

Six Myths about Regulation on Abuse of Relative Dominance

Ming-Jye Huang*

Abstract

This article starts from the misuse of norms by Taiwan's competition law academics and enforcers against relative dominant position. Some commentators use terms such as relative market advantages, others call it relative transaction advantages. While these two type of advantages imply totally different regulatory subjects, the term "relative dominant position" causes a lot of confusion. The confusion further causes six following normative myths: (1) Abuse of norms by relative superiority that does not presuppose the existence of market power can be used as a supplementary regulation for restrictive competition; (2) Fair trade act does not have a relative market advantage abuse regulation equivalent to the German law on the prevention of competition restriction; (3) the relative advantage abuse regulation can also be applied to information asymmetry or information incompleteness problems; (4) The relative dominance abuse norms can also be applied to the transaction relationship between businesses and end consumers; (5) The establishment of relative dominance abuse is presupposed on "likelihood to affect transaction order" ; (6) The relative dominant position abuse criterion is an independent existence and different from the monopoly position abuse criterion. This article believes that not only under the correct understanding of market definition, there is still room to question the existence of "relative market dominance" . It is also doubtful that Taiwan needs relative market dominance norms under current Fair Trade Act's regulatory framework.

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* Distinguished Professor of Law, College of Law, National Taiwan University.
E-mail: jrhuang@ntu.edu.tw

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