

Taiwan Fair Trade Commission Fined Pharmacies Cartel in Taiwan NT\$195 Million

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The Taiwan Fair Trade Commission (TFTC) decided on 31 December 2008 to fine 53 drugstores and pharmacies and 16 medicine suppliers NT\$195 million for their concerted actions in jointly deciding and maintaining prices of radio-advertised medicine.

According to the public's complaints received by the TFTC, in Kaohsiung County, Kaohsiung City and Pingtung County, which are in southern Taiwan, about 10 drugstores selling radio-advertised medicine formed a so-called "Yong-Jian Advertised Medicine Association" ("Yong-Jian Association"), which holds regular meetings every two months, and its purpose is to decide and maintain the selling prices of medicine advertised on radio programs. The TFTC found that upstream suppliers of medicine also attend the regular meetings of the Yong-Jian Association, pay annual fees to the Yong-Jian Association, and formed another organization, Suppliers' Association of Advertised Medicine ("Suppliers' Association"), to conduct concerted actions to jointly maintain the resale prices of the radio-advertised medicine with the Yong-Jian Association.

The members of the Yong-Jian Association are drug retailers with drugstore or pharmacy licenses; they engage in medicine retail business in Kaohsiung and Pingtung. The Yong-Jian Association has a president, a vice-president, a financial officer, and a secretary. The committee, consisting of 17 members, is the core of the Yong-Jian Association, handling the regulations of rights and obligations of members and the penalties for violators. The Yong-Jian Association prohibits its members from reducing prices for sales promotion, or promoting other brands of medicine when the consumers ask for a certain brand of medicine. To ensure that the members observe the regulations and resolutions of the Yong-Jian Association, the Yong-Jian Association collects from each member NT\$30,000 as a deposit to guarantee compliance and cooperation, and the members who act against the resolutions are penalized or forced to withdraw from the Yong-Jian Association. The TFTC found that the Yong-Jian Association conducted concerted actions in preventing its members from reducing medicine prices for sales promotion, fixing resale prices and imposing other restrictions on business activities, which undermined the retail market of radio-advertised medicine, and were against Article 14 of the Taiwan Fair Trade Act.

The TFTC also held that the Suppliers' Association fosters exchange of information about radio-advertised medicine through social functions attended by its members. They also actively participate in the regular meetings and committee of the Yong-Jian Association, and assist in handling the disputes between members of the Yong-Jian Association. The Suppliers' Association also asks the members of the Yong-Jian Association not to engage in

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price competition and not to promote other brands of medicine to consumers. Meanwhile, in order to maintain the prices of the advertised medicine, the Suppliers' Association checks the Yong-Jian Association members' compliance through random and unannounced purchases. If downstream drugstores engage in price competition or push other brands of medicine to consumers, the Suppliers' Association stops supplying goods to the downstream drugstores or a penalty is imposed on the downstream drugstores. The TFTC held that the Suppliers' Association maintained retail prices and imposed other restrictions on business activities, which undermined the retail market of radio-advertised medicine and hence violated against Article 14 of the Taiwan Fair Trade Act. Given the above, the TFTC decided to impose a severe fine against 53 drugstores and pharmacies and 16 medicine suppliers in the total amount of NT\$195 million.