

## **The Taiwan Fair Trade Commission Imposed Sanctions on Two Cable Television Companies for Violation of Pre-Merger Filing**

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In a decision dated July 7, 2009, the Fair Trade Commission ("FTC") determined that Dafeng TV Ltd. ("Dafeng") and DigiTai TV Ltd. ("DigiTai"), two cable television companies operating in Banciao, Taipei County, had violated the Fair Trade Act ("FTA") due to failure to make a pre-combination notification to the FTC for their regular joint operations in connection with the compression, transmission and decoding of digital signal, use of the same trademark and other customer services jointly provided through a joint venture company equally owned by the two companies. Consequently, the FTC ordered the two companies to take proper corrective actions within three months, and imposed a fine of NT\$2 million on each company.

The FTC found that Dafeng and DigiTai are the only two cable television operators in the franchise area of Banciao, Taipei County and hence have the combined market share of 100%. In order to promote digitization, Dafeng and DigiTai established an equally owned joint venture company, Araedis Broadband Ltd., to handle the establishment and maintenance of the digital backbone and headend equipment, compression, transmission and decoding of digital signal, which are necessary for the two companies to provide the digital television service.

In addition, signboards bearing "Araedis Broadband" and the trademark of Dafeng are hung and used at all the service locations of Dafeng and DigiTai, which has resulted in Dafeng and DigiTai losing their independent identity, and the customers could not distinguish between the two. Furthermore, the two companies' service centers are located in the same place, and their customer service is jointly managed, which translates to the same standard of service for both companies. Given the above, the two companies have regularly and jointly managed their business, which undermines healthy market competition.

According to the FTC, the regular and joint operations of Dafeng and DigiTai meet the definition of combination under the FTA, and since the filing thresholds are met by the parties' combined 100% market shares in the franchise area, their failure to make a

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pre-combination notification to the FTC is in violation of the FTA. Thus, the FTA ordered the two companies to correct such violation and imposed a fine of NT\$2 million on each company.