

## **Taiwan: ODD Manufacturers Fined for Global Bid-Rigging Conspiracy**

**Stephen C. Wu<sup>\*</sup> / Yvonne Y. Hsieh<sup>\*\*</sup>**

Lee and Li, Attorneys-at-Law

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In its commissioners' meeting of September 24, 2012, the Taiwan Fair Trade Commission (Commission) found that four optical disk drive (ODD) manufacturers, i.e., Toshiba-Samsung Storage Technology Korea Corporation (TSSTK), Hitachi-LG Data Storage Korea Inc. (HLDSK), Philips & Lite-On Digital Solutions Corporation (PLDS), and Sony Optiarc Inc. (SOI), had conspired during the bidding process held by Hewlett-Packard Company (HP) and Dell Inc. (Dell) and hence violated the cartel regulations under the Taiwan Fair Trade Act (Act). This case marks the first time the Commission cracked down on a cartel through the leniency program introduced into the Act at the end of 2011.

According to the Commission, from September 2006 to September 2009, those four ODD manufacturers, during or before the bidding procedure held by HP and Dell, exchanged their bidding prices and expected bid ranking through e-mails, telephone calls, and meetings. Also, in several bidding cases, they agreed on the final price and ranking in advance while exchanging other sensitive information such as capacity and amount of production among themselves. A market survey indicated that the four ODD manufacturers jointly occupied at least 75 per cent of the ODD market. Meanwhile, HP's and Dell's notebooks/desktops made up around 10 per cent of the Taiwanese relevant market. As 90 per cent or more of the disk drives used in HP's and Dell's notebooks/desktops were purchased through bidding processes, the four ODD manufacturers' bid rigging had certainly affected the supply and demand in the domestic ODD market. Therefore, the Commission fined TSSTK, HLDSK, PLDS and SOI NTD 25 million, 16 million, 8 million and 5 million respectively.

The Commission indicated that it began investigating the case because some parties involved in the cartel pled guilty and settled the case with the US DOJ last November. After the commencement of the Commission's investigation, one manufacturer applied to the Commission for leniency and provided all relevant evidence to the Commission in accordance with the new leniency program under the Act. Having fully cooperated with the Commission, the leniency applicant was awarded with full exemption from the fine. The identity of the applicant is being kept confidential by the Commission.

This case is notable because it represents the first time the Commission concluded a case successfully with the help of a leniency applicant after the leniency program came into effect last year. The case is also significant for it involved a global cartel and the public record suggests that the Commission sought assistance from competition authorities in the U.S. and E.U. to conduct the investigation.

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\* Partner.

\*\* Counselor.