

《人文及社會科學集刊》
第七卷第二期(84/9), pp.1-19
© 中央研究院中山人文社會科學研究所

公平交易法與消費者保護法之比較研究*

劉孔中**

* 作者感謝二位匿名評審之寶貴建議。

** 中央研究院中山人文社會科學研究所助研究員
(收稿日期：1994年6月22日；接受刊登日期：1994年9月10日)

摘要

公平交易法與消費者保護法是我國由管制經濟進步到市場經濟的二個劃時代的立法，前者著重維護競爭秩序之自由及公平，後者則著重保護消費者。二者無論在立法目的、規範對象、主管機關乃至彼此法條之解釋適用上，均有極密切的互動關係，本文之研究即以橫向之綜合比較，指出其間之異同以及可以相互映照之處，希望有助於改善分別研究不足之處。

大綱

- 一、二法立法目的之比較：就消費者保護而言
- 二、二法規範對象之比較：事業與企業經營者
- 三、二法所設置機關之比較及其互動關係
- 四、消費者保護法對公平交易法之影響
- 五、公平交易法對消費者保護法之影響
- 六、結論

An Analytical Comparison between the Fair Trade Law and the Consumer Protection Law

Kung-chung Liu

Abstract

Two years after the enactment of the Fair Trade Law (FTL) the Consumer Protection Law (CPL) was adopted on Jan. 10, 1994. This paper compares the two laws with respect to their purposes, subject matters, administrative authorities, and mutual influences. It comes to the conclusions that:

1. FTL with its Fair Trade Commission (FTC) aims to protect the market competition and competitors in the first place, and only secondarily to ensure an environment that is beneficial to the consumers as a whole, while CPL pursues the direct protection of the consumers.
2. FTL with its administrative instruments regulates transactions in the market place that are not to satisfy consumer needs only. On the contrary CPL regulates the transactions that are made by the consumers.
3. FTC is an independent legal person under public law with full authority to investigate and make administrative acts, while the Consumer Protection Commission (CPC) is only a cabinet internal con-

sulting body, which can neither investigate nor make administrative acts.

4. According to § 24 FTL deceptive or obviously unfair acts are forbidden. Some regulations from the CPL can contribute to the finding of deception and unfairness, for example paragraphs 13, 18, 21, 24, 25 (deception), 12, 20 and 10 (unfairness). § 24 FTL in return helps to concretize some regulations of CPL, like § 4 and § 22.