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10 June 2023

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

Cancels & replaces the same document of 7 June 2023

Working Party No. 2 on Competition and Regulation

Draft Agenda: 75th meeting of Working Party 2 on Competition and Regulation

12 June 2023 10h00
Paris, France

The 75th Meeting of Working Party 2 on Competition and Regulation will be held on 12 June 2023 in room CC15 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris.

Federica MAIORANO
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JT03521632

Monday 12 June 2023

10:00-10:05

Item 1. Adoption of the Draft Agenda

DAF/COMP/WP2/A(2023)1/REV3

10:05-10:10

Item 2. Approval of the draft summary record of the last meeting (28 November 2022)

For approval:

Summary record of the 74th meeting (28 November 2022) – DAF/COMP/WP2/M(2022)2

For information:

Summary of discussion of the Roundtable on Competition and Regulation in the Provision of Local Transportation Services – DAF/COMP/WP2/M(2022)1/ANN1/FINAL

Executive summary of the Roundtable on Competition and Regulation in the Provision of Local Transportation Services - DAF/COMP/WP2/M(2022)1/ANN2/FINAL

10:10-10:30

Item 3. Presentation of the Competition Assessment Review of Brazil

The Secretariat will present the findings of the Competition Assessment Review of the civil aviation and ports sectors in Brazil, conducted by the OECD Competition Division in co-operation with CADE.

10:30-11:15

Item 4. Discussion on the Competitive Neutrality Toolkit

Building on the discussion on 28 November 2022, the Secretariat will provide an update on the work to draft the Toolkit.

For discussion:

Note by the Secretariat: DAF/COMP/WP2(2023)1

11:15-12:45

Item 5. Presentations on Trials and Natural Experiments in Competition and Regulation

Trialling consumer remedies before introducing them allows competition authorities and regulators to test whether they would be effective in practice and to fine tune their design. Compared with experiments held in artificial environments, Randomised Controlled Trials (RCTs) and natural experiments are considered especially reliable because they take place in real-life settings and their results tend to be reliable to draw conclusions on the real world. RCTs or field trials have been in use for a while, for example to test whether sending notices to consumers whose insurance was due for renewal would encourage those consumers to take action and switch supplier. However, they tend to be expensive and time-consuming to run.

These disadvantages can be overcome in digital markets, where it is possible to test alternatives quickly and at negligible cost. The use of trials has expanded from its initial application to the development of remedies, imposed by competition authorities and regulators, to the provision of evidence in competition enforcement cases. For example, apps can test the effects of certain practices by platforms (e.g. changes in functionalities limiting users' options) by comparing the behaviour of users affected by the new practice and users not affected by the new practice, for instance because they use the app on an alternative platform that does not restrict users' options.

The session will include presentations by speakers, including John Davies, Executive Vice President, Compass Lexecon; Graeme Reynolds, Competition Director, Financial Conduct Authority; and Francesco Decarolis, Professor of Economics, Bocconi University, as well as delegations to share their experiences in competition and regulation and to discuss advantages and disadvantages of field trials.

For information:

Note by Türkiye - [DAF/COMP/WP2/WD\(2023\)27](#)

Lunch break 12:45 - 14.30

14:30-17:30

Item 6. Roundtable on Assessment and Communication of the Benefits of Competition Interventions

This Roundtable will cover how competition authorities evaluate the impact of their activities and how they communicate to stakeholders both the benefits of competition interventions and the benefits of competition more generally.

A growing number of competition authorities report details of their activities and assess the impact of their interventions. Competition authorities reports include a range of measures, such as the number of interventions and the fines imposed, as well as an assessment of the expected benefits for consumers arising from merger control activity and / or decisions on antitrust infringements. The evaluation of consumer benefits helps authorities justify their use of resources thus supporting accountability and transparency. In some jurisdictions authorities have the statutory obligation to report their activity.

By demonstrating the benefits of competition interventions, evaluation enhances the credibility of the authority, supporting more widely the authority's advocacy of the benefits of competition. Competition authorities can usefully leverage the assessment of consumer benefits arising from competition interventions, as part of a wider communication strategy about the authority's role and its contribution to the economy and the society.

The roundtable will be structured in two main parts:

- In the first part, competition authorities will share their experience on designing a communication strategy, the objectives they pursue in their communication and the tools that they find more effective.
- In the second part, delegates will share experiences on whether and how they evaluate the benefits, both qualitative and quantitative, of their activities. The session will be an opportunity to discuss the 2014 methodology published by the OECD and the experience of competition authorities in this area, including ways in which they have expanded the methodology and have amended its assumptions.

This roundtable will benefit from a Background Note on communication, an Issues Note on assessing the benefits of competition interventions and written contributions by jurisdictions. It will feature presentations by Fabienne Ilzkovitz, Professor of Economics, Université Libre de Bruxelles and William Kovacic, Professor of Law and Director, Competition Law Center, George Washington University, as well as Pdraic Convery, Communications Expert.

For discussion:

Background Note on Communication by the Secretariat – [DAF/COMP/WP2\(2023\)2](#)

Issues Note on Assessment by the Secretariat – [DAF/COMP/WP2\(2023\)3](#)

Notes by delegations:

Canada - [DAF/COMP/WP2/WD\(2023\)1](#)

France - [DAF/COMP/WP2/WD\(2023\)2](#)

Greece	- DAF/COMP/WP2/WD(2023)3
Hungary	- DAF/COMP/WP2/WD(2023)4
Israel	- DAF/COMP/WP2/WD(2023)5
Italy	- DAF/COMP/WP2/WD(2023)6
Latvia	- DAF/COMP/WP2/WD(2023)7
Lithuania	- DAF/COMP/WP2/WD(2023)8
Mexico	- DAF/COMP/WP2/WD(2023)9
Norway	- DAF/COMP/WP2/WD(2023)10
Portugal	- DAF/COMP/WP2/WD(2023)11
Slovenia	- DAF/COMP/WP2/WD(2023)12
Spain	- DAF/COMP/WP2/WD(2023)13
Türkiye	- DAF/COMP/WP2/WD(2023)14
United Kingdom	- DAF/COMP/WP2/WD(2023)25
United States	- DAF/COMP/WP2/WD(2023)15
EU	- DAF/COMP/WP2/WD(2023)16
Argentina	- DAF/COMP/WP2/WD(2023)17
Brazil	- DAF/COMP/WP2/WD(2023)18
Bulgaria	- DAF/COMP/WP2/WD(2023)19
Croatia	- DAF/COMP/WP2/WD(2023)20
Kazakhstan	- DAF/COMP/WP2/WD(2023)29
Philippines	- DAF/COMP/WP2/WD(2023)26
Romania	- DAF/COMP/WP2/WD(2023)21
Singapore	- DAF/COMP/WP2/WD(2023)24
Chinese Taipei	- DAF/COMP/WP2/WD(2023)22
Ukraine	- DAF/COMP/WP2/WD(2023)23
Summaries of contributions	- DAF/COMP/WP2/WD(2023)29

17:30-17:45

Item 7. Future work and other business

Delegates will be called to decide topics for the substantive discussion to be held in December 2023. By way of reminder, the letter of the Chair of the Competition Committee dated 9 January 2023 proposed, among other topics, a roundtable on “Competition and Sport”. No comments or objections were received.

In addition, delegates should feel free to send the Secretariat their views and propose topics for future work that they would like to submit to the consideration of the Working Party.

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7 June 2023

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

Working Party No. 3 on Co-operation and Enforcement

Draft Agenda: 137th meeting of Working Party 3 on Co-operation and Enforcement

13 June 2023 10h00
Paris, France

The 137th Meeting of Working Party 3 on Co-operation and Enforcement will be held on 13 June 2023 (10:00 to 18:00) in the OECD Conference Centre, 2 rue André Pascal, 75116 Paris.

JT03521074

Tuesday 13 June 2023

10:00-10:05

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

For approval:

Agenda - DAF/COMP/WP3/A(2023)1/REV4

Summary record of the 136th meeting (December 2022) - DAF/COMP/WP3/M(2022)2

For information:

Summary of discussion of the Roundtable on Interim Measures in Antitrust Investigations –
DAF/COMP/WP3/M(2022)1/ANN1/FINAL

Executive summary of the Roundtable on Interim Measures in Antitrust Investigations -
DAF/COMP/WP3/M(2022)1/ANN2/FINAL

Summary of discussion of the Roundtable on Data Screening Tools for Competition Investigations -
DAF/COMP/WP3/M(2022)2/ANN1/FINAL

Executive summary of the Roundtable on Data Screening Tools for Competition Investigations -
DAF/COMP/WP3/M(2022)2/ANN2/FINAL

10:05-11:00

Item 2. Country experience with reassessing merger review frameworks

A topic of critical importance to many agencies is the re-evaluation of merger review to account for the realities of markets where competition plays out in ways not captured by simple horizontal and vertical frameworks. Following a detailed presentation by the U.S. agencies on their work over the past year in revising their merger guidelines to account for the realities of modern markets, other delegations will have the opportunity to make similar presentations. The particular focus of the session will be on how agencies are reviewing their merger frameworks to revise current paradigms and develop new taxonomies to address platform mergers, multisided markets, and non-price effects. Delegations interested in making such a presentation should inform the Secretariat.

11:00-12:00

Item 3. Discussion on the 2005 OECD Recommendation on Merger Review

Delegates will be called to consider the continued relevance of the 2005 Council Recommendation on Merger Review. In 2013, the Competition Committee adopted a report for the Council that reviewed the experience of Adherents to the Recommendation, concluding that the Recommendation was still “important and relevant,” but without recommending any changes to the instrument. Delegates will review the conclusions of the 2013 Report, with an eye to determining if the 2005 Recommendation needs to be amended or expanded.

For information:

Note by Türkiye - DAF/COMP/WP3/WD(2023)28

12:00-12:30

Item 4. Secretariat report on status of discussions on co-operation decision-recommendation

Following the discussion under item 2 of the agenda of 136th meeting of Working Party 3 on the Secretariat’s proposal to convert the 2014 Recommendation on International Enforcement Co-operation into a Decision-Recommendation, delegates were invited to provide comments on the proposal by the end

of March 2023. Under this agenda item, the Secretariat will give a short report on the comments received for consideration by the Working Party.

12:30-14:00 Lunch Break

14:00-16:30

Item 5. Roundtable on the Future of Effective Leniency Programmes: Advancing detection and deterrence

Leniency programmes can be a powerful tool to detect cartels and support cartel enforcement, facilitating agencies' efforts to prosecute anticompetitive conduct. However, their effectiveness depends, amongst others, on firms' perception of the likely threat of being detected and heavily sanctioned even when no leniency application is filed. Overreliance on leniency programmes comparatively to other (proactive) detection tools may negatively affect their effectiveness, while the strength of non-leniency detection tools is of utmost importance to support leniency.

The Roundtable will explore recent trends and reforms of leniency programmes and their relationship with effective detection and deterrence. With a view to preserving the effectiveness of leniency, delegates will discuss the importance of developing modern and effective detection tools and investigative approaches and the full range of new, innovative, and proactive detection tools and investigative approaches (e.g., cartel screening, whistleblowing). The Roundtable will also cover the ways in which increasing effective international co-operation can aide in the detection of cartels and/or possibly affect leniency programmes in the lack of co-ordination.

The session will be supported by a Secretariat background paper.

For discussion:

Background Paper by the Secretariat – DAF/COMP/WP3(2023)1

Notes from Delegations:

- Australia - DAF/COMP/WP3/WD(2023)1
- Chile - DAF/COMP/WP3/WD(2023)2
- Colombia - DAF/COMP/WP3/WD(2023)3
- Croatia - DAF/COMP/WP3/WD(2023)24
- France - DAF/COMP/WP3/WD(2023)4
- Germany – DAF/COMP/WP3/WD(2023)25
- Hungary - DAF/COMP/WP3/WD(2023)5
- Ireland - DAF/COMP/WP3/WD(2023)6
- Italy - DAF/COMP/WP3/WD(2023)7
- Japan - DAF/COMP/WP3/WD(2023)8
- Latvia - DAF/COMP/WP3/WD(2023)9
- Lithuania - DAF/COMP/WP3/WD(2023)10
- Mexico - DAF/COMP/WP3/WD(2023)11
- New Zealand - DAF/COMP/WP3/WD(2023)12
- Poland - DAF/COMP/WP3/WD(2023)13
- Portugal - DAF/COMP/WP3/WD(2023)14

Romania - [DAF/COMP/WP3/WD\(2023\)23](#)
Slovak Republic - [DAF/COMP/WP3/WD\(2023\)15](#)
Spain - [DAF/COMP/WP3/WD\(2023\)16](#)
Türkiye - [DAF/COMP/WP3/WD\(2023\)17](#)
United Kingdom - [DAF/COMP/WP3/WD\(2023\)18](#)
United States - [DAF/COMP/WP3/WD\(2023\)20](#)
EU - [DAF/COMP/WP3/WD\(2023\)21](#)
BIAC - [DAF/COMP/WP3/WD\(2023\)31](#)
India - [DAF/COMP/WP3/WD\(2023\)22](#)
Kazakhstan - [DAF/COMP/WP3/WD\(2023\)29](#)
South Africa - [DAF/COMP/WP3/WD\(2023\)24](#)
Summaries of contributions - [DAF/COMP/WP3/WD\(2023\)30](#)

16:30-17:45

Item 6. Horizon Scanning – Country Reports

It is critical for agencies to identify in advance the new technologies, services, and activities that are at risk of hardening into monopolistic ecosystems, through consolidation or incorporation into existing dominant platforms. Under this agenda item, delegates will be called to share experience in this area with brief accounts of their agency work. Delegations who are interested in taking an active part in this session should reach out to the Secretariat.

17:45-18:00

Item 7. Other Business and Future Work

The Secretariat will update WP3 on the likely content and sequencing of future work on fighting bid rigging, following the adoption of the revision of the Recommendation on Fighting Bid Rigging in Public Procurement in June 2023.

Delegates will also be asked to discuss and suggest substantive topics for future WP3 agendas [[DAF/COMP/WD\(2022\)4](#)].

For information:

Draft Revised Recommendation of the Council on Fighting Bid Rigging in Public Procurement –
[C\(2023\)37](#)

For discussion:

Future work on fighting bid rigging - [DAF/COMP/WP3/WD\(2023\)26](#)

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10 June 2023

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

Cancels & replaces the same document of 7 June 2023

Draft Agenda: 140th meeting of the Competition Committee

14-16 June 2023 10h00
Paris, France

The 140th Meeting of the Competition Committee will be held on 14-16 June 2023 in room CC1 of the OECD Conference Centre, 2 rue André Pascal, 75116 Paris.

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JT03521634

Wednesday 14 June

10:00-10:05

Item 1. Adoption of the draft agenda

DAF/COMP/A(2023)1/REV3

10:05-10:15

Item 2. Approval of the draft summary record of the last meeting

For approval:

Summary record of the 139th Competition Committee meeting - DAF/COMP/M(2022)3

For information:

Summary of discussion of the Roundtable on the Role of Competition Policy in Promoting Economic Recovery – DAF/COMP/M(2020)2/ANN3/FINAL

Executive summary of the Roundtable on the Role of Competition Policy in Promoting Economic Recovery - DAF/COMP/M(2020)2/ANN4/FINAL

Summary of discussion of the Roundtable on Environmental considerations in competition enforcement – DAF/COMP/M(2021)2/ANN1/FINAL

Executive summary of the Roundtable on Environmental considerations in competition enforcement - DAF/COMP/M(2021)2/ANN2/FINAL

Summary of discussion of the Roundtable on Market Power in the Digital Economy - DAF/COMP/M(2022)2/ANN3/FINAL

Executive summary of the Roundtable on Market Power in the Digital Economy - DAF/COMP/M(2022)2/ANN4/FINAL

10:15-10:30

Item 3. Report by Working Party Chairmen and Co-ordinators

The Chairmen of Working Party No. 2 and of Working Party No. 3 will report on the meetings of the Working Parties held on 20 June (WP2) and 21 June (WP3). The UNCTAD co-ordinator may report on UNCTAD related developments. The ICN co-ordinator will report on recent work and projects by the ICN.

10:30-13:30

Item 4. Hearing on the Relationship between Competition and Innovation

While there is long-standing view that competition drives innovation and that innovation, in turn, drives higher welfare and economic growth, there is no theoretical consensus on the precise relationship between these two important components of a market economy. The Hearing will offer the opportunity to hear from experts on such relationship, to understand what we mean by innovation and what types of innovation matters for competition. Delegates will also discuss what are they key drivers for innovation and what is the role of competition policy in generating incentives to innovate or spreading innovation across industries.

As there are many other factors that drive innovation, such as the role of financing agents (venture capitalists or governments themselves), as well as geographical considerations (regulatory differences, location of clusters, characteristics of the geographical markets), network effects, among others, at the Hearing, delegates will also have an opportunity to explore how these factors interact with competition and what effects they have on competitive dynamics in those markets.

The Hearing will benefit from interventions from invited experts, including Philippe Aghion (Professor at the College de France and at the London School of Economics), Wolfgang Kerber (Professor of Economic Policy, Marburg University), Álvaro Parra (Assistant Professor, UBC Sauder School of Business), Carl Shapiro (Professor, University of California, Berkeley), Eva Sørensen (Professor at Roskilde University), and Chiara Criscuolo (Head of the Productivity and Business Dynamics (PBD) Division in the Science Technology and Innovation (STI) Directorate at the OECD), as well as from a Background Note from the Secretariat.

For discussion:

Background Note by the Secretariat - [DAF/COMP\(2023\)2](#)

Note by Wolfgang Kerber – [DAF/COMP/WD\(2023\)42](#)

Notes by delegations:

Austria - [DAF/COMP/WD\(2023\)5](#)

France - [DAF/COMP/WD\(2023\)6](#)

BIAC - [DAF/COMP/WD\(2023\)56](#)

Kazakhstan – [DAF/COMP/WD\(2023\)63](#)

Lunch break 13:30-15:00

15:00-18:00

Item 5. Roundtable on Algorithmic Competition

This roundtable will consider the role of algorithms on competition and what harms they may pose, with regards to both coordinated conduct (such as algorithmic collusion) and unilateral conduct (such as algorithmic exclusionary and exploitative abuses). The Roundtable will identify the different types of algorithms and present any available information regarding their prevalence. It will identify the various potential theories of harm. It will also discuss how competition authorities can investigate these potential algorithmic harms. For example, whether it is feasible for competition authorities to perform an audit or review of an algorithm to identify harm to competition. And if so, whether and to what extent competition authorities should engage in algorithmic monitoring. Finally, it will consider whether existing competition law and/or digital regulation are sufficient to address these algorithmic harms.

The Roundtable will benefit from interventions from invited experts, Emilio Calvano (Professor, University of Rome and Associate Faculty, Toulouse School of Economics), Michal Gal (Senior Fellow and Professor of Law, University of Haifa), Cathy O'Neil (Data Scientist and CEO of ORCAA), as well as a Background Note from the Secretariat and country contributions.

For discussion:

Background Note by the Secretariat - [DAF/COMP\(2023\)3](#)

Notes by delegations:

Brazil - [DAF/COMP/WD\(2023\)18](#)

Denmark - [DAF/COMP/WD\(2023\)8](#)

France - [DAF/COMP/WD\(2023\)9](#)

Germany – [DAF/COMP/WD\(2023\)61](#)

Italy - [DAF/COMP/WD\(2023\)10](#)

Japan - [DAF/COMP/WD\(2023\)11](#)

Korea - [DAF/COMP/WD\(2023\)12](#)

Mexico - [DAF/COMP/WD\(2023\)13](#)
Norway - [DAF/COMP/WD\(2023\)14](#)
Portugal - [DAF/COMP/WD\(2023\)15](#)
Spain - [DAF/COMP/WD\(2023\)16](#)
United Kingdom - [DAF/COMP/WD\(2023\)40](#)
EU - [DAF/COMP/WD\(2023\)17](#)
BIAC - [DAF/COMP/WD\(2023\)60](#)
Kazakhstan - [DAF/COMP/WD\(2023\)64](#)
South Africa - [DAF/COMP/WD\(2023\)19](#)
Summaries of contributions - [DAF/COMP/WD\(2023\)67](#)

Thursday, 15 June

10:00-13:00

Item 6. Roundtable on the Consumer Welfare Standard - Advantages and Disadvantages Compared to Alternative Standards

Standards in competition policy have been the subject of much debate. Often these discussions focus on a jurisdiction's legislative history and what this infers the prevailing standard to be. However, the goals of competition policy are worthy of in-depth first principles consideration, and the welfare standard that applies flows naturally from this. Rather than seeking to address the question of what standard should apply in competition law enforcement, this Roundtable seeks to highlight the trade-offs that any particular standard requires.

Many competition regimes apply what is notionally considered a consumer welfare standard, although exactly what this means is not always clear and is the subject of much debate. As calls to reconsider the appropriate standard grow, now is an opportune time to consider the relative advantages and disadvantages of alternative standards. An important part of this exercise is to consider the attributes or properties that an ideal standard would possess, such as its predictability, ability to maximise the welfare of all and its broader credibility. The discussion must also define the boundaries for alternative standards to the consumer welfare standard, such as total welfare, modified total welfare, citizen standards or protecting competition standards.

The Roundtable will benefit from interventions from invited experts, Carl Shapiro (Professor, University of California, Berkeley), Nicolas Petit (Professor, European University Institute) and Anna Gerbrandy (Professor, Utrecht University), as well as a Background Note from the Secretariat and country contributions.

For discussion:

Background Note by the Secretariat - [DAF/COMP\(2023\)4](#)

Notes by delegations:

Argentina - [DAF/COMP/WD\(2023\)26](#)
Brazil - [DAF/COMP/WD\(2023\)27](#)
Greece - [DAF/COMP/WD\(2023\)21](#)
Lithuania - [DAF/COMP/WD\(2023\)22](#)

New Zealand - [DAF/COMP/WD\(2023\)23](#)Peru - [DAF/COMP/WD\(2023\)28](#)Poland - [DAF/COMP/WD\(2023\)34](#)Sweden - [DAF/COMP/WD\(2023\)25](#)BIAC - [DAF/COMP/WD\(2023\)30](#)BEUC - [DAF/COMP/WD\(2023\)31](#)Ecuador - [DAF/COMP/WD\(2023\)7](#)South Africa - [DAF/COMP/WD\(2023\)29](#)Summaries of contributions - [DAF/COMP/WD\(2023\)68](#)*Lunch break 13:00-15:00*

15:00-18:00

Item 7. Roundtable on Competition in the Circular Economy

The Roundtable will focus on the relationship between competition and the circular economy and on the incentives and dynamics that the circular economy creates in the market that are relevant to competition analyses. The circular economy typically refers to an economic system based on the “3Rs”: reduction, reusing and recycling of resources and materials to the maximum extent possible. The [United Nations Climate Change](#) has defined it as “*a regenerative system in which resource input and waste, emission, and energy leakage are minimized by slowing, closing, and narrowing energy and material loops*”.

As the circular economy is increasingly recognised to be a fundamental approach to reach carbon-neutrality, the question arises whether competition laws and policies as currently designed and applied are compatible with the paradigm of the circular economy. The Roundtable will offer an opportunity to discuss whether i) the goals of competition law and the conceptual foundations of the circular economy are consistent; ii) in which industries and cases competition law might be an obstacle to the shift to a circular economy; and iii) what are the advocacy and enforcement activities that competition authorities can take to pro-actively support the transition to a circular economy. The Roundtable will also allow delegations to discuss these questions and to share and discuss methodologies for the assessment of competition harm and effects in competition cases in the circular economy.

The Roundtable discussion will benefit from interventions from invited experts, including Herbert Hovenkamp (James G. Dinan Professor, Penn Law & The Wharton School, University of Pennsylvania), Benoît Durand, Partner at RBB Economics and Helen Gornall, Partner Competition Law, De Brauw Blackstone Westbroek, as well as a Background Note from the Secretariat and country contributions.

For discussion:Background Note by the Secretariat - [DAF/COMP\(2023\)5](#)**Notes by delegations:**Australia - [DAF/COMP/WD\(2023\)32](#)Austria - [DAF/COMP/WD\(2023\)33](#)Canada - [DAF/COMP/WD\(2023\)24](#)France - [DAF/COMP/WD\(2023\)35](#)Hungary - [DAF/COMP/WD\(2023\)36](#)Italy - [DAF/COMP/WD\(2023\)37](#)

Japan - [DAF/COMP/WD\(2023\)38](#)Latvia - [DAF/COMP/WD\(2023\)39](#)Romania - [DAF/COMP/WD\(2023\)44](#)Spain - [DAF/COMP/WD\(2023\)41](#)BIAC - [DAF/COMP/WD\(2023\)72](#)Egypt - [DAF/COMP/WD\(2023\)43](#)Summaries of contributions - [DAF/COMP/WD\(2023\)69](#)

Friday, 16 June

10:00-13:00

Item 8. Roundtable on Theories of Harm for Digital Mergers

Mergers in digital markets have been much discussed in recent years, following the growing concerns around the acquisition strategies of major tech platforms. In parallel to the well-known debate on killer acquisitions and notification thresholds, new questions started to emerge on the suitability of existing theories of harm for an effective assessment of mergers in digital markets. Specific features of digital mergers, such as the prominent role of platform ecosystems relying on strong network effects, high quality algorithms, economies of scale and data-driven economies of scope, might bring into question the ability of traditional theories of harm to reflect the real competitive harm that may result from the merger. Therefore, in order to ensure that anticompetitive transactions can be captured under the current standards for merger review, competition authorities might need to fine-tune their theories of harm or develop new ones. On the other hand, calls to modify the existing legal framework have also been made in recent years, signalling the need for a profound reflection around merger control in digital markets.

The Roundtable will offer an opportunity to discuss the theories of harm currently used in the analysis of digital mergers and the potential need for new ones, that could better allow competition authorities to meet the standard of proof when assessing anticompetitive mergers. More specifically, delegates will discuss to what extent merger policy in digital markets differs from merger policy in traditional markets and if there is a need to fine-tune merger control to reflect the specific features of digital markets. They will also discuss the challenges of traditional theories of harm when applied in digital markets, especially in light of the role of ecosystems and what theories of harm specific to digital mergers have been introduced in merger control.

The Roundtable will benefit from interventions from invited experts, Luís Cabral (Paganelli-Bull Professor of Economics, New York University Stern School of Business), Annabelle Gawer (Professor in Digital Economy & Director, Centre of Digital Economy, University of Surrey), Viktoria Robertson (Professor of Competition Law, Vienna University of Economics and Business & University of Graz), as well as a Background Note from the Secretariat and country contributions.

For discussion:

Background Note by the Secretariat - [DAF/COMP\(2023\)6](#)Note by Viktoria Robertson – [DAF/COMP/WD\(2023\)59](#)

Notes by delegations:

Austria - [DAF/COMP/WD\(2023\)62](#)Brazil - [DAF/COMP/WD\(2023\)52](#)Hungary - [DAF/COMP/WD\(2023\)45](#)

Japan - [DAF/COMP/WD\(2023\)46](#)
Korea - [DAF/COMP/WD\(2023\)47](#)
Mexico - [DAF/COMP/WD\(2023\)48](#)
Romania - [DAF/COMP/WD\(2023\)54](#)
Spain - [DAF/COMP/WD\(2023\)49](#)
United Kingdom – [DAF/COMP/WD\(2023\)58](#)
United States - [DAF/COMP/WD\(2023\)50](#)
EU - [DAF/COMP/WD\(2023\)51](#)
BIAC - [DAF/COMP/WD\(2023\)73](#)
India - [DAF/COMP/WD\(2023\)53](#)
Chinese Taipei - [DAF/COMP/WD\(2023\)55](#)
Summaries of contributions - [DAF/COMP/WD\(2023\)70](#)

Lunch break 13:00-14:30

14:30-15:15

Item 9. Post-Accession Monitoring Review of Costa Rica [[CONFIDENTIAL](#)]

For discussion:

- Draft Agenda - [DAF/COMP/ACS\(2023\)1](#)
Note by the Secretariat - [DAF/COMP/ACS\(2023\)2](#)
Report by Costa Rica - [DAF/COMP/ACS\(2023\)3](#)

This agenda item will be discussed in a confidential session. Only Members and the European Union are invited to attend.

15:15-15:30

Item 10. Report on Accession [[CONFIDENTIAL](#)]

The Secretariat will update delegates on status of the five accession reviews of Croatia, Bulgaria, Romania, Brazil and Peru in a confidential session. Only Members and the European Union are invited to attend.

15:30-16:00

Item 11. Report of the Competition Division Activities and Global Relations

A Secretariat Note will present to the Committee an overview of the Competition Division's activities in 2022 as well as global relations activities undertaken by the Division. It will include: (i) Overview of the work accomplished by the Division; (ii) an update on OECD global relations; (iii) the activities in the three Regional Competition Centres (Hungary, Peru and Korea); and (iv) the results of the evaluation by participants of the 2022 Global Forum on Competition (GFC) and the 2022 OECD/IDB Latin American and Caribbean Forum (LACCF) as well as the topics for the 2023 GFC and LACCF.

For discussion:

- Note by the Secretariat - [DAF/COMP\(2023\)7](#)

For information:

- Evaluation of the Competition Division's Work in 2022 – [DAF/COMP/WD\(2023\)2](#)

Use of the Competition Committee's Work Product 2022 - [DAF/COMP/WD\(2023\)3](#)

Note by the Secretariat/OECD Global Forum on Competition- [DAF/COMP\(2023\)9](#)

16:00-17:30

Item 12. Annual Reports on Competition Policy

All delegations are invited to submit their annual report for 2022. Following a recommendation by the Bureau, only some Delegations will be allocated time to make presentations on a key development that has taken place during the relevant period (e.g. a legal reform, a new policy approach, an important decision, etc.). Delegations are welcome to contact the Secretariat to suggest a topic for an oral presentation at this session if they wish to do so. The Secretariat will collect these expressions of interest and co-ordinate with the Chair of the Competition Committee. It will subsequently contact Delegations to ensure a consistent approach to such presentations.

17:30-18:00

Item 13. Other business and future work

Competition Delegates will be called to decide topics for substantive discussions for future meetings of the Competition Committee and its Subsidiary Bodies.

Delegates should feel free to send to the Secretariat as soon as possible any other suggestion that they would like to submit to the Committee's consideration.

For information:

Future Roundtable Topics - [DAF/COMP/WD\(2022\)4](#)

Future Competition Meeting Dates - [DAF/COMP/WD\(2022\)1](#)



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19 May 2023

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

Working Party No. 2 on Competition and Regulation

**Assessing and Communicating the Benefits of Competition Interventions – Note by
Chinese Taipei**

12 June 2023

This document reproduces a written contribution from Chinese Taipei submitted for Item 6 of the 75th meeting of Working Party 2 on 12 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm>

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Chinese Taipei

1. This paper focuses on the impact of enforcement activities and interventions taken by the Chinese Taipei Fair Trade Commission (hereinafter referred to as the “CTFTC”). In this regard, the paper aims to outline the CTFTC’s internal assessment approaches to measure effectiveness/benefits, in terms of both quality and quantity, as well as its strategies to communicate such outcomes to the general public.
2. In addition to a well-designed legal system and effective enforcement, growing understanding of and compliance with the Fair Trade Act (hereinafter referred to as the “FTA”) in all sectors plays a critical part of safeguarding market competition. The CTFTC has thus developed an advocacy plan each year to promote competition through multiple avenues.
3. In addition to the various competition advocacy activities undertaken, the CTFTC has voluntarily published annual reports on enforcement outcomes and policy implementations, to summarize the important progress it has made in the previous year. The CTFTC is also obligated to report biannually its current policy priorities and outcomes of implementing policies to the Legislative Yuan (i.e., the Congress). Furthermore, the CTFTC issued different publications to increase public awareness of the overall economic benefits associated with the CTFTC’s enforcement and other interventions.

1. Assessment of benefits of competition interventions

1.1. Evaluation of competition advocacy

4. In order to objectively evaluate the impacts of competition advocacy activities on target participants and refine its annual competition advocacy plan accordingly, the CTFTC commissioned a third party to conduct a survey questionnaire on the “Effectiveness of Competition Advocacy in 2011¹.” The results of this survey are outlined as follows:
 - Governmental agencies and other stakeholders: 89 percent of the respondents agreed that advice and feedback provided by the CTFTC were helpful for their future decision making. 87 percent of respondents stated that such advice and feedback would be considered or included in their decision’s process.
 - Private businesses: more than 90 percent of respondents acknowledged that the benefits of the competition advocacy activities included “promoting fair competition”, “reducing the risk of competition law infringement”, “building a reputation in regulatory compliance”, and “keeping up on trends of industrial development.”
5. In total, the survey respondents also proposed to the CTFTC 71 recommendations. For example, some suggested that public opinion needs to be considered when planning to

¹ The survey questionnaire was conducted between June 3, 2011 and July 1, 2011. Since the survey respondents could be classified as two groups - governmental agencies and other stakeholders, and private businesses, the questionnaires were delivered respectively by mail and telephone. In total, 35 questionnaires were completed by governmental agencies and other stakeholders, and 602 questionnaires were completed by private businesses. Individuals’ data was obtained under the Personal Data Protection Act.

amend the FTA. Some suggested illustrating relevant regulations with case studies to enhance participants' understanding. These recommendations generally reflected participants' high expectations on the CTFTC and its competition interventions. Following the 2011 survey, the CTFTC included the recommendations in subsequent years to develop more sophisticated advocacy plans.

1.2. Evaluation of competition law enforcement

6. Under the FTA, the merger control regime requires filing of a pre-merger notification. In a horizontal merger case, the CTFTC normally defines a relevant market(s), and then assesses changes in market shares and levels of market concentrations (commonly measured by the HHI) before and after the merger. Economic tools such as GUPPI test may be applied for further assessment if any concern arises that the merger is likely to lessen competition. In mergers that may substantially lessen competition, the CTFTC can conduct market inquires, collecting data associated with diversion ratios of relevant products to measure likely price rises after mergers. In the merger review process, the CTFTC often organizes consultation meetings to seek opinions from relevant governmental agencies, merging parties and academics/experts.

7. A recent example is PX Mart's proposed acquisition of RT-Mart in 2022. The CTFTC applied different economic tools, including GUPPI, CMCR, and merger simulation and found the likely price increase after the merger to be more than 5%. The assessment indicated that the merger might substantially lessen competition. To diminish specific anti-competitive concerns and ensure that the overall economic benefit of the merger outweighed the disadvantages resulting from competition constraints, the CTFTC granted conditional clearance on this planned merger.

8. The CTFTC commissioned academics to conduct a research on "Ex-Post Review of the CTFTC's Merger Decisions." This empirical study selected representative horizontal merger decisions and applied event study and evaluation method to analyze the ex-post impacts of the decisions².

- Event study³: By reviewing nine merger cases involving karaoke franchises, instant noodles and steel products, the results showed that: (i) for the merger that the CTFTC cleared without specific conditions, no significant changes in share prices were observed when the CTFTC announced its decisions; (ii) for the mergers that the CTFTC prohibited or imposed specific conditions for clearance, the CTFTC's decision had negative impacts on share prices of merging parties.

² The cases were selected for this empirical study based on the following criteria: (1) whether it is a horizontal merger; (2) whether the data associated with analysis is available; and (3) whether the data can be applied to an event study, or to the difference-in-difference method used in an evaluation method.

³ The event study methodology is used to assess the impact of the CTFTC's merger decisions on returns of merging parties' market stocks. To satisfy the purpose of the event study, cases were selected on the basis of three conditions: the nature of mergers (whether they are horizontal mergers); the CTFTC's merger decisions (the merger under review was blocked or cleared); and data availability (merging parties are public listed companies). The assessment period starts from 50 trading days prior to the CTFTC's merger decision to 5 days after the decision is announced. The study found that the CTFTC's merger decisions had an immediate impact on the rates of return for the merging parties when stock market participants could not foresee and predict the decision and its outcome. In other words, the CTFTC's merger decisions did not impact the stock market when they met market expectations.

- Evaluation method⁴: The methods were applied to three merger cases in three different sectors - cable TV, satellite communications, and food sectors. With the difference-in-difference method, the analytical results showed that: (i) Earnings as dependent variables: Following the trend of absolute changes in earnings, it was observed that the post-merger earnings of the merging parties increased while the growth level was not as high as the control groups within the same period of time; (ii) Operating costs as dependent variables: in most cases, declining trends were observed either by comparing with the control groups or in absolute terms.

9. The conclusions of the study are summarized as follows: (1) Provided that the required data is available and accessible, ex-post review of merger decisions should be based on the analytical tool – evaluation methodology; (2) Given that the tools for ex-post review of merger decisions were not fully-fledged at the time of conducting this research, it would be difficult to find general rules for the application of the evaluation methodology. The following limitations in the study are also evident due to the legislation for data protection. The study could only rely on public information, i.e., financial statements of merging parties and share prices. The study limitations are that: (1) merger decisions on unlisted companies were unable to be reviewed; (2) the study was required to define competitors and clarify the selection criteria of control groups.

10. The CTFTC has been dedicated in consulting stakeholders in the process of either reviewing merger notifications or investigating evidence or allegations of anti-competitive behavior. For the latter, opinions from regulatory agencies, expert reports, submissions of business associations and tax documents could be considered by the CTFTC. In legal proceedings, the CTFTC often leverages external resources to support its decisions. A typical example is a cartel case where agreements were reached among 21 Container Freight Station operators to charge fees for loading/unloading/transporting export cargo under three tons. During the investigation stage, the CTFTC requested data and viewpoints from the regulatory agency, Maritime Port Bureau, Ministry of Transportation and Communications (MoTC). During litigation, the CTFTC also presented academic expert opinions, such as market definition and determination of the geographical area, to the Taipei High Administrative Court. They were recognized and adopted in the judgment.

11. The study on “Application and Improvement of Competition Law Leniency Program in Cross-Border Cartel Cases” commissioned by the CTFTC in 2022 aimed to increase its understanding of the latest developments of leniency programs across different countries, the relationships between designs of leniency programs and effectiveness of implementation, and the impact of whistleblowers rewards. It ultimately provided informed recommendations to the CTFTC’s leniency program and further amendments. The study conducted a literature review and looked into leniency programs adopted by competition agencies in different jurisdictions, including the U.S., EU, Japan and Korea. It found that the determination of cartel fines is bound by Article 36 of the Enforcement Rules of the FTA⁵ where most factors stipulated therein are in essence qualitative and general legal

⁴ The evaluation methodology is used to assess the impact of the CTFTC’s merger decisions on the following variables that affect market equilibrium: price, output, quality, diversity, entry level and innovation. The difference-in-differences method was used in the commissioned study to assess the impact of the CTFTC’s decisions to clear proposed mergers on profits and costs of merging parties.

⁵ Article 36 of the Enforcement Rules of the FTA provides that:

“When assessing fines in accordance with the Act, all circumstances shall be taken into consideration, and the following items shall be noted: 1. motivation, purpose, and expected improper benefit of the acts; 2. the degree of the act’s harm to market order; 3. the duration of the act’s harm to market order; 4. benefits derived on account of the unlawful act; 5. scale, operating condition, and

concepts, which cannot provide clear and predictable standards. In addition, the study suggested that the deterrent effect of the FTA may be diminished in the case where the leniency program grants too generous reductions in fines.

12. The study proposed the following recommendations to enhance the incentives of cartel (cross-border) participants to apply for leniency: (1) higher fines and whistleblower rewards: the study suggested that the CTFTC can make use of advocacy activities to enhance businesses' awareness of significant risk of legal non-compliance and whistleblowers' incentive schemes; (2) clear standards for calculating fines: it could allow businesses to foresee consequences of non-compliance, encouraging them to avoid engaging in illegal cartels; and (3) utilizing the limited quota for leniency applicants to destabilize cartels and to significantly increase the incentive to report by (cross-border) cartelists.

1.3. Evaluation of other competition interventions

13. The CTFTC's 2022 performance report shows that between 2012 and 2022, the number of firms on which the CTFTC imposed sanctions (including warning letters issued in 2022) amounted to 2,054, of which 547 firms appealed the CTFTC's decisions. Among the appeals, 104 firms were overruled, including 24 firms that were revoked by the CTFTC itself. Given that 95 percent of the CTFTC's decisions remained upheld, the statistics indicated that the quality of the CTFTC's enforcement activities was highly recognized. Furthermore, the statistics revealed that the yearly number of investigations by the CTFTC or ex officio investigations initiated on the basis of complaints between 2012 and 2022 was in the range of 2,024 - 2,560 cases. The CTFTC received 25,711 complaints, applications and notifications in the eleven years to the end of 2022.

14. To improve the transparency of administrative procedures and streamline the processes, the CTFTC has introduced the pre-merger consultation process and launched an online system for merger notifications. Since July 1st, 2021, merging parties filing proposed mergers would be able to check the reviewing status online. In addition to written submissions, merging parties could upload documents online from October 1st, 2021 to save the time from postal delivery of merger filings and supplemental documents. The results of the survey on merging parties and stakeholders show that 83.3 percent of respondents were satisfied with the online system. In 2022, 60 percent of merger filings were submitted online.

15. Located in the subtropical zone, most domestic households in Chinese Taipei rely heavily on air conditioners to lower indoor temperature throughout the year. A successful example of early intervention was a cartel investigation on 15 air-conditioner manufactures in 2022. In May 2022 the CTFTC launched an investigation triggered by complaints from the general public. It found that the 15 manufactures jointly agreed to cut the warranty period from 7 years to 3 years. The CTFTC took preemptive actions to prevent the manufactures from implementing their agreements, and their negative impacts on the general public.

market position of the enterprise; 6. types of, number of, and intervening time between past violations, and the punishment for such violations; and 7. attitude shown on rectification of the act, cooperation in the investigation, and so on."

2. Communication of competition interventions

2.1. Annual advocacy plans and activities

16. To create a culture of competition, the CTFTC develops its competition annual advocacy plan to meet the needs of enforcement by organizing well-rounded advocacy activities targeting at governmental agencies, business sectors and the general public, respectively. These advocacy activities comprise: consultation with governmental agencies to avoid regulations, policies or regulatory measures that may harm competition; communication with governmental agencies at seminars to exchange views on specific issues; promoting public awareness of competition law to improve compliance, and reinforcing the value of competition by collaborating with academia and the education sectors.

2.2. Advocacy activities targeting governmental agencies

17. When joining a multi-agency task force, the CTFTC not only exercises its power under the relevant legislation for its assigned tasks, namely cartel investigations, but also continues to communicate with other governmental agencies, relevant businesses and industrial groups to ensure that all relevant parties fully comprehend the risks of competition law infringements and call for joint efforts to safeguard market competition.

18. One of the examples was the 2021 task force on co-prosperity of domestic industries and online platform giants. The task force consisted of the Ministry of Digital Affairs, the National Communications Commission, the Ministry of Culture and the CTFTC. The CTFTC made contributions on potential competition issues, particularly with regard to the legality of collective bargaining between domestic news businesses and platform giants. The CTFTC suggested that news businesses could apply for a cartel exemption under the proviso of Paragraph 1, Article 15 of the FTA if they intended to collectively bargain with the platform giants. This reflects the reality where collective bargaining is likely to offset the significant bargaining power imbalance between news businesses and the gigantic online platform operators, and news business can also benefit from lower transaction costs.

19. The CTFTC is often invited to attend workshops and seminars organized by other governmental agencies. To enhance understanding of competition law enforcement in public and private sectors, the CTFTC sees these venues as advocacy opportunities to clarify the FTA and provide an update on international competition laws. In 2022, the CTFTC was invited to participate in the following meetings: “The taskforce meeting on stabilizing international sea freight sectors” hosted by the Maritime Port Bureau, MoTC, and “The meeting on steel for public works” held by the Executive Yuan. In those meetings, the CTFTC made competition law and policy advocacy, and prompted businesses to comply with the FTA.

20. The CTFTC released its draft of the “White Paper on Competition Policy in the Digital Economy” in March 2022. After consulting governmental agencies, academics/experts, industry stakeholders, research institutes and business professionals, the CTFTC revised the draft and finalized the White Paper in December 2022.

21. As COVID-19 surged in May 2022, the number of disputes over insurance claims for COVID-19 skyrocketed. The Financial Supervisory Commission (FSC) directed the Life Insurance Association and Non-life Insurance Association to establish a set of guiding principles for COVID-19 insurance claims. Precautionary action was taken by the CTFTC with the aim of eliminating potential concerns around this concerted action that may restrict

individual insurers' discretion over their decisions on insurance claims. The CTFTC requested the FSC to provide the draft of the guiding principles for review. These principles did not come into effect until the CTFTC confirmed that no competition concerns arose.

2.2.1. Advocacy activities targeting private businesses

22. The CTFTC selected several sectors highly concerns the public as its advocacy priorities. These sectors included real estate, cosmetics and medical supplies. In 2022, the CTFTC organized 58 advocacy activities with tailored topics and materials to meet individual needs in different sectors. Across the activities, 96.4 percent of participants found that the advocacy events helped them to have a better understanding of the competition law. The overall satisfaction rate reached 95.1 percent.

23. To raise awareness of competition law compliance, in 2013 and 2018 the CTFTC organized two seminars for executives of TFT-LCD manufacturers who were involved in price fixing and sentenced to serve prison time in the U.S to share their experience with the seminar attendees. Given the success of the seminars and the importance of promoting legal compliance, the CTFTC hosted a similar seminar for senior managers across different sectors at the workshop on the "Fair Trade Act and its Case Study for the Northern Elite" in 2022. The overall satisfaction rate was 100 percent, suggesting that this activity met the needs of business sectors.

2.2.2. Advocacy activities targeting the general public

24. In addition to printed brochures, flyers, publications and offline advocacy activities, the CTFTC has used various venues to promote competition law and policies to the public. These avenues include the internet, news tickers, magazines, advertising sites at metro stations, interchange stations and in carriages of electric multiple units, digital TV advertising at metro station platforms and convenient stores, and smart displays in elevators in apartment buildings.

25. In response to the rise of e-reading in the digital era, the CTFTC particularly values effective delivery of messages to the public through digital media by using precise and concise language. Creative attempts at expanding communication channels have been made by the CTFTC – uploading videos on important activities to YouTube, filming videos in short format and issuing e-newsletters – to attract more audience. The CTFTC also made efforts to present information in plain language along with photos, infographics and PowerPoint slides so that readers/viewers can understand it quickly and easily. In terms of individual case decisions, to ensure that important information can be communicated promptly, text messages containing discussion items at Commissioners' meetings are sent to the news media, and updates on the Commission's decisions on major cases are provided via an instant messaging app.

26. Legal terms are not always easily understood by the general public. To reach a wider audience, the CTFTC has published a bimonthly - the "FTC Newsletter," containing succinct information on the CTFTC's enforcement activities, legislative changes and updates on international developments. This publication is distributed via different channels, for example, mailing the printed version to governmental agencies, leading firms in private sectors, foreign companies, industrial associations, and local public libraries and university libraries. The online version is uploaded to the FTC's website for public access and sent to subscribers separately.

27. The FTC Newsletter is also an effective tool to communicate with the public for competition and consumer issues. An example is the CTFTC's investigation in 2022 into unlawful restrictions imposed by a food delivery platform operator on restaurants. The

CTFTC found that the food delivery platform had substantial market power from the larger number of participating individual consumers and partnering restaurants. The CTFTC not only updated timely its decision in the press release, but also provided the rationale behind the decision in the Newsletter to emphasize that the restrictions imposed on restaurants, including maintaining the same prices for dine-in and delivery service customers and setting “pick-up” as the default option, were considered an infringement of the FTA. Such materials could be also leveraged to increase businesses’ understanding of the FTA and potential illegal business practices.

2.2.3. Communication with the Legislative Yuan in a timely manner

28. When tackling issues requiring timely responses to the Legislative Yuan, the CTFTC has been taking a two-pronged approach: effective communication and timely action. The CTFTC will gather relevant data and information, clarify whether any competition concerns may arise and outline the CTFTC’s approaches to competition issues within a specific time frame. Throughout the decision-making stages, the CTFTC will endeavor to inform the Legislative Yuan or the public of its positions by using press releases, news tickers, or formal submissions to the Legislative Yuan.

29. The most recent example is a rise in egg prices due to avian flu, pellets and transportation costs at the start of 2023. The CTFTC launched a market inquiry requesting data on prices and egg production, and consulting wholesalers, distributors, relevant associations and the competent authority of Agriculture to acquire a full picture of price fluctuations in the supply chain and their reasons. In addition, the CTFTC is also a member of a multi-agency task force responsible for investigating egg prices of daily necessities and clarifying whether there are any price cartels in the supply chain of eggs.

30. The Legislative Yuan expressed serious concerns around concert actions in the egg industry and requested the CTFTC to report its findings. The CTFTC made a full report to the Legislative Yuan and presented the information collected from investigation activities as well as its competition assessments. A clear message was also conveyed to the public on the CTFTC’s website that price fixing is a violation of the FTA and whistle blowers are encouraged to come forward.

3. Conclusion

31. Article 1 of the FTA states clearly that the purpose of competition law is to maintain trading order and protect consumers’ interests⁶. The CTFTC has committed to ex-ante assessments and ex-post evaluations to enhance the effectiveness of its enforcement activities. The outcomes of competition interventions have also been delivered to the public in various communication channels.

32. A culture of competition needs to be supported by three pillars: the government’s self-knowledge, industry self-regulation and consumers’ self-awareness. Following the more experienced competition authorities, the CTFTC continues to build up rules under competition law and to adopt evidence-based approaches to evaluate the benefits of competition interventions. The CTFTC also pursues effective competition advocacy

⁶ Article 1 of the FTA provides that “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.” For the full context, please see: <https://www.ftc.gov.tw/internet/english/doc/docDetail.aspx?uid=644&docid=15182>.

through different communication channels to carry on promoting competition and growing public understanding of competition law.



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

Theories of Harm for Digital Mergers – Note by Chinese Taipei

16 June 2023

This document reproduces a written contribution from Chinese Taipei submitted for Item 8 of the 140th OECD Competition Committee meeting on 14-16 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/theories-of-harm-for-digital-mergers.htm>

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Chinese Taipei

1. This paper outlines challenges facing the Chinese Taipei Fair Trade Commission (hereinafter referred to as the “CTFTC”) for merger review in digital markets. It also presents case studies with applicable theories of harm and key aspects of their assessments.

1. Introduction: policy development

2. To respond to competition issues emerging in the digital economy, the CTFTC dedicated itself to preparing a White Paper on Competition Policy in the Digital Economy (the White Paper) in 2021. Following the consultation process as well as a number of internal and external meetings, the CTFTC released the final version of the White Paper on December 20, 2022.¹ The White Paper covers the most prominent competition issues in the digital economy. These issues include, but are not limited to, market definition, market power assessment, self-preferencing of platform operators, tie-in sales and price discrimination as well as data privacy and algorithms. In the White Paper, the CTFTC aims to point out its general views and guiding principles for businesses to navigate compliance challenges in the ever-changing world of technology.

2. Challenges of reviewing digital mergers

3. In the digital economy, competition occurs between ecosystems rather than between individual products. Through horizontal and non-horizontal mergers, technologies, goods and services that seem to be initially unrelated may be combined to facilitate businesses to provide more integrated products. Given the interplay of the characteristics of the digital economy – increased network effects, data-driven growth, near zero marginal cost of production and cross-border competition, digital markets present themselves as distinct from traditional markets. These can be observed in respect of sources of entry barriers, competition elements, levels of product diversity and differentiation as well as evolving paths for markets.

2.1. Challenges of defining relevant markets

4. Market definition is a complex task, and the characteristics of digital markets make it even more complicated. Since the digital economy is mainly driven by innovation, and competition among ecosystems is highly dynamic, businesses tend to acquire key technologies, data or distribution channels from market participants instead of acquiring their direct rivals in the same markets.

5. The main purpose of market definition is to examine and evaluate competition constraints and concerns. As a result, in a digital industry, defining a wider (product or geographic) market sometimes may help develop a more informed understanding of the potential or actual impacts from a proposed merger on each relevant and adjacent market. This approach can sometimes blur the conventional distinction between horizontal and non-

¹ See press release, available at <https://www.ftc.gov.tw/internet/english/doc/docDetail.aspx?uid=179&docid=17352>; Summary of White Paper in English version, available at <https://www.ftc.gov.tw/upload/46909b24-e97f-460e-a26b-51f423ea3209.pdf>.

horizontal mergers. However, considering the nature of dynamic competition, the scope of market subject to material competition is not necessary to be restricted to a narrowly defined “horizontal” market. It may not be very meaningful to overly emphasize the importance of classifying a merger as horizontal or non-horizontal.

2.2. Challenges of competition assessment

6. Traditionally, assessing impacts of horizontal mergers, either in terms of unilateral effects or coordinated effects, focus mainly on price effects. In the digital economy, such price effects may not be easily observed. Given skewed pricing strategies widely used by platform operators, they often adjust prices on their service portfolios rather than on a specific side of the platform. Moreover, in the digital economy, consumers are normally offered services/products at a price of zero. Non-price competition, including product diversification, quality of products/services and consumer choices have become increasingly important, enabling platform operators to have broadening flexibility when designing their pricing structures.

7. When competition assessment switches its focus to an expanding scope of market competition and dynamic competition among ecosystems, market power does not simply refer to a business’ ability to manipulate prices of individual products, but its impact on product diversity and differentiation. Mergers in digital markets do not usually meet strict criteria of horizontal mergers set out in current competition law. Competition concerns around digital mergers are whether they will lead to market foreclosure, impediment of innovation or misuse of market power. In other words, competition assessment will shift from price impacts to businesses’ abilities to control resources critical to competition (e.g. data), and the likelihood of exclusionary practices, for example killer acquisitions or any conduct that may restrict or distort potential competition.

3. Theories of harm for digital mergers

3.1. Killer acquisitions and the concept of potential competition

8. Theories of harm for killer acquisitions have been of great interest to the CTFTC in recent years. It has been challenging to prove whether a killer acquisition is designed to eliminate potential competitors. Tactical intentions behind businesses’ strategies of mergers and acquisitions (M&A) may only be able to be observed over a longer period.

9. Furthermore, the effect of startup acquisitions on innovation is also on the radar. The prospect of being acquired is one of the noticeable incentives for startup companies to be willing to invest in innovation. In the future, positive effects on technological innovation will also be considered when the CTFTC assesses the competition impact of a killer acquisition. For example, assets, technologies, talents or intellectual property rights of the acquired party will be incorporated into the acquiring party’s ecosystem. They can be used to improve products and technologies of the acquiring company, and then support further innovation of the acquiring party.

10. Until now, the CTFTC has not applied a specific theory of harm to assess a killer acquisition. Under Point 12 of its Merger Guidelines², the CTFTC is required to evaluate

² Point 12 of the CTFTC’s Guidelines on Handling Merger Filings provide that: “The FTC considers the following factors when reviewing conglomerate mergers: (1) The possibility of regulatory changes and its impact on business operations of the merging parties across different industries; (2) The likelihood of technological advancement enabling the merging parties to engage in cross-

the impact from conglomerate mergers on potential competition by reviewing regulatory rules, technological advancement and plans between merging parties for cross-sector collaboration prior to the proposed M&A. The CTFTC has thus gained some experience around potential competition when reviewing conglomerate mergers. When the likelihood of potential competition between merging parties is considered substantial, further analysis of the adverse effects on competition is needed. Factors included in the competition assessment vary with major competitive effects of the merger under review. Namely, the CTFTC will examine whether it is similar to a horizontal or vertical merger, and then apply the corresponding reviewing framework to assess its overall competitive effects.

3.1.1. Case Study 1: Proposed acquisition of Communications Global Certification Inc. by Google Inc.

11. At the end of September 2017, HTC Corporation announced that it would sell its ODM team to Google Inc. following a deal worth \$1.1 billion US dollars. Google planned to acquire HTC's employees who had been working to design and manufacture Pixel smartphones and HTC's intellectual property under non-exclusive license agreements. In this deal, Google would indirectly acquire 100% of shares of a HTC wholly-owned subsidiary i.e. Communications Global Certification Inc. ("CGC"). The proposed acquisition was considered as a conglomerate merger as the merging parties did not compete with each other or operate at different stages of the supply chain. Google's main businesses covered internet search services, mobile operating systems (OS) and online advertisements, while CGC provided terminal certification and testing services. This acquisition did not include HTC's smartphone production lines.

12. The CTFTC concluded that there was no substantial potential competition between the merging parties based on the following findings:

- CGC provided certification and testing services for mobile devices. Any certification service provider that met the criteria set by the regulatory agency – the National Communication Commission ("NCC") could be delegated by the NCC to test and verify telecommunications terminal equipment. The investigation showed that there were 30 firms eligible for providing the services. It suggested that the criteria set by the regulatory agency did not create entry barriers in the certification and testing service market. Added to this, widely-available equipment and mature technologies for testing and certification services had been commonly used by relevant businesses. The likelihood of Google independently entering into the certification and testing market would not increase with regulatory changes or technological progress.
- Google and its subsidiaries did not have any plan to enter the certification and testing market to compete with CGC before or after this proposed acquisition of CGC. Google had made long-term investments involving a large amount of money in developing its Android OS and exclusive apps to enable them to be accepted widely by mobile device manufacturers and users. CGC did not have experiences and resources required for the development of a mobile OS and apps with similar features. It was unlikely for CGC to enter the mobile OS market and the mobile application market in the short run. No evidence showed that Google perceived CGC as a potential competitor.

industry operations; (3) Respective cross-industry development projects that the merging parties have prior to the proposed merger; (4) Other factors substantially impacting on the likelihood of potential competition."

3.2. Competitive advantages in the era of big data

13. In digital markets, businesses have been engaging in a race for effective innovation of business models to acquire or maintain their dominant positions. Accessing large data sets has become a key basis if businesses want to keep up with or surpass their competitors, particularly for platform operators. Platform operators are in a superior position to increase their profits and enhance their competitive advantages due to indirect network externalities. As they are at the center of data ecosystems, application of data and data analysis will further amplify the impact of network effects. Platform operators with more users are able to access a larger amount of data to improve the quality of services and offer more precise targeting in advertising than their rivals.

14. Nevertheless, the accumulation of vast amounts of data or its concentration does not necessarily lead to a rise in market power. Data is classified as an information good that is inherently not scarce or rivalrous. A platform operator with a large base of users can collect more data while data from the same user can be used by other firms simultaneously. The value of the data will not be depleted since it is used repeatedly. In addition to this, data collection, analysis and application can be completed at nearly the same time, inferring a short lifecycle of valuable data. In short, accumulating long-term historical data will not warrant that a business gains competitive advantages.

15. The CTFTC will take various factors into account to evaluate the role of data in market competition. The CTFTC will identify how likely data itself can be substituted and how the data might be used to confer competitive advantage. The CTFTC will also consider whether data can be duplicated, whether it can be collected from multiple sources, substitutability of different datasets, and whether data is served as a key input to the market. Whether a business is capable of processing, analyzing and acting on collected data is also counted as part of the competition assessment to see if the data-driven competitive advantages can be realized.

3.2.1. Case Study 2: Creation of a joint venture for internet-only banking – LINE Bank

16. To accelerate digital transformation and financial innovation and promote inclusive finance in the banking sector, the Financial Supervisory Commission (“FSC”) relaxed the regulatory barriers for the establishment of internet-only banks in 2018. In this context, 7 firms filed a proposed joint venture of LINE Bank to the FSC for approval. These firms included LINE Financial, four banks and two telecommunication companies. Since this proposed joint venture met thresholds and criteria of merger notifications under the Fair Trade Act, the merging parties were obligated to report it to the CTFTC.

17. Of the merging parties, LINE Financial Taiwan Limited (“LINE Financial”) is an affiliate of the LINE Group that owns the most popular messaging app - LINE APP in Chinese Taipei. The LINE Group has built its ecosystem comprising mobile payment, online shopping and mobile marketing. This has enabled the LINE Group to collect large amount of data, which includes users’ digital footprints (browsing history for example). In the merger review process, the merger filing revealed that they planned to make use of the LINE APP to connect customers of LINE Bank to the LINE ecosystem and claimed that it would help meet various customers’ needs in their daily life. LINE Bank was thus likely to collect and analyze specific data such as customer preferences and relevance of social networks to identify characteristics of target customers, provide products serving customers’ needs and further integrate the data into the customers’ credit-scoring system of LINE Bank.

18. A potential competition concern arose - whether the proposed joint venture would enable LINE Bank to leverage the LINE Group's data-driven competitive advantages and prevent rival companies from competing. The CTFTC considered the following aspects in its assessment:

- Personal information was typically not considered as exclusive because it could be collected by the majority of internet-related service providers. A customer's long-term digital footprint collected by a specific platform could help it to offer more personalized services by pinpointing individual users' characteristics, habits and preferences. While such information may be considered as exclusive data, its value could diminish rapidly in a very short period of time.
- It showed that LINE Bank might be able to leverage the customers' data owned by the LINE Group to identify customers' needs and provide more customer-orientated services. However, this did not stop internet-only banks and conventional banks from collecting customers' data through different sources. In addition to their own databases across different industries, competitors in the financial sector could partner with their affiliates in the same business groups or cooperate with data companies, which included messaging apps other than LINE APP, social media, search engines and shopping websites to access user data.
- As noted above, the LINE Group had a trove of data, but LINE Bank's competitors could gather data from other sources or collect substitute data. Additionally, whether the LINE Group's data trove could bring about the anticipated competitive advantages still hinges on LINE Group's capability of processing, analyzing and applying the data. Hence, the CTFTC concluded that in comparison with its competitors, LINE Group's trove of data itself did not guarantee that LINE Bank would enjoy unduplicable or insurmountable competitive advantages in the sector.

3.3. The interface between protection of personal data and competition law

19. Despite no universal rules in the field of competition laws, a general understanding around personal data is that protection of personal data can be taken into account as a non-price competition parameter when assessing "quality." Alternatively, the level of personal data protection can be used as a parameter when conducting competition assessment, such as the breadth and depth of personal data being collected and used, the accessibility of current privacy policy, and whether privacy-enhancing technologies have been adopted.

20. Competition concerns around personal data protection may arise in certain M&A activities. In a merger between businesses with different levels of personal data protection in place and where user data is a critical part of their inputs, it may raise doubts about whether the overall degree of personal data protection post-merger could be as sufficient as its pre-merger level. For the business with a better safeguarding mechanism for personal data, the merger may incentivize it to discontinue the original mechanism. The degree of users' privacy protection is likely to be reduced after such M&A activities and the merging parties may collect more user data, or transfer user data to third parties beyond those that users could reasonably foresee.

21. The CTFTC has attempted to include privacy protection as an element of product quality in the assessment, which has also served for the purpose of considering whether/how the assessment can be integrated with its current merger review process.

22. The joint venture of an internet-only bank - LINE Bank, is one recent example. The CTFTC will assess whether the proposed merger is likely to eliminate competitive constraints concerning personal data protection posed by merging parties on each other.

Before evaluating the impact of a proposed merger on personal data protection and on “competition based on privacy protection,” the CTFTC will look into whether the merging parties have been engaging in non-price (quality) competition in regards to personal data protection. In the case where such competition exists, the CTFTC will take further steps to assess the positive and negative impacts on privacy from the merger.

23. The CTFTC takes a more cautious view on competition interventions into platform operators’ breach of privacy protections due to the respective mandates of the competition agency and privacy regulators. Instead, the CTFTC expresses its views on privacy-related issues in individual cases. In the above-mentioned joint venture, the CTFTC concluded that the proposed joint venture did not restrict or eliminate “competition based on privacy protection,” and reminded the merging parties to abide by the Personal Data Protection Act.

4. Future directions in law enforcement

24. Competition in the digital economy is distinct from the traditional economy. Conventional analytical methods and approaches may not always be applicable when conducting competition assessment in data-driven markets. For example, a traditional competition assessment in a merger review process has centered around short-term price impacts, but it is often not the case in digital mergers. Competition enforcement agencies should have a broader perspective to measure market competition. A longer-term and non-price evaluation should be given more weight when assessing anti-competitive impacts from digital mergers, horizontal as well as non-horizontal.

25. Given the complex nature of emerging issues around the digital economy, the CTFTC adopts an issue-driven approach as its best enforcement principle at this stage. This approach allows the CTFTC to define and solve problems on a case-by-case basis, develop new analytical tools under its existing analytical framework, and further clarify legal criteria of anti-competitive practices as well as the application of theories of harm. The CTFTC will remain vigilant to keep up with the latest developments in domestic and international digital economies and periodically review its enforcement standards.





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Annual Report on Competition Policy Developments in Chinese Taipei

-- 2022 --

This report is submitted by Chinese Taipei to the Competition Committee FOR INFORMATION.

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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, 2022.
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 2,222 cases, including 2,081 cases received in 2022 and 141 cases carried over from 2021. By the end of 2022, 2,068 cases had been closed and 154 cases were pending.
4. The FTC reviewed 84 merger cases in 2022, which included 10 carried over from 2021 and 74 received in 2022. By the end of 2022, the FTC had completed the reviewing of 69 cases, none of which was prohibited, and 15 were pending.
5. In 2022, the FTC participated in various consultation meetings with other government agencies related to competition issues and organized 58 seminars for students, consumers, 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 2022.

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 2022, 77 cases of complaints fell into the category of unfair trade practices. The FTC also launched ex-officio investigations into 42 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 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 four 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 for remedies with judicial agencies 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 amended 8 guidelines and abolished 3 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:

14. (1) Amendments to:

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>.

- “Partial Amendments to the Enforcement Rules of the Fair Trade Act”;
 - “Criterion for Multi-level Marketing Enterprises Filing Reports for Record or Amendment”;
 - “Regulations Governing Multi-level Marketing Enterprises for setting up the Plan of Security Measures for the Personal Information Files and the Process Measures for the Personal Information after Termination of Business”;
 - “Fair Trade Commission Directions on Application for Access to Files and Documents”;
 - “Fair Trade Commission Directions on Oral Arguments in Cases”;
 - “Fair Trade Commission Directions on the Procedure of Public Hearings”;
 - “Fair Trade Commission Disposal Directions (Guidelines) on Handling Cases Governed by Article 21 of the Fair Trade Act ”; and
 - “Directions on Filings for Approval or Extension of Concerted Actions.”
15. (2) Abolition of:
- “Fair Trade Commission Disposal Directions (Guidelines) on Handling Promotional Advertisements”;
 - “Fair Trade Commission Disposal Directions (Policy Statements) on the Telecommunications Industry”; and
 - “Fair Trade Commission Disposal Directions (Guidelines) on the Sales Practices of Overseas Holiday Resort Member Cards (Membership).”

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 2022, the FTC processed 2,222 cases, including 2,081 cases received in 2022 and 141 cases carried over from the preceding year. By the end of 2022, 2,068 cases had been closed, and 154 cases were pending. A total of 77 complaint cases applicable to the FTA were concluded in 2022 and, of these, 22 concerned anti-competitive practices.

16. Decision rulings on complaints and FTC ex-officio investigations were undertaken in relation to 117 cases in 2022, and only 7 of these fell into the category of anti-competitive practices.

Table 1. Decision Rulings by the FTC in 2022

Unit: Number of cases

Year	Anti-competitive Practices	Abuse of Monopoly	Mergers	Concerted Actions	Resale Price Maintenance	Vertical Restraints
2022	7	-	2	5	-	-

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

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

Case 1: Household Air Conditioner Businesses Jointly Shorten the Warranty Period

17. The FTC decided at the 1,597th Commissioners' Meeting on May 5, 2022 that 15 domestic air conditioner businesses had violated Article 15 (1) of the FTA by getting together for meals to establish a mutual understanding to jointly reduce the warranty period. Therefore, the FTC imposed an administrative fine of NT\$2.5 million on each of Johnson Controls – Hitachi Air Conditioning Taiwan Co., Ltd., Panasonic Sales Taiwan Co., Ltd., Ho Tai Development Co., Ltd. and Ya-kuang Electric Appliance Co., Ltd.; NT\$800,000 on each of Sampo Corporation, Heran Co., Ltd. and Taiwan Sanyo Electric Co., Ltd.; NT\$200,000 on each of Taiwan Gree Co., Ltd., Mitsubishi Electric Taiwan Co., Ltd., Action Electronics Co., Ltd., Nexgen Mediatech Inc., Maxe Taiwan Co., Ltd., Sharp (Taiwan) Electronics Corporation, and New Widetech Industries Co., Ltd.; and NT\$100,000 on Yu Hwei Technology Co., Ltd. The fines totaled NT\$13.90 million.

18. A number of private citizens filed complaints that domestic air conditioner businesses had held meetings and decided to jointly reduce the household air conditioner warranty period. There were also discussions on the Internet saying that the air conditioner warranty period was about to become shorter. Therefore, the FTC launched an investigation. The findings revealed that the top three air conditioner businesses, namely, Hitachi, Panasonic and Daikin, had extended the household air conditioner warranty period from three years to seven years one after another starting in March 2019. Other lesser brands with smaller market shares followed suit in order to remain in competition as far as warranty conditions were concerned. However, at a professional peer dinner on November 26, 2019, air conditioner businesses discussed and exchanged ideas about the possibility of reducing the warranty period for household air conditioners and in the end 15 air conditioner businesses achieved a mutual understanding to shorten the warranty period to three years beginning on January 1, 2020. They also wrote down the content of the mutual understanding to make it a written document that was passed around for signature.

19. Household air conditioners were highly homogeneous and substitutable. Any air conditioner business reducing the warranty period alone would have risked losing its market. Hence, by achieving the mutual understanding to jointly shorten the warranty period, the businesses could protect their mutual interests. Since the warranty period was an important consideration when consumers shopped for air conditioners and the total market share of the air conditioner businesses involved was more than 90%, objectively speaking, the conduct could have affected the market supply-demand function. It was in violation of the regulation against concerted actions set forth in Paragraph 1 of Article 15 of the FTA.

20. The FTC would like to remind enterprises that mutual understandings regarding prices, production, trading counterparts, trading areas or agreements to restrict the business activities of one another established among businesses of the same trade and likely to affect the market supply-demand function are considered to be concerted actions. Whether the businesses actually execute the mutual understanding or not is irrelevant. When businesses of the same trade get together, they should avoid exchanging information about product prices, transaction conditions and so on in order not to violate the regulations against concerted actions set forth in the FTA.

Case 2: Six Dried Scallops Businesses Engaged in a Concerted Action

21. Before the Spring Festival, the prices of Lunar New Year food products escalated and dried scallops in particular became much more expensive. The FTC thought there was something suspicious and launched an investigation. During the 1597th Commissioners' Meeting on May 5, 2022, the FTC concluded that Che Sheng Trading Co., Ltd., Chun Che Trading Co., Ltd., Tou Hou Trading Co., Ltd. and Feng Che Trading Co., Ltd. (together hereinafter referred to as the Tou Hou Group) as well as Ly An Trade Co., Ltd. and Jin Chu Trading Co. Ltd. (together hereinafter referred to as the Ly An Group) had established a mutual understanding to jointly increase the prices of dried scallops. The practice complied with the description of a concerted action in Article 15 of the FTA. Therefore, the FTC imposed administrative fines on the two groups. The fines totaled NT\$5 million.

22. Dried scallops are one of the Lunar New Year food products favored by people in the country. Each year, the prices always go up before the Spring Festival. However, this year the FTC discovered that the price increase margins and time points seemed unusual. The FTC's investigation revealed that the dried scallops available in the market mainly came from Hokkaido, Japan. There were many importers, but the major ones were in fact all affiliated with two groups, the Ly An Group in the north and the Tou Hou Group in the south. The dried scallops imported by the two groups accounted for 70% of the total dried scallop imports. The FTC suspected that the price increases were the result of a mutual understanding and, therefore, launched an investigation.

23. The FTC did not suspend its law enforcement missions because of the holiday and spared no effort to collect evidence in the market. Initially, the two groups claimed that the import cost of dried scallops had gone up nearly 30% and they had no choice but to raise the prices. Nevertheless, the FTC obtained import data from the Customs Administration, Ministry of Finance, the details of the two groups' transactions with trading counterparts from the Fiscal Information Agency, Ministry of Finance, and business registration information from the Department of Commerce, Ministry of Economic Affairs and analyzed the percentages of sales to downstream businesses and the price spread. At the same time, the FTC also interviewed competitors and downstream businesses and sorted out and analyzed the purchase prices and quantities of scallops of various sizes. The findings indicated that the purchase costs of the two groups were different. There was no reason for the consistent price increases.

24. In addition, the FTC also found out that the two groups had been dried scallop importers for many years. They used LINE to exchange market and sensitive price-related information to achieve a mutual understanding on price increases. In addition, the price increases were synchronized and consistent. Apparently, it was a concerted action that resulted from the mutual understanding. Hence, the FTC decided during the Commissioners' Meeting that the six companies of the Tou Hou Group and Ly An Group had engaged in a concerted action as described in Article 15 of the FTA by establishing the mutual understanding to raise dried scallop prices. The conduct was able to affect the supply-demand function in the dried scallop market. Therefore, the FTC imposed an

administrative fine of NT\$1 million on each of the Tou Hou Group members, namely, Che Sheng Trading Co., Ltd., Chun Che Trading Co., Ltd., Tou Hou Trading Co., Ltd. and Feng Che Trading Co., Ltd. as well as NT\$500,000 on each of the Ly An Group Members, that is, Ly An Trade Co. Ltd. and Jin Chu Trading Co.

25. While businesses may become familiar with one another after being in the same profession for a long time, they are advised not to exchange important and sensitive information with regard to price and quantity or to “test” the reaction of competitors in order not to violate the regulation against concerted actions in the FTA. The FTC will continue to keep a close watch on the market and take immediate action if any anomaly occurs. The determination of the FTC to guard market competition and order is not to be challenged.

Case 3: Imposition of Price Restrictions on Distributors by a Healthcare Foods Manufacturer

26. Company A, a healthcare foods manufacturer, marketed its products through around one hundred medical supply stores and pharmacies. The FTC was informed by Company B that Company A requested that it sign a product supply agreement and sell the latter’s products in its stores and on its online platforms in accordance with the price list in the agreement. Company B thought the practice was in violation of the regulation against the imposition of resale price restrictions.

27. By imposing resale price restrictions, suppliers make it impossible for distributors to determine their prices according to the competition they face and their cost structures. Such conduct weakens price competition among distribution channels marketing products of the same brand or different retailers. For this reason, without justifiable causes, businesses may not impose any resale price restrictions. To determine whether such a practice is against the law, besides taking into account the market power of the business imposing such restrictions, it is also necessary to assess whether the conduct can lead to substantial restraints.

28. The FTC’s investigation showed that the product supply agreement that Company A signed with distributors included a list of suggested prices, an agreement on refraining from engaging in price competition and a punishment mechanism. A number of distributors interviewed by the FTC over the phone said that they had not been forced to sell according to the price list, while Company B also confirmed that it had not sold the products according to the price list. Online searches performed by the FTC revealed that the prices posted by distributors for the healthcare food products in question on different shopping websites were inconsistent. It was hard to prove that Company A had actually imposed resale price restrictions. Meanwhile, according to the 2021 Almanac of the Food Industry, Company A did not account for a large share of the total value of the domestic health food product market. There were many health food product brands and the market was competitive. In addition, Company A had already deleted the clauses associated with resale price restrictions from the agreement during the period when the FTC’s investigation was in progress.

29. Based on the results of its investigation, the FTC found it difficult to consider that Company A had violated Paragraph 1 of Article 19 of the FTA. Nonetheless, since Company A had indeed previously included resale price restriction clauses and a punishment mechanism in the product supply agreement, the FTC sent a written notice to remind the company to abide by related regulations in the FTA in order not to break the law.

Case 4: Application for Extension of Joint Shipment of Soy Beans Approved

30. The FTC decided at the 1,584th Commissioners' Meeting on January 26, 2022 to approve to extend the joint shipment of 5 soy bean imports. The FTC cited Article 15(1) as well as Article 16(2) of the FTA and approved the concerted application by TTET Union Corp., Tai Hwa Oil Industrial Co., Ltd., Great Wall Enterprise Co., Ltd., Mei Lan Lei Co., Ltd. and Ever Light Oil Co., Ltd., thereby giving them the permission to extend their joint shipment for 5 years until March 12, 2027.

31. TTET Union Corp. and the 4 other companies had applied earlier for exempted concerted action approval to bring in soy bean imports through joint shipments. On February 17, 2017, the FTC issued the Letter Kung Lian Tzu No.106001 to approve the application with undertakings attached. As the previous approval was about to expire, TETT Union Corp. and the four other companies acted according to Article 16(2) of the FTA and applied for permission to extend their joint shipment.

32. The FTC decided that the joint shipment of soy beans could enhance the bargaining power of the participants and lower transportation costs. Moreover, the volume of soy beans imported by the participants (hereinafter referred to as "the southern group") did not account for a large percentage of total soy bean imports, and they still had to face competition from other joint shipment groups and importers. Therefore, the southern group had the incentive to reflect the cost saving in their selling prices. In turn, the consumers would share the advantage of the economic benefits. Meanwhile, the competent authority for the industry of concern also indicated that joint shipments could increase the negotiating power of participating businesses for better international shipping fares and ensure a steady supply to meet the continuous demand of the downstream industrial chain as well as urgent or sporadic needs in the domestic market.

33. The FTC concluded that the concerted action to make joint shipments would benefit the overall economy and public interest and resulted in its decision to approve the extension application with the following undertakings attached:

- The applicants may act according to the principle of autonomy of private law and establish the guideline and regulations regarding what the participants should do to facilitate the operations of joint shipments. However, the applicants shall not make use of this permission or related regulations to engage in any other concerted actions or refuse to allow other enterprises to join the concerted action without justifiable cause. Any changes made by the members of the concerted action must be reported to the FTC for reference.
- The applicants shall not make use of this permission or related regulations to restrict any one of the applicants' freedom to decide the quantity of imports to be brought in or to bring in imports independently.
- The applicants are required to report to the FTC on a quarterly basis regarding the implementation of the joint shipment operations, including the registered purchased quantity of each importer, the actual quantity purchased, the shipment date and purchase prices, the sailing date and date of arrival at the domestic harbor, the quantity of imports of each applicant each month, the quantity processed, the sales, and the inventory.

4.2. Mergers and acquisitions

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

34. 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

Unit: Number of cases

Year	Cases under Processing			Results of Processing				Cases Pending at Year-end
	Carried over from 2021	Received in 2022	Total	Mergers not Prohibited	Mergers Prohibited	Termination of Review	Combined into other Cases	
2022	10	74	84	22	-	47	-	15

Table 3. Statistics on Enterprise Mergers

Unit: Number of cases

Year	Cases not Prohibited	Type of Merger (Article 10, Paragraph 1 of the Fair Trade Act)				
		Subparagraph 1	Subparagraph 2	Subparagraph 3	Subparagraph 4	Subparagraph 5
2022	22	-	21	2	8	19

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

4.2.2. Summary of significant cases

Case 1: Merger of PX Mart and RT-Mart Conditionally not Prohibited

35. The FTC decided at the 1,607th Commissioners' Meeting on July 13, 2022 to approve the high-profile PX Mart and RT-Mart merger in which the former would acquire 95.97% of the shares of the latter. However, certain undertakings were attached to ensure that the overall economic benefit after the merger would outweigh the disadvantages from the competition restraints.

36. Business mergers can lead to very important effects of management performance improvement, resource sharing and competitiveness enhancement. However, since mergers of large corporations can create negative impacts on market competition and arouse public concern, the FTC therefore has to look into such cases carefully. Considering that the merger between PX Mart and RT-Mart would have a major influence on consumers, suppliers and competitors, the FTC adopted a rigorous review procedure and invited trade associations to which the suppliers belonged, retail outlet operators, scholars and specialists as well as the consumer protection authorities to participate in discussions in order to obtain opinions from various sectors.

37. PX Mart thought the merger would create synergies of economies of scale and economies of scope to upgrade management efficiency, facilitate product deployment, reduce stock shortages and increase customer satisfaction. In addition, the company would remodel all of RT-Mart's existing retail outlets, install new equipment and improve the overall environment to offer better shopping experiences. The company also made a number of promises to enhance the overall economic benefit after the merger. Nevertheless, suppliers and the public had their doubts about whether the market would become overly concentrated, whether there would be price rises, and whether suppliers would be pushed into even more disadvantageous positions or even subjected to various new or increased additional charges.

38. The FTC did not prohibit the merger but, after a careful assessment, attached the following undertakings (see the appendix for the complete content) to eliminate doubts about competition restraints and ensure that the overall economic benefit would be greater than the disadvantages from competition restraints:

- PX Mart must fulfill its promises and may not increase prices at random, but causes not attributable to the merging parties, such as price increases as a result of changes in suppliers' cost structures, are not included.
- Within three years after the merger, PX Mart is to adhere to the pricing policy of maintaining consistent retail prices throughout the country and may lower prices in accordance with the competition in each region.
- After the merger, PX Mart may not randomly increase any additional charges imposed on any suppliers, but additional fee items derived from new services are excluded.
- Within three years after the merger, PX Mart may not collect slotting fees or new store sponsorships from its suppliers.
- Within three years after the merger, annual supply-marketing system changes and transaction condition revisions may not become more disadvantageous. If there are additional charges resulting from new services, suppliers must be given the liberty to choose and decide whether they would use such services and the imposition of such charges shall require the consent of the suppliers in advance.
- After the merger, the most favored customer clauses in the supply-marketing agreement and the implementation stipulations are to be deleted.
- Within three years after the merger, PX Mart is required to present reports on undertaking fulfillment and the achievements in terms of benefiting the overall economy to the FTC for reference before December 31 each year.

39. In the merger notification, PX Mart promised to make efforts to fulfill its corporate social responsibility, including stabilizing commodity prices, offering assistance to promote agricultural products, reinforcing services on offshore islands and in remote areas, and devoting itself to social welfare and emergency relief. The FTC hopes that the merger could achieve a win-win-win situation for PX Mart, consumers and the public.

Case 2: Joint Venture of Electronic Payment Operations not Prohibited

40. The FTC decided at the 1,565th Commissioners' Meeting on October 13, 2021 to cite Article 13 (1) of the FTA and approve the intended joint venture of FamilyMart Convenience Stores, E-Sun Commercial Bank and PI Mobile Technology Inc. to set up All Win Fintech Co., Ltd. to run electronic payment operations.

41. FamilyMart Convenience Stores, E.Sun Commercial Bank and PI Mobile Technology operated in different fields and respectively managed convenience store chain business, banking business and third-party payment business. However, each merging party provided mobile payment services. In addition, E.Sun Commercial Bank, the subsidiary of PI Mobile Technology Inc. and All Win Fintech Co., Ltd., the new company to be created, had all been approved by the Financial Supervisory Commission to run electronic payment business either as a sole operation or as a sideline. Therefore, the FTC evaluated the case from the angles of a horizontal merger and conglomerate merger.

42. As far as a horizontal merger was concerned, the content of the mobile payment services provided by and the market positioning of each merging party was not entirely the same. Competition in the relevant market to which each merging party belonged was fierce while there were also other powerful contenders. Consumers could easily change their trading counterparts. Hence, the merging parties would not have the ability to raise their product or service prices as a result of the merger. Meanwhile, the incentives for them to compete with one another would not be reduced either and the possibility and timeliness for new competitors to enter the mobile payment market also existed.

43. As for the conglomerate merger part, regulatory measures, technological progress and cross-industry development plans were unlikely to have any influence on the potential competition in the relevant markets. With regard to the purposes of the merging parties to create a joint venture to manage mobile payment operations, FamilyMart wanted to provide consumers with diverse and convenient payment services, whereas E.Sun Bank and PI mobile Technology intended to increase their cooperation with retail businesses. For this reason, the merging parties had no incentives to decrease or refuse cooperation with existing businesses in the relevant markets. Moreover, other competitors could also develop their mobile payment services or collaborate with other enterprises to cope with the merging parties. For this reason, the merger would not suddenly change the structure of the relevant markets and the original market status. On the contrary, it could have the positive effect of promoting competition in the mobile payment services market.

44. In addition, the FTC also made assessments in accordance with the user information and accumulated data involved in this case as well as digital competition issues such as the protection of personal information while taking into account the types and characteristics of user information and data that the merging parties could obtain through the merger as well as the market conditions. Competitors could collect such information from other sources or replace it with other information. Therefore, the FTC found it hard to consider that the user information and data that the merging parties could get hold of would bring them a competitive edge that other competitors could not duplicate. At the same time, the merger could not lead to the elimination of the competition pressure of the merging parties as far as the protection of personal information was concerned. In other words, it was not possible for competition to be weakened due to the merging parties' use of privacy protection as a pretext.

45. After reviewing the case, the FTC concluded that the merger would not result in significant competition restraints and the overall economic benefit would be greater than the disadvantages thereof incurred. The FTC thus decided to approve the merger by citing Article 13 (1) of the FTA.

Case 3: Merger between Medical Care Firms not Prohibited

46. The FTC decided at the 1,593rd Commissioners' Meeting on April 6, 2022 to cite Article 13(1) of the FTA and not prohibit the merger of Excelsior Medical Co., Ltd. (hereinafter referred to as "Excelsior Medical"), Excelsior Medical (Hong Kong) Co., Ltd.

(hereinafter referred to as “Excelsior HK”), British Cayman Islands-based Asia Renal Care, Ltd. (hereinafter referred to as “ARC”), British Virgin Islands-based Cardinal Medical Services Ltd. (hereinafter referred to as “Cardinal Medical Services”), Fresenius Medical Care Hong Kong Ltd. (hereinafter referred to “FMC HK”) and Hong Kong-based Nephrocare Ltd. (hereinafter referred to as “Nephrocare HK”).

47. Excelsior Medical intended to acquire about half of the shares of Cardinal Medical Services and Nephrocare HK from ARC and FMC HK, subsidiaries of German company Fresenius Medical Care AG & Co. KGaA (Fresenius Medical Care Group, hereinafter referred to as the “FME Group”) through its subsidiary Excelsior HK. Excelsior Medical would jointly manage the two companies with ARC and FMC HK. The condition met the filing threshold and, therefore, Excelsior Medical filed a pre-merger notification with the FTC.

48. Excelsior Medical, Cardinal Medical Services and Nephrocare HK were all suppliers of dialysis machines, artificial kidneys and other products associated with dialysis. Hence, there was horizontal overlapping in the operations of these three companies in the dialysis equipment market. Meanwhile, the FME Group was also the supplier of dialysis machines and artificial kidneys for Excelsior Medical. Therefore, the merger was both horizontal and vertical. Since Cardinal Medical Services and Nephrocare HK only sold products from their parent company, the FME Group, before and after the merger, Excelsior Medical would acquire less than half of their shares in the two companies and would not have the right to make adjustments to the distribution channels of either of them. Thus the merger would not lead to any changes in the domestic dialysis equipment market. Meanwhile, the downstream trading counterparts of dialysis equipment distributors were all medical institutions with a certain bargaining power and the increases in the market shares of the merging parties would be small after the merger. Hence the merging parties would not have the ability to raise the prices of dialysis equipment arbitrarily.

49. Moreover, the sales channels of the FME Group after the merger would remain the same as before. Although Excelsior Medical would acquire the shares of two sub-subsidiaries of the FME Group, it would not be able to influence the management strategies of the FME Group. At the same time, the manufacturers of dialysis machines and artificial kidneys were all well-known international companies, and there were also other existing distributors in the market. For the above reasons, the merger would not restrict other dialysis equipment distributors and manufacturers from choosing their upstream and downstream trading counterparts.

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

50. 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.

51. 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.

52. In 2022, the FTC organized and participated in various consultation meetings with other government authorities related to competition issues, as summarized in the following:

- Participated in the meeting on the “Recent Ready-Mixed-Concrete Price Fluctuation Response Measure Conference” held by the Public Construction Commission of the Executive Yuan to realize the reasons for price changes, as well as the feedback and recommendations from the Ministry of Economic Affairs, other competent authorities, and business operators.
- Participated in the 2nd meeting on the “Coordination Team for Co-Prosperty Development of Domestic Industry and Large Digital Platforms” held by the Executive Yuan and shared related views in practice.
- Participated in the meeting on “Issues Reflecting Domestic Steel Supply Insufficiency and Price Rising Conference” held by the Public Construction Commission of the Executive Yuan to realize business operators’ opinions.
- Participated in the meeting on the “Food Delivery Platforms Charging Platform Service Fees without Warning” hosted by the Executive Yuan’s Department of Consumer Protection.
- Participated in the meeting on the “Steel (Reinforcement Bar) for Public Construction” held by Vice President Shen of the Executive Yuan, and provided information on the recent cases that the association dealt with concerning the illegal joint behavior of the industry, and reminded the industry not to raise prices illegally.
- Participated in a hearing on the “Taiwan Mobile Co., Ltd.’s Report for Approval of its Merger with Taiwan Star Telecom Co., Ltd.” hosted by the National Communications Commission and provided the opinions of the expert witness.
- Participated in a hearing on the “Far Eastone Telecom Co., Ltd.’s Report for Approval of its Merger with Asia Pacific Telecom Co., Ltd.” hosted by the National Communications Commission and provided the opinions of the expert witness.
- Participated in the meeting on the “Research and Discussion Conference on the Need to Increase the Price of Ready-Mixed Concrete due to the Increase in Transportation Costs” held by the Public Construction Commission of the Executive Yuan, and learned about the relevant freight and price changes, the measures of the Ministry of Economic Affairs and other competent authorities, and feedback from the business operators.
- Participated in the meeting on the “Industrial Development and Market Competition Matters Related to the Report for Approval of Telecommunications Businesses Mergers.”
- Participated in meetings on the “International Maritime Transport Stability Working Group” hosted by the Maritime Port Bureau of the Ministry of Communications, and explained the views to the Bureau, the associations, and related companies, as well as reminded related companies to pay attention to avoid the violation of concerted actions under the FTA.
- Participated in meetings on the “Central Epidemic Command Center for Severe Specific Infectious Pneumonia,” and cooperated with relevant agencies according to the division of tasks assigned by the epidemic command center. Actively investigated illegal business operators that jointly gouged material prices during the epidemic period in order to effectively maintain the transaction order of epidemic prevention materials.

6. Resources of competition authorities

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

6.1.1. Annual budget

53. NT\$374.198 million in 2022 (approximately equivalent to US\$12.079 million in December 2022).

6.1.2. Number of employees (person-years):

54. There were 202 employees at the end of the year 2022, 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.

55. In terms of the educational background percentages, 17%, 51%, 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.

56. 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	35
Economists	105
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

57. Apart from the Department of Fair Competition, which has 30 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.

58. 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 29 staff members in the Department of Service Industry Competition and 28 in the Department of Manufacturing Industry Competition.

59. 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*

60. In 2022, 9 of the 26 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.

61. The FTC participated in various consultation meetings with other government agencies related to competition issues and organized 58 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:

62. January through December 2022.

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

63. The FTC finalized and released its “White Paper on Competition Policy in the Digital Economy” (White Paper) on December 20, 2022. The White Paper summarizes 14 competition issues in the digital economy and provides the FTC’s position and guiding principles of enforcement for enterprises’ reference. These issues include challenges to conventional market definition and assessment and analysis of market power, self-preferencing of platforms, tie-in sales, predatory pricing / inducement with low price, price discrimination, most favored nation clauses (MFNs), resale price maintenance (RPM), restrictions on online sales, data privacy and market competition, revenue sharing with news media, killer acquisition, algorithm, and false online advertising.

64. In addition, the White Paper also provides suggestions of possible regulatory amendments, such as to review the guidelines of market definition so as to adapt to the market features of digital economy, to revise guidelines of online advertising so as to incorporate new advertising issues emerged from advertorial marketing by internet celebrities, and to study whether to include and regulate both the collusions between horizontal enterprises and upstream / downstream enterprises as concerted actions under Article 14 of the FTA. Moreover, in the future, the FTC will progressively introduce information technology in the course of case analysis and improve its technological enforcement capability by employing digital tools. After accumulating considerable enforcement experience, the FTC may further promulgate guidelines on competition issues concerning digital economy.

65. The FTC studied and published reports on competition policy issues in 2022 with the following titles. All of them are only available in Chinese and only abstracts of them are provided in English:

- Research on the Role of Competition Law and Competition Policy in the Financial Industry
- Research on Competition Law and Issues of the Dairy Industry in Chinese Taipei
- Research on the Application and Improvement of the Competition Law Leniency Program Through the Case of Transnational Cartel Cases

- Research on Economic Analysis of a Multi-Sided Platform Business for Competition Law
- Research on the Competitive Analysis of Multinational Technology Companies in Major Digital Advertising Markets: Focusing on Advertising Resources
- Research on the Overview, Development and Competition Act Enforcement of the Digital Platform Industry in Chinese Taipei.