

Fair Trade Commission Disposal Directions (Guidelines) on Cases Involving Auto Parts (accessories) Transactions

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Promulgated by Order Kung Zhi Tzu No.10413606421 on November 17,
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1. (Purpose)

These guidelines are adopted to protect trading order and consumers' interests, ensure free and fair competition, and effectively review cases involving auto parts (accessories) transactions.

2. (Definition)

Terms used in these Guidelines are defined as follows:

(1)The term "auto parts (accessories) enterprises" refers to businesses engage in manufacturing or sales of auto parts (accessories).

(2)The term "brand-name auto parts (accessories)" refers to auto parts (accessories) developed or specified by auto makers or agents for their cars.

(3)The term "generic auto parts (accessories)" refers to auto parts (accessories) not developed or specified by auto makers or agents but meeting the specifications of brand-name auto parts (accessories) and not labeled as authorized by original equipment manufacturers.

3. (Prohibited Concerted Actions)

Auto parts (accessories) enterprises shall not jointly decide product prices, quantities or trading counterparts, allocate sales, divide the market, restrict each other's business activities or engage in any other conduct likely to affect production or the supply-demand function in the market by establishing contracts, agreements or mutual understandings in any form.

4. (Restrictions on Resale Price Maintenance)

Auto parts (accessories) enterprises may not impose restrictions on resale prices of the goods supplied to its trading counterpart for resale to a third party or to such third party for making further resale. However, those with justifiable reasons are not subject to this limitation.

The Fair Trade Commission may evaluate the evidence provided by businesses to decide whether the causes behind resale price restrictions imposed are justifiable reasons as mentioned in the preceding paragraph by taking the following factors into consideration:

- (1) such restrictions can stimulate downstream businesses to improve the efficiency or quality of presale services;
- (2) such restrictions can prevent free rides;
- (3) such restrictions can encourage new enterprises or brands to enter the market;
- (4) such restrictions can promote inter-brand competition;
- (5) other economically justifiable causes with competition taken into account.

5. (Prohibition on Boycotting)

Auto parts (accessories) enterprises may not cause other enterprises to refuse to sell auto parts (accessories) or testing, maintenance or calibration equipment for auto parts (accessories) to any specific auto repair business to sabotage the operations of such a business and thus restrict competition.

6. (Prohibition on Discriminatory Treatment)

Without any justifiable reason, auto parts (accessories) enterprises may not impose on any other business discriminatory treatment that is likely to restrict competition.

The justifiable reasons stated in the preceding paragraph shall be evaluated in accordance with the following:

- (1) market supply and demand;
- (2) cost difference;
- (3) transaction amount;
- (4) credit risk;
- (5) other justifiable reasons.

7. (Prohibition on Imposing Improper Restrictions on Other Business Activity)

Auto makers or agents may not engage in any of the following practices which are likely to restrict competition:

- (1) unjustifiably restricting distributors from selling brand-name auto parts (accessories) to independent auto repair businesses or auto supplies stores including trading companies);
- (2) unjustifiably restricting auto parts (accessories) makers from selling generic auto parts (accessories) to independent auto repair businesses or auto supplies stores (including trading companies);
- (3) unjustifiably restricting auto parts (accessories) makers from placing their own trademarks or logos on the brand-name auto parts (accessories) they produce and use in new cars; or
- (4) other unjustifiable business activity restrictions.

The Fair Trade Commission shall assess whether any of the restrictions described in the preceding paragraph is unjustifiable and likely to restrain competition by taking into consideration the intent, purpose and market status of the party concerned as well as the structure of the relevant market, product or service characteristics and the effect of such implementation on market competition.

8. (Prohibition on Other Obviously Unfair Conduct)

Auto makers or agents may not engage in any of the following obviously unfair practices that involve lack of information transparency and are likely to affect trading order:

- (1) failing to disclose the auto parts (accessories) not to be sold to outsiders, limitations on access to such items (for example, checking car registrations) and the reasons behind such restrictions (such as requirements for particular maintenance tools, testing equipment, etc.)
- (2) failing to disclose the approaches to access maintenance information or techniques, conditions for such access (such as requirements for particular types of apparatus, equipment or licenses, etc.), charge standards and reasons for restricted provision.

9. (Legal Effect)

Any auto parts (accessories) enterprise engaging in a concerted action may be in violation of Article 15 of the Fair Trade Law.

Any auto parts (accessories) enterprise imposing restrictions on resale price may be in violation of Article 19 of the Fair Trade Law.

Any auto parts (accessories) enterprise engaging in a boycott may be in violation of Subparagraph 1 of Article 20 of the Fair Trade Law.

Any auto parts (accessories) enterprise imposing a discriminatory treatment may be in violation of Subparagraph 2 of Article 20 of the Fair Trade Law.

Any auto makers or agents imposing restrictions on other business activity may be in violation of Subparagraph 5 of Article 20 of the Fair Trade Law.

Any auto makers or agents engaging in obviously unfair competition practices may be in violation of Article 25 of the Fair Trade Law.