Recent Developments in Taiwan, Republic of China

– CLEARANCE GRANTED TO COMBINATION AMONG FAREASTONE AND NINE COMPANIES WITH CONDITIONS

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At its August 18, 2010 commissioners' meeting, the Fair Trade Commission ("FTC") conditionally cleared the proposed combination among Far Eastone Telecommunication Co., Ltd. ("Far Eastone") and nine other companies, including eight of the largest record companies in Taiwan such as Avex Taiwan, Sony Taiwan, and Universal Music Taiwan to jointly establish a new online music service company ("JV").

After the transaction, Far Eastone, which has a sizeable presence in the mobile phone service market, will have more than 50% of the shares in the JV and wield controlling power over the management of the JV. The FTC pointed out that the subject transaction will affect the mobile phone service market, online music market, and retail music market. Also, the transaction can be categorized as a horizontal combination and a vertical combination. However, the FTC opined that the transaction will not only encourage competition in the mobile phone service market and the online music market but also stimulate the upstream/downstream business in the mobile phone service market. Moreover, such cooperation among telecommunications and record companies is expected to promote innovation and development and can help the companies compete in the global retail music and online music markets. Also, the cooperation may foster network externalities, creating value for consumers in these markets.

Though the academia and other relevant competent authorities mostly share the FTC's optimistic assessment and recognize the benefits to be brought by the transaction, the FTC is also concerned about possible concerted action among record companies and market foreclosure. Additionally, there is a risk that after the transaction, those record companies may impose discriminatory treatment on other online music service companies by refusing to license them without providing any grounds for the refusal.

After considering various factors including the current laws, regulations and legal framework, relevant market structure and competition, opinions from relevant industries, trends in technology development and the maintenance of market competition after the combination, the FTC concluded that the overall economic benefit as a result of this transaction would outweigh the disadvantages of stifled competition. Consequently, it cleared the subject transaction in accordance with Paragraph 2, Article 12 of the Fair Trade Act, subject to the following conditions:

1. Participating parties cannot refuse to grant music-related copyrights to other online music service companies without reasonable grounds, or conclude exclusive

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transactions/licensing programs with the JV.

2. Participating parties cannot adopt discriminatory treatments of other online music service companies without any reasonable grounds in terms of record release date or other transaction terms.
3. Participating parties cannot exchange sensitive information related to their retail music business so as to conduct concerted action through their cooperation in the online music market.