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ANNUAL REPORT

PRICE FIXING ON FUEL SURCHARGE BY INDONESIAN AVIATION COMPANIES

The Commission for the Supervision of Business Supervision concluded its examination and issued a Decision on the violation of article 5 and 21 of the competition law, the Law n.5/1999. The violation engaged in the price fixing on fuel surcharge by thirteen aviation (airline) companies, namely PT Garuda Indonesia; PT Sriwijaya Air; PT Merpati Nusantara Airlines; PT Mandala Airlines; PT Riau Airlines; PT Travel Express Aviation Services; PT Lion Mentari Airlines; PT Wing Abadi Airlines; PT Metro Batavia; PT Kartika Airlines; PT Linus Airways; PT Trigana Air Service; and PT Indonesia AirAsia.

Finding on the price fixing

There were written agreement on the determination of fuel surcharge price on 4 May 2006 signed by the Chairperson of Indonesia Aviation Company Association (INACA), their Secretary General, and nine aviation companies (PT Mandala Airlines, PT Merpati Nusantara Airlines, PT Dirgantara Air Service, PT Sriwijaya Air, PT Pelita Air Service, PT Lion Mentari Air, PT Batavia Air, PT Indonesia Air Transport, and PT Garuda Indonesia). The agreement agreed upon the implementation of fuel surcharge from 10 May 2006 with certain amount (IDR 20,000/passenger) and impose by all flight schedule.

The agreement is officially cancelled on 30 May 2006 and thus, provides the opportunity by all aviation companies to fix their own fuel surcharge. Notwithstanding that being withdrawn, the agreement is still implemented by each aviation companies. It was found that at least nine reported parties fixed their fuel surcharge coordinately (concerted actions) within certain flight distance hour (zero to one hours, one to two hours, and two to three hours flight). The excessive fuel surcharge enjoyed by the nine reported parties since 2006 to 2009 deemed to inflict welfare loss to the consumer for IDR 5 to 13.8 trillion.

Finding on the fraud in cost determination

In determining production cost, the reported parties consider jet-fuel price movement and thus, the fraud in cost determination could be concluded.

Finding on the impact

KPPU calculated losses (harm) to the consumer by the amount of paid fuel surcharge by the consumer because of price fixing by reported parties during 2006-2009. The number calculated for IDR 5,081,739,669,158 to IDR 13,843,165,835,099.

Consideration

Considering one of the task of the Commission, the KPPU Commission Council recommended the Commission to provide advice and recommendation to the government as follows:

1. KPPU should recommend the Ministry of Transportation not to provide authority to business association or other type of

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organization by business to fix certain tariff or price;

2. Fines or damages, if the Decision is affirmed, shall be used to improve airport facilities and other public service to the consumer.

Decision

Based on available facts and evidences, the Commission Council decided as follows:

1. Nine reported parties (PT Garuda Indonesia, PT Sriwijaya Air, PT Merpati Nusantara Airlines, PT Mandala Airlines, PT Travel Express Aviation Service, PT Lion Mentari Airlines, PT. Wings Abadi Airlines, PT Metro Batavia, and PT Kartika Airlines) **are proved to violate article 5 on price fixing**;

2. Four reported parties (PT Riau Airlines, PT Linus Airways, PT Trigana Air Service, and PT Indonesia AirAsia) **are not proved to violate article 5 on price fixing**;

3. All reported parties are **not proved to violate article 21** on fraud in cost determination;

4. Concluded the existence of consumer loss for at least IDR 5,081,739,669,158 to IDR 13,843,165,835,099 during 2006 to 2009;

5. Cease order to cancel the written and unwritten agreement amongst nine reported parties proved to violate article 5;

6. Impose fines (in total) for IDR 80 billion and damages to nine reported parties proved violate article 5 for IDR 505 billion (in total).

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ANNUAL REPORT

SUPREME COURT AFFIRMED DECISION ON WATER MONOPOLY IN BATAM

Supreme Court (MA) through Decision Number 413K/PDT.SUS/2009 dated 28 October 2009 as in its official website stated to affirm KPPU Decision Number 11/KPPU-L/2008 related to Alleged Violation against Article 17, Article 19 point d and Article 25 paragraph (1) point a Law Number 5 Year 1999 by PT Adhya Tirta Batam (PT ATB) in association with clean water management in Batam decided by Commission Assembly comprising Ir. M. Nawir Messi, M.Sc (Chairman), Dr. Sukarmi, S.H., M.H. and Ir. Dedie S. Martadisastra, S.E., M.M. as respective member. MA's judge assembly to adjudicate is Prof. Dr.Takdir Rahmadi, S.H., LL.M (Chairman), Djafni Djamal, S.H., M.H., and H.DR. Mohammad Saleh, S.H., M.H. as respective member. (Until now, KPPU still have not received excerpt notice and copy of the Supreme Court's decision).
A case that started from a report to KPPU that has gone through the process of the Preliminary Examination held on 5 March to 18 April 2008, was continued until the extension of Advanced Examination until 25 August 2008. In this case, the Commission Assembly needs to assess the behavior of business actor in case of monopolistic practices. Based on the result of examination, the business actor alleged to perpetrate any violation and set as Reported Party is PT. Adhya Tirta Batam.

PT ATB as an administrator appointed by the Batam Industrial Development Authority to manage the water has stopped the connection of new water meter on the request of 6,889 (data from PT ATB), and as many as 12,781 (data from DPD REI Batam) as the bargaining power to ask for the rate increase to the Batam Authority. This is a fact of monopoly abuse as prohibited in Article 17 of Law Number 5 Year 1999 because there was abuse of Reported party position as the sole administrator of water to meet with its civil interest upon public loss as the consumer.

As known, this KPPU's Decision concerning water monopoly in Batam was decided on
13 October 2008 in the following dictums:

1. Stating that PT. Adhya Tirta Batam is proven legally and convincingly violating Article 17 of Law Number 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition;.
2. Stating that PT. Adhya Tirta Batam is not proven violating Article 19, point d of Law Number 5 Year 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition;
3. Stating that PT. Adhya Tirta Batam is not proven violating Article 25 paragraph (1), point a of Law Number 5 Year 1999 concerning Prohibition

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of Monopolistic Practices and Unfair Business Competition;

4. Ordering PT. Adhya Tirta Batam to revoke the policy of disconnecting the new water meter connection;

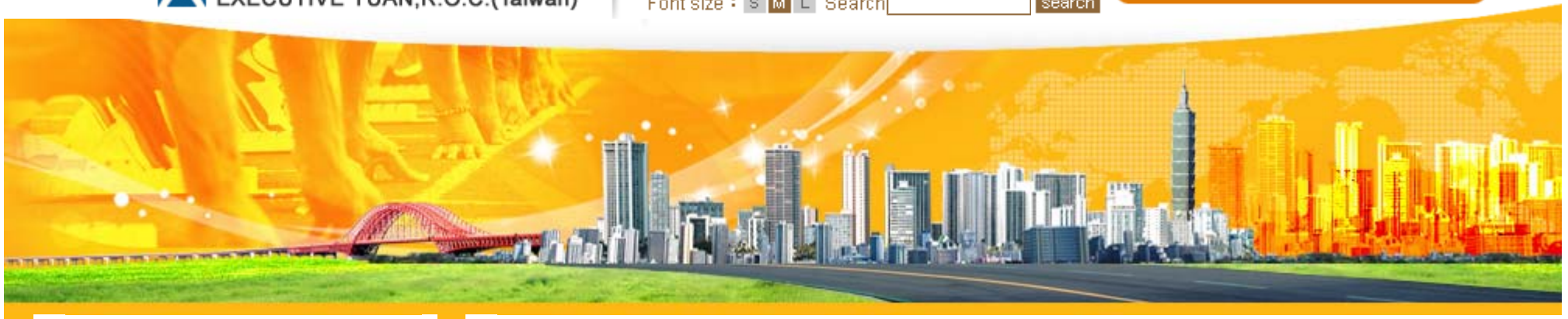
Punishing PT. Adhya Tirta Batam to pay a fine of Rp. 2,000,000,000, – (two billion rupiah) that must be paid to the State Treasury.
Prior to this appeal, PT. Adhya Tirta Batam as Reported Party, filed an objection in Batam District Court where upon this case the Batam District Court canceled KPPU's decision on the basis that PT Adhya Tirta Batam is a mandate executive of the Batam Authority Regional Regulation.

Abstraction that can be drawn from this matter is that water management monopolized by certain business actor is not automatically making it free from the obligation to behave healthy business. Notwithstanding his appointment was based on a Regional Regulation, the business actor can not take advantage of dominant monopoly position to force the policy change such as rate increase that in addition to show the abuse, it also clearly inflict the consumer; case to which meeting with the qualification of monopoly abuse prohibited by Article 17 of Law Number 5 Year 1999.
Known that, this decision of water monopoly is the 23rd KPPU's decision from 47 decisions filed the appeal or 72% is affirmed by MA.

KPPU really appreciates this MA's decision that systemically become a valuable thrust for KPPU to continue building a healthy business competition for people's welfare in the future.

Finally, we herewith convey our thank you for the partner's attention and assistance.

Junaidi (Mr)



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Print Forward

- The FTC Approval of Concerted Action on the Joint Application of Unconditional Endorsement and Transfer of Ticket Vouchers on Taipei – Kaohsiung Route of Four Domestic Airline Companies, Far Eastern Air Transport, Mandarin Airlines, TransAsia Airways
- 12 Liquid Petroleum Gas distributors in Huwei township, Yunlin, were fined for violating the Fair Trade Law by their concerted actions
- The Non-Life Insurance Association of the ROC Violates Article 14(1) of the Fair Trade Law by Engaging in a Concerted Action Sufficient to Affect the Supply and Demand in the Property Insurance Market
- Taipei County Jewelers' Association Violates Article 14(1) of the Fair Trade Law by Restricting Its Members' Freedom to Decide on the Sales Prices of Gold and Affecting the Market Function of Trade in Gold in Taipei County
- The act of the stevedore enterprises'' joint conclusion of agreements in Taichung Harbour did not amount to a concerted action regulated by the Fair Trade Law

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□ The FTC Approval of Concerted Action on the Joint Application of Unconditional Endorsement and Transfer of Ticket Vouchers on Taipei – Kaohsiung Route of Four Domestic Airline Companies, Far Eastern Air Transport, Mandarin Airlines, TransAsia Airways and Uni Air

During its 807th Commissioners' Meeting on April 26, 2007, the FTC resolved to approve the concerted action with regard to the joint application for the unconditional endorsement and transfer of ticket vouchers on the Taipei-Kaohsiung route of four domestic airline companies, namely, Far Eastern Air Transport, Mandarin Airlines, TransAsia Airways and UNI Air, pursuant to the proviso under Article 14(1) and the conditions and required undertakings under Article 15 of the Fair Trade Law. The four airline companies requested that Article 6 be rescinded or modified under the content of the permit, the Approval Decision Report of Order Kung-Lian-Tzu No. 095007 on October 26 2006. Although the FTC indicated that the formal operation of the High-Speed Rail significantly influenced the airline market on the west of Chinese Taipei, it thoroughly examined the matter and found that the airlines were to keep attaching the number of the flights, which cannot be more or less than 20% of the number of flights ratified in the month of approval. The duration of the permit was reduced from three years to two years from the date of application, and the period was to end on April 30, 2009, in order to safeguard the rights of passengers. Subsequently, the application will be further reviewed in the future based on the actual impact on the domestic air transportation industry and other kinds of transportation due to the operation of the High Speed Rail.

After consulting with the aviation competent authority, the Ministry of Transportation and Communications, and after adequate discussion at the Commissioners' meeting, the FTC believed that the implementation of unconditional endorsement and transfer of ticket vouchers on the Taipei-Kaohsiung route had positive effects that were beneficial to the economy as a whole and in the public interest. These effects included shortening flight intervals, increasing the passenger load rate, reducing flight costs, improving operating efficiency and facilitating travel

convenience. However, as for the restraints on competition or unfair competition, such as barriers to entry, sticky prices, the influence of upstream and downstream markets as well as consumers' rights and interests, no obvious impact was found.

At the same time, the FTC then determined to attach the following conditions and required undertakings on the applicants in terms of Article 15(1) of the Fair Trade Law, so as to prevent the applicants from employing the permit for concerted action to engage in restrictive competition or unfair competition, and to ensure that the overall economic benefit was greater than the impact of the competition restraints: 1. Without legitimate reasons, the applicants cannot refuse other applicants' requests to withdraw from or re-conclude the item on "Split Profits" under the "Agreement on Unconditional Endorsement and Transfer of Airline Tickets." 2. Besides issuing and selling "unconditional endorsement and transfer" airline tickets on the Taipei-Kaohsiung route, the applicants shall issue and sell "Non-Endorsable" tickets subject to the market competition mechanism and preferential prices. 3. Without legitimate reasons, the applicants cannot refuse other enterprises from participating in the concerted action pursuant to reasonable requirements. 4. Each applicant shall independently decide the transportation service prices and trading conditions of the Taipei-Kaohsiung route. Such a decision shall not be a result of the permit for this concerted action; the applicants cannot co-determine the prices and other trading conditions by means of contracts, agreements or any other form of mutual understanding, as a result of the permit for this concerted action. 5. During the permitted period of this concerted action, if the applicants are to reduce the number of flights on the Taipei-Kaohsiung route, the number of flight cannot be less than 20% of the number of flights already approved at the time of the application. 6. The applicants shall submit to the FTC for later reference the relevant trading information every six months. Such trading information shall include the agreed split profits, actual net profits split and amortized, seats provided, number of passengers, passenger load rate, face value, average sales price, total sales amount, and the sales ratio of transferable tickets to non-transferable tickets. The FTC simultaneously repealed the Approval Decision Report of Order Kung-Lian-Tzu No. 095007 on October 26, 2005.

□12 Liquid Petroleum Gas distributors in Huwei township, Yunlin, were fined for violating the Fair Trade Law by their concerted actions.

The FTC, during its 826th Commissioners' Meeting on September 6, 2007, resolved that 12 liquid petroleum gas distributors in Huwei township, Yunlin, namely, Chuan-Shuai Corporation (hereinafter called "Chuan-Shuai"), Ms. Lin, Yen-Yi (and Ta-Lung Fuel; hereinafter called "Ta-Lung"), Sen-Ming Propane Co. Ltd, Tao-An Gas Corporation, Ms. Huang, Shu-Chun (and Yung-Chi Gas; hereinafter called "Yung-Chi"), Mr. Liao, Yen-Qin (and Sen-Mao Petroleum Gas; hereinafter called "Sen-Mao"), Ms. Chen Huang, Li-Hua (the first person in charge of Yulin Liquid Petroleum Gas), Chih-Wen Corporation (hereinafter called "Chih-Wen"), Chien-Yeh Liquid Gas Co. Ltd. (hereinafter called "Chien-Yeh"), Mr. Chiu, Sheng-Ping (the first person in charge of Yuan Fu An Gas), Mr. Lin, Sung-Hsieh (the first person in charge of Yuan Hui Lai Gas) and Mr. Wu, Shun-Hsing (the first person in charge of Yuan Yung Sing Gas) agreed to raise the sales price of liquid petroleum gas in June 2004. Raising the sales price through the agreement was an act that mutually restrained the business activities and affected the function of the liquid petroleum gas distribution in Huwei township, Yunlin and the twelve distributors violated Article 14(1) of the Fair Trade Law, which provides that "[n]o enterprise shall have any concerted action." The FTC ordered them to cease the aforesaid unlawful act and an administrative fine of NT$360,000 was imposed on Chuan-Shuai, NT$250,000 on Ta-Lung, NT$200,000 on Sen-Ming, NT$150,000 on Tai-An, NT$100,000 on Yung-Chi, NT$100,000 on Sen-Mao, NT$100,000 on Ms. Chen Huang, Li-Hua, NT$90,000 on Chih-Wen, NT$70,000 on Chien-Yeh, NT$70,000 on Mr. Chiu, Sheng-Ping, NT$50,000 on Mr. Lin, Sung-Hsieh and NT$50,000 on Mr. Wu, Shun-Hsing. The administrative fines totaled NT$1,590,000.

The FTC indicated that, by taking advantage of the opportunity presented by COC Corporation, Taiwan and Formosa Petrochemical Corporation who raised the list price of domestic liquid petroleum gas to NT$1.5 per kg on June 5, 2004, Chuan-Shuai and Ta-Lung in Huwei township, Yunlin asked the enterprises that

were in the same line of business in the same township to gather and dine in the Wu Fu Yuan Restaurant together. They agreed to jointly raise the sales price of domestic 20kg liquid petroleum gas from NT$450 per barrel to NT$500 per barrel. They also made the majority of liquid petroleum gas distributors in the same township agree to raise the sales price of their domestic liquid petroleum gas to NT$500 per barrel, which was higher than the list price which was raised by COC Corporation, Taiwan, and Formosa Petrochemical Corporation (NT$ 1.5/kg×20kg=NT$30). Their acts had already severely affected the functions of the liquid petroleum gas distribution in Huwei township, Yunlin.

After taking into account the motive of the unlawful acts of the said Respondents, the degree of the unlawful act's harm to trading order, the duration of the actions, the benefits derived on account of the unlawful acts, the scale of business and remorse shown for the acts and attitudes of cooperation in the investigation, the FTC ordered them to cease the aforesaid unlawful acts and administrative fines from NT$50,000 to NT$360,000, respectively, were imposed on them in accordance with the fore part of Article 41 of the Fair Trade Law.

☐ The Non-Life Insurance Association of the ROC Violates Article 14(1) of the Fair Trade Law by Engaging in a Concerted Action Sufficient to Affect the Supply and Demand in the Property Insurance Market

During its 794th Commissioners' Meeting on January 25, 2007, the FTC found that the Non-Life Insurance Association of the ROC (hereinafter called the "NLIA") violated Article 14(1) of the Fair Trade Law by preventing its members from complying with the second stage of the "Premium Liberalization of the Property Insurance Market" in which companies may decide on the application for hazard insurance premiums. Such an act restrained free competition and was sufficient to affect the supply and demand in the property insurance market. The FTC therefore ordered the NLIA to immediately cease such an unlawful act and imposed an administrative fine of NT$1 million.

In order to promote the liberalization of premiums in the property insurance market and to safeguard the insurer's rights and interests, the Financial Supervisory Commission, Executive Yuan (hereinafter called the "FSC"), enacted the "Premium Liberalization of the Property Insurance Market Plan" (hereinafter called the "Plan"). The content of the second stage of the said Plan was to promote the modification of commercial fire insurance and type A car damage insurance, type B car damage insurance, collision insurance without deductibles, car theft insurance, and third-party liability insurance in terms of "physical injury" and "monetary loss" and to adjust the hazard premium for any car insurance within 5%. However, the NLIA claimed that "maintaining current premium rates is the common acknowledgement of the industry for pursuing order and stability" and employed memorandums, meeting minutes of the Board of Directors, and emails to request its members not to apply for the premium liberalization with the FSC regarding the premium rates for automobile insurance, thus affecting the consumer's rights and interests.

After investigation, it was found that the FSC sent a letter on March 30, 2005 to request that the NLIA inform its members to apply for premium liberalization regarding any automobile insurance. The FSC additionally sent a letter on July 8, 2005 to request that the NLIA inform its members to truthfully comply with the letter issued by the Taiwan Insurance Institute on June 30, 2005. The said letter of the Taiwan Insurance Institute stated that the deadline for the modification of the hazard insurance premium of any automobile insurance and the application for review was the 15th day of August each year, and that, with the approval of the Insurance Bureau of the FSC, the hazard insurance premium may be adjusted in the following year. However, during the 10th meeting of the 3rd Board of Directors of the NLIA on July 28, 2005, the Automobile Insurance Commission reported that, "upon the discussion of the Automobile Insurance Commission…for the implementation of the second stage of the premium liberalization, the premium modification will be applied after the completion of the adjustment calculation." The Board of Directors passed a resolution stating "to be consulted" and mailed the meeting minutes as Letter (94) Chan-Tzong-Tzu No. 099 of August 2, 2005 to its members. It was also found that according to the "memorandum" and "attachment" attached to the email transmitted by the "Compulsory Automobile Liability Insurance Pool" respectively on July 25, 2005 and August 4, 2005, the common acknowledgement of the industry for pursuing order and stability and maintaining current premium rates was formed during 2005 through the meetings of the Automobile Insurance Commission of the NLIA.

The NLIA employed the agreement of the Automobile Insurance Commission and the decision of the Board of Directors to restrain hazard insurance premiums from being lowered and requested its members to comply accordingly. It can be proved that a "mutual consent" of concerted action existed then. Externally, none of the members applied for automobile insurance premium liberalization during 2005. As a result, it can be determined that the

consent of the NLIA to maintain premium rates restrained the freedom of its members to decide on the prices and affected the supply and demand of product trade or services in violation of Article 14(1) of the Fair Trade Law.

After considering the motivation and purpose of the unlawful acts of the NLIA; the degree of the act's harm to market order; the duration of the act's harm to market order; and the scale, operating condition and market position of the enterprise, the aforementioned disposition was made.

□ No disposition was made by FTC in case of the Freeway Electronic Toll Collection System was complained for engaging in bundled sales and monopolistic activities, thus violating the Fair Trade Law.【June 29, 2006】

During its 764th Commissioners' Meeting on June 29, 2006, the FTC determined that, based on existing evidence, it was difficult to determine whether parties involved in the implementation of the Freeway Electronic Toll Collection System (FETCS) engaged in bundled sales and monopolistic activities, thus violating the Fair Trade Law.

The Consumer Protection Commission under the Executive Yuan sent relevant news clippings on alleged bundle selling and monopolistic activities by parties involved in the implementation of the FETCS to the FTC. In addition, members of the general public also sent e-mails to the FTC questioning the rationale behind the collection of an NT$7 processing fee for the stored-value e-card distributed for use by the FETCS. In addition, only Far Eastern International Bank and Taishin International Bank were allowed to distribute the card, which involved a joint monopoly and violated the Fair Trade Law.

In relation to the alleged bundle selling by the parties involved in the FETCS, investigation showed that the aforementioned parties did not force consumers to apply for the co-branded e-card or for them, by using the e-card, to be able to avail themselves of the on-board unit (OBU). Consumers could, based on their personal needs, choose to buy the OBU and not apply for an e-card. Therefore, it was difficult to determine whether the parties operating the aforementioned system were engaged in improper bundle selling.

In connection with the alleged monopolistic activities of the FETCS parties, further investigation showed that the current usage ratio of the FETCS remained limited. In addition, the price of the OBUs sold by Far Eastern Electronic Toll Collection Co., Ltd., which installed and operated the electronic collection system, as well as other costs to be incurred by road users, had been reviewed and approved by the competent authority. The freeway electronic toll collection service and other ancillary businesses of the company were also regulated by the Freeway Electronic Collection System Deployment and Operation Contract and relevant laws. In addition, during the public selection of the partner bank, the selection process included briefings and negotiations before a priority partner bank was determined. It did not show improper special treatment. Moreover, the company signed independent cooperative agreements with Far Eastern International Bank and Taishin International Bank. It launched a program for special rates in the distribution of the co-branded e-card, in response to requests by the competent authority and to fulfill the objectives of preferential measures on electronic collection rates as stipulated in the agreements. This did not constitute a limiting of competition as stipulated in the Fair Trade Law. Therefore, it was difficult to determine whether parties involved in the aforementioned system abused their market position.

New Year's Message from Chairman

The New Year 2010, the Year of the Tiger, has dawned. I wish every visitor of Korea Fair Trade Commission(KFTC) Website a happy and healthy new year

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공정거래위원회

Korea Fair Trade Commission

Friday, Aug 14, 2009

Cartel Investigation Division
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"KFTC imposes severe sanctions for fixing beverage prices"

- KFTC imposes a combined surcharge of 25.5 billion won on 3 soft drink manufacturers, brings criminal charges against CEOs of the two
- KFTC ferrets out "intelligent price fixing" by an industry leader and others -

☐ The Korea Fair Trade Commission (Chariman Ho Yul Chung) decided to impose corrective orders on 5 soft drink manufacturers for fixing prices of carbonated drinks over the course of 4 times between February 2008 and February 2009 and a combined surcharge of 25.5 billion won on 3 companies of them and to bring criminal charges against the chief executive officers of Lotte Chilsung Beverage Co. Ltd., and Haitai Beverage Co. Ltd..

* 5 companies : Lotte Chilsung Beverage Co. Ltd., Coca-Cola Korea., Haitai Beverage Co. Ltd., Donga-Otsuka Co. Ltd., Woongjin Foods Co. Ltd.

* 3 companies slapped with surcharge (100 m) : Lotte Chilsung: 217, Haitai: 23, Woongjin Foods: 14
(2 companies that reported voluntarily their involvement in the price fixing scheme were exempted from the surcharges)

1 Findings

☐ The five companies collectively raised prices of carbonated drinks by first, holding meetated of presidents or high-ranking executives to determine the direction and the method for price hikes and then by specifying the price-fixing scheme through information exchange between working-level people.

○ First, they created rapport for price raise through the meeting of presidents,

etc. and later agreed on the timing (Feb. 2008, Feb. 2009, etc.) and the way to implement the price raise (first raised by a market leader and then followed by the rest).

○ Then, working-level people kept in touch with one another, sharing crucial information and determining the specific time schedule and items for the price hikes, and their markup ratios.

<cf. Outline of the way they raised the prices of soft drinks >

Type	What they did
tacit agreements among CEOs and executives through meetings of presidents (the Soft Drink Consultation Meeting)	**the direction of price hikes and the method determined** ① creation of rapport and consensus on the rationale for price hikes ② method : raise first by a market leader, followed by the rest ③ timing : sometime in Feb. 2008, and Feb. 2009, etc. ④ items and markup ratios : determined in consideration of the precedent set by the market leader
tacit agreements among working-level people through working-level meetings (The Working-Level Consultation Meeting on Soft Drinks, etc.)	**Price hikes specified** ① sharing of price raise schemes through information exchange ② adjustment of items and markup ratios : determined in consideration of the market leader's decision and each company's major items ③ confirmation of each's price raise decision through information exchange

☐ In particular, the 5 companies implemented the price raise scheme in which Lotte Chilsung, the market leader with top market share, drew up a price raise plan about a month earlier than the rest, which in turn was circulated among the rest, and based on which the rest made their own.

☐ The 5 companies' price fixing regarding soft drinks is as follows.

Raise timing	Participants	Item & Markup ratios
Feb. ~Mar. 2008	5 companies	fruit juice - about 10% carbonated/other drinks - about 5%
Sep. 2008	5 companies	fruit/carbonated/other drinks of some

		10% attempted but later withdrawn
Dec. 2008	Lotte Chilsung, Haitai Beverage	1.5L juice drinks - about 12%
Feb. 2009	5 companies	fruit/carbonated/other drinks - about 10%

* As the items for each raise were not overlapping much, it appears that the eventual price of a certain item is not the simple sum of its price markup ratios.

☐ Meanwhile, 4 companies voluntarily cut on prices of some items before the KFTC imposed corrective measures.

- Lotte Chilsung Beverage : 3% on average for 111 items from April 14
- Haitai Beverage : 4% on average for 40 items from May 1
- Coca Cola Korea : 4% on average for 13 items from May 21
- Woongjin Foods : 2.7% on average for 7 items from June 13

2 Imposed remedies

☐ Applied law : Subparagraph 1 Paragraph 1 Article 19 of the Monopoly Regulation and Fair Trade Act(An act fixing, maintaining or changing prices)

☐ Remedies : corrective orders, surcharges and prosecution

○ Corrective orders : to cease and desist price fixing and information exchange

○ Surcharges : a combined surcharge of 25.5 billion won on 3 companies(Lotte Chilsung 217, Haitai 23, Woongjin 14)

* 2 companies that voluntarily reported their involvement in the price fixing scheme were exempted from the surcharges.

○ Prosecution : CEOs of Lotte Chilsung Beverage and Haitai Beverage criminally charged

Press Release

New Year's Message from Chairman

The New Year 2010, the Year of the Tiger, has dawned. I wish every visitor of Korea Fair Trade Commission(KFTC) Website a happy and healthy new year

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FAIR TRADE COMMISSION
REPUBLIC OF KOREA

KOREA FAIR TRADE COMMISSION

Press Release March 11, 2010

Airliners Sanctioned for Market Dominance Abuse

- Korea's two biggest airlines faced a combined surcharge of KRW 11 billion for hindering business of LCCs and restraining flight ticket discounts.

On March 10, 2010, the Korea Fair Trade Commission (KFTC, Chairman: Ho Yul Chung) decided to impose corrective order and a combined surcharge of 11 billion won on Korea's two largest airliners, Korean Air lines Co. and Asiana Airlines Inc. for abusing their dominant position in the airline market by hindering the market entry and business operation of low-cost carriers (LCCs). Korean Air was also charged with restraining discounts of flight tickets sold through travel agents.

【Corrective Measures】

- Corrective order
- Surcharges: KRW 11 billion

【Korean Air: KRW 10.397 billion, Asiana Airlines: KRW640 million】

※ The aforementioned surcharges can be adjusted reflecting the confirmed amount of the relevant turnover of the companies.

【**Anti-competitive Practices**】

1. **Restraining sales of LCC flight tickets through travel agencies**

The two airliners restrained travel agencies from selling flight tickets of LCCs by threatening them that they would be allocated fewer seats during the peak season or for major routes, given smaller price discounts or suffer from other disadvantages if they did business with LCCs.

For travel agents, securing flight seats for popular routes or peak seasons and price discounts are crucial factors for attracting customers. Based on the recognition, the two airliners used provision of flight seats and discounts as leverage to hamper business between travel agencies and discount carriers.

Consequently, LCCs had difficulty selling their domestic tickets (mainly bound for Jeju island) and international tickets bound for Japan, Southeast Asia, Hawaii and other tourist attractions through travel agents.

2. **Providing royalty rebates & Restricting ticket discounts**

Korean Air offered major domestic travel agencies (around 200 agencies as of 2009) royalty rebates, with the name of “volume incentive”, to exclude its competitors from the market.

The company provided rebates for travel agencies on the condition that they would raise the share of Korean Air tickets to the certain level of their total sales to limit sales expansion of its rival companies.

Korean Air also inhibited ticket discounts for customers by prohibiting travel agents from using rebate proceeds to lower ticket prices.

【Significance and Expected Benefits of this case】

The corrective measures taken by the KFTC in this case are significant in that they are aimed to correct anti-competitive practices of the two big airliners with dominant position in the market where monopolistic structure has been lasted for a long time.

There was a need for strong enforcement against exclusionary practice of market dominant airliners as it runs counter to the government policy of lowering entry barriers to promote competition in the airline market, and increases cost of passengers by impeding discounts of flight tickets.

The measures are expected to increase competition in the airline market by improving business condition for budget carriers so that they can better compete with their rivals. As for customers, various airline services will be offered at reasonable prices.

The KFTC will continue to monitor anti-competitive practice in the airline market and take strong measures against any violation of the competition law.