

Taiwan Fair Trade Commission Again Blocks KTV Merger

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In a decision dated 24 April 2008, the Fair Trade Commission (FTC) determined that the adverse consequences of restraining 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. Thus the FTC prohibited the merger under Article 12 Paragraph 1 of the Fair Trade Act (FTA).

The combined market share of Holiday and Partyworld exceeded the threshold of one third, above which filing for clearance is required prior to a merger. The two companies had submitted a merger filing to the FTC. 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 90% in Taipei City and County, the most important regional market. The post-merger company would have acquired a monopoly position, and therefore the case presented a clear likelihood that competition would be restricted.

The FTC stated that the main barriers to entry to the multimedia karaoke parlor market were the acquisition of licensing rights to karaoke singing tapes, and practical operating experience, which required the accumulation of intellectual capital. Thus new enterprises could not easily enter the market and compete in a timely manner. Also, the market share of the other existing enterprises in the same market was in all cases less than 1%, so that they could not readily exert competitive pressure on Holiday and Partyworld. Therefore after the proposed merger, there would be no effective market competition mechanism to prompt the post-merger enterprise to continue to engage in innovation and improve its service quality, and to prevent it from increasing the price for its services at will. Furthermore, the merger would not only reduce the bargaining power of upstream karaoke tape distributors and record companies, but would also leave downstream consumers with no choice of adequate substitute service providers available to them. Since consumers were not likely to have the power to prevent post-merger price hikes, there would be a significant impact on consumers' rights.

The FTC further stated that although the two companies were willing to undertake not to

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increase their prices or to reduce their number of operating locations in the five years following the proposed merger, such commitments could merely superficially maintain the status quo in terms of consumer protection; they could not improve the quality of service to consumers. Only if competition exists in a market can consumers enjoy lower prices or better service, and therefore the above commitments were not an adequate substitute for competition.

Moreover, the stated main aims of the proposed merger between Holiday and Partyworld were to reduce costs and to develop overseas markets; but a merger was not the only available means to achieving those goals, and it was not reasonable to pursue such goals by first eliminating competition in the domestic market.