

The Taiwan Fair Trade Commission Blocks KTV Merger the Third Time

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In a decision dated 15 April 2009, the Fair Trade Commission (FTC) determined that the potential adverse consequences of stifled competition arising from the proposed acquisition and merger of Cashbox Party World Karaoke Parlors ("Partyworld") by Holiday Group Co. Ltd. ("Holiday") would outweigh the overall economic benefit from the transaction, and no conditions or remedy can ensure that the overall economic benefit will eventually outweigh the potential adverse consequences of stifled competition. Thus the FTC prohibited the merger again under Article 12 Paragraph 1 of the Fair Trade Act (FTA).

This is the third time that the FTC has blocked the proposed merger between Partyworld and Holiday after the FTC blocked the deals in March 2007 and April 2008, although the two prior decisions made by the FTC were revoked by the Administrative Yuan in the administrative appeal procedure. This time, after collating more information from the market and performing a thorough analysis, the FTC still could not be convinced that the overall economic benefit resulting from this transaction would outweigh the adverse consequences of stifled competition. Thus, the FTC again prohibited the merger.

The two companies submitted a merger filing to the FTC in 2009. The FTC's investigation showed that the two companies were currently the largest and second-largest enterprises in the multimedia karaoke parlor market, and that their combined market share exceeded 50% nationally, and was 90% in Taipei City and County, the key regional market; so they are considered to hold a monopoly in the market. Also, the market share of the other existing enterprises in the same market was in all cases less than 1%, so they do not pose any substantial threat to Holiday and Partyworld in terms of business competition.

Given the above, there would be no effective market competition mechanism to prompt the post-merger enterprise to continue to pursue innovation and improve its service quality, and to prevent it from increasing the price for its services at will after the proposed merger. Furthermore, the merger would leave downstream consumers with no choice of adequate substitute service providers. Since consumers are not likely to have the power to prevent

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post-merger price hikes, the merger could significantly erode consumers' rights.

The FTC further stated that the Administrative Yuan did not deny the conclusion of the FTC in the previous decision regarding the economic analysis, and the FTC had considered the possibility of imposing conditions or commitments on both parties. However, the FTC still believed that no other measures could be taken to ensure competition in the relevant market after the proposed merger or boost the overall economic benefits. Thus, the FTC decided to block this transaction again.