high-speed rail system or bring in any new operator in the near future.

4. The high-speed rail is operated by THSR under the supervision of the MOTC in accordance with the Railway Act, the Regulations for supervising Railways Operated by Local Governments and Private Enterprises and Industrial Rails, the Statute for Encouraging Private Investment in Transportation Construction, and the contract between THSR and the MOTC. The THSR is required to file reports on its operating conditions, profits and losses, passenger loads and improvement plans so that the MOTC could maintain a close watch and take timely corresponding measures at the earliest time when abnormalities are discovered. In other words, the high-speed rail may be a private operator, but its operation is not entirely independent. It is still subject to the supervision of the MOTC.

5. The pattern of competition in the rail industry in Chinese Taipei is different from passenger transportation and freight transportation, and also varies with the distance between stations. The details are would be illustrated in the following paragraphs.

2. Regulations on Railway Fares

6. Article 26 of the Railway Act states that the TRA sets the fares in accordance with the fare formula established by the MOTC. These proposed fares must be submitted to the Executive Yuan (Cabinet) and then forwarded to the Legislative Yuan (Congress) for ratification. The setting of temporary fares under special circumstances also requires the approval from the MOTC.

7. Although the high-speed rail is not operated by the government, the fares have to be submitted to the MOTC for approval as set forth in Article 35 of the Railway Act. Furthermore, as stipulated in Article 32 of the Regulations for Supervising Railways Operated by Local Governments and Private Enterprises, and Industrial Railways, the MOTC may command private railway operators to adjust the prices, capacity, frequency, and arrival and departure times if such changes are deemed necessary to safeguard the public interest. According to the contract between THSR and the MOTC, the basic fares may be reviewed and adjusted in line with the fluctuations of consumer price index each year. THSR can raise the approved basic fare by up to 20% after taking into consideration the distances, services or differences between peak and off-peak times but the average fare for general service cannot exceed 120% of the basic fare approved by the MOTC.

3. Competition for Intercity Freight Services

8. As for the MOTC's 2012 Transportation Policy White Paper, intercity freight services are mainly provided via highways, and the ratio of freight services provided by train is rather low¹. In fact, THSR does not provide freight service and the TRA is the only rail operator of freight in Chinese Taipei. Since 2004, the freight rail service has declined and its market share remains between 2.2% and 3% in freight market. The main reason is that the reach of rail freight is incomparable to that of road freight. On top of this, it has been the policy of the TRA to focus on passenger service and thus the investment in freight service has been relatively small.

9. The main produces of freight services provided by the TRA are limestone, cement, gravel and coal, which account to 80% of the total amount of freight. This indicates that bulk raw materials are the main types of goods transported by rail. Other types of freight include grains and containers. The rail freight service for grains is gradually being terminated due to the removal of railways inside Kaohsiung and Keelung Harbors in harmony with the urban renewal project. The transport volume of containers, however, went up in 2011 mainly because the China Steel Corporation changed its policy under the instruction of the MOTC to ship the limestone excavated in Hualien on the east coast to the western area by rail instead of roads.

4. Competition for Intercity Passenger Services

10. Before the operation of the high-speed rail in 2007, intercity passengers traveled along the west coast largely occurred by private motor vehicles in Chinese Taipei, followed by railway and highway bus services. Air transport only accounted for a small proportion.

11. Although official operation of the THSR has led to a certain extent of intra-modal competition with TRA in the intercity passenger services on the west coast, the high-speed rail currently attracts mainly long-distance passengers traveling between the major cities located between the two metropolises, Taipei in the north and Kaohsiung in the south. The THSR's stations are fewer (8 stops at the moment), the traveling time is much shorter, and the prices are much higher than those of regular trains and highway buses. The customers are not the same between THSR and TRA. In addition, the TRA operates routes around the island and sets its marketing strategy as "strengthening short and medium distance passenger service, improving east-west coast railways connection; facilitating the transportation of tourists to the east coast, and providing a diversity of services." The markets between THSR and TRA are segmented, and therefore, the total passenger numbers of the TRA is not affected significantly.

¹ The 2010 Survey on Freight services by Trucks showed that freight services in Chinese Taipei was mainly provided by highways, accounting for 93.3%, followed by rail and marine, which respectively accounted for 2.2% and 4.2%. The percentage of freight services provided by air was very low.

12. Meanwhile, regarding the inter-modal competition on other competing carriers on the west coast, air transport service has been shrunk significantly as a result of competition from THSR. The highway long distance buses service and the TRA appears to be growing steadily, while the increase in travel using private cars is slowing down (See Table 1 below). In 2007, when reviewing the application of concerted action exemption by Far Eastern Air Transport and TransAsia Airways for airline ticket voucher exchange, the FTC concluded that there was a high substitutability between the high-speed rail and the air transport services for travelers between Taipei and Tainan due to the proximity in traveling time, and then they could be considered competitors in the same market.

Table 1: Changes in Market Share of Different Transportation services in the West corridor after the High-speed Rail Operation

Year		2007	2008	2008	2010	2011	2008-2011	Remarks
							annual increase rate	
Total Trips (□1~5) (10.000 trips/day)		515.9	513.9	532.4	542.4	549.6	2.26%	steady growth
Market Shares	1 Cars	80.6%	77.8%	78%	77.6%	75.9%	1.44%	slight growth
	2 Air	0.3%	0.1%	0.0%	0.1%	0.1%	-17.02%	Negative growth
	3 THSR	1.4%	3.3%	3.3%	3.7%	4.2%	10.44%	large growth
	4 TRA	11.1%	11.9%	11.4%	11.8%	12.7%	4.37%	steady growth
	5 Highway Bus	6.6%	6.8%	7.2%	6.8%	7.1%	3.86%	steady growth

Note: The high-speed rail began operating in Jan. 2007.

Source: A Study on the Changes in the Western Intercity Transportation Market after the High-speed Rail Operation, Institute of Transportation, MOTC, April 2013.

5. Regulations for the Rail Industry in the Fair Trade Act

13. When the Fair Trade Act (FTA) took effect in 1992, Article 46, Paragraph 2 of the Act stated: “the acts of a governmental enterprise, public utility or communications and transportation enterprise approved by the Executive Yuan shall not be subject to the application of this Law until the elapse of five years after the promulgation of this Law.” The intention was to allow such businesses that had been operated in accordance with government policies over the years to gradually adapt themselves to market

competition. Since 1997, the services and trading practices of such businesses have been governed by the FTA².

14. As regards the services provided by the government agencies, the FTC made an explanation in 1993 that the FTA applies to government agencies that engage in commercial conducts. This is to say that commercial activities by the TRA could be reviewed under the FTA. Besides this, the operation of the TRA and THSR in accordance with the Railway Act and other related laws still required to comply with the legislative purposes of the FTA, stipulated in Article 46.

6. Case Example: The FTC initiated an investigation on THSR's discount fare marketing strategy.

15. In 2008, the FTC received complaints from bus services carriers that THSR might be in violation of FTA by offering discount fares.

16. The FTC's investigation showed that THSR made ticket price adjustments for off-peak time slots starting from Nov. 1, 2008, with the best offer being a 35% off regular price. Take Taipei-Kaohsiung tickets for example. The lowest price became only NT\$100 to 200 more than the fares for the freeway bus or the TRA. As a result, these carriers faced more intense competition.

17. The financial statements of THSR for 2007 and 2008 indicated that the passenger loads might have improved gradually, but business losses remained serious. In this regard, the THSR was justified in adjusting ticket prices according to its revenue and operating costs, market supply and demand, and competition in the hope of increasing passenger loads and revenues to reduce losses. The FTC therefore concluded that THSR's conduct to get more trading counterparts by offering more favorable prices was not a violation of the FTA.

18. Moreover, according to the Railway Act and related regulations as well as the contract between THSR and MOTC, the decision regarding the basic rate of transportation cost of the high-speed rail is subject to the MOTC's supervision and ratification. As mentioned above, the MOTC may order private railway operators to adjust their fares, capacity, frequency, and arrival and departure scheduling if such adjustments are deemed necessary to safeguard the public interest. The MOTC has to make the assessment by taking all factors into consideration and order THSR to make adjustment or rectifications. In brief, if the ticket prices of the high-speed rail is reviewed under the jurisdiction of the MOTC rather than the FTC.

² The provision of Article 46 provides as follow: "where there is any other law governing the conducts of enterprises in respect of competition, such other law shall govern; provided that it does not conflict with the legislative purposes of this Law."