

## **Advocacy for competition: the Japanese Perspective**

*Mr. Tetsuji YOKOTE, Deputy Director, International Affairs Division, Fair Trade Commission, Japan*

Ladies and gentlemen,

It is my great pleasure as well as honor to have a chance to deliver a speech at this Workshop today. This is the first time I have given a speech in English, and I would like to take this opportunity to introduce the challenges facing Japan's competition authority, the Fair Trade Commission. In my presentation today, I would like to focus on competition advocacy by the Japan Fair Trade Commission, in connection with its role as a competition authority in general.

Competition authority staff members of different countries share the meaning of the word "competition." The general public, however, does not necessarily have identical views on this word.

### *1. Opinion Survey on Awareness of Fair Competition in Spring 2001*

In spring 2001, we conducted a public opinion survey on awareness of fair competition. As we have little chance to statistically learn public opinion regarding competition, I would like to take this opportunity to introduce the main results of this survey.

First, to the question of what image people have of businesses competing in price and quality of goods and services, in other words, competition in economic activities, 73% said a positive image and 15% said a negative image.

With regard to the main reasons why they had a positive image, the most popular answer was that competition causes lower prices or higher quality of goods or services, followed by the answer that it creates new goods and services, and that it activates the whole economy.

Well, what was the reason for a negative image? I guess this is a matter of interest. The most popular answer was that competition leads to a rise in the number of bankruptcies and unemployment, followed by the answer that competition favors major enterprises, that it makes corporations withdraw from unprofitable regions and businesses, and that it causes some inconvenience by forcing nearby stores out of business.

Second, to the question of whether deregulation is successful in promoting competition between businesses, 64% said yes.

Third, more than half of respondents considered the enforcement of competition authorities against cartels and bid riggings as insufficient.

Finally, more than half mentioned cracking down on cartels and bid riggings as what they expected of competition authorities.

Should we take a favorable view of these results, or should we think the public does not have a sufficient understanding of competition?

As you may know, Japanese society used to believe in harmonious cooperation among businesses over competition.

Now let me quote an anecdote here. More than 100 years ago, a famous scholar showed the translation of an English book on economics to a certain senior official. The scholar began translating it, and when he came upon the word “competition” for which there was no equivalent in Japanese, he used an invention of his own, *kyoso*, literally, “race-fight.”

When the official saw his translation, he suddenly said, “Here is the word ‘fight.’ What does it mean? It is such an unpeaceful word.”

The scholar replied, “This is nothing new. This is exactly what all Japanese merchants are doing. If one merchant begins to sell things cheaply, another will try to sell them cheaper. Or if one improves his merchandise to attract more buyers, another will try to take the trade from him by offering goods of still better quality. This process is termed *kyoso* in the science of economics.”

The official understood the idea, but he said, “The word ‘fight’ is not conducive to peace.”

Taking this anecdote into consideration, I think the results of the opinion survey show that the general public currently supports the promotion of competition. On the other hand, more than half of respondents answered that enforcement by the JFTC is insufficient. This is a result we have to take seriously.

## *2. The Role of Competition Authorities*

Now let me address the role of competition authorities. I believe that the main task of competition authorities is the enforcement of antitrust laws. Promotion of fair and free competition stimulates the creative initiative of enterprises, encourages business activities, and ultimately assures the interests of consumers in general. Enforcement of antitrust laws means eliminating conduct that impedes fair and free competition. However, enforcement can be rendered meaningless if government regulations obstruct competition. That is why competition authorities should also promote regulatory reform, including an elimination of regulations or systems which impede fair and free competition. It is quite important for competition authorities to be involved in the process of regulatory reform. Such involvement is one of the main measures of competition advocacy undertaken by competition authorities.

## *3. The Process of Regulatory Reform in Japan*

I would like to go on to the next topic: the process of regulatory reform in Japan.

In Japan, the Antimonopoly Act was enacted in 1947, right after World War II. The JFTC was established in the same year. The Antimonopoly Act was introduced in Japan as part of the democratization process of occupation forces, although it was not what we wanted in Japan, because as I mentioned earlier, Japan believed in harmonious cooperation over competition. We can say that there was no sufficient basis to accept such a concept.

In the 1940s and 1950s, the government placed a high priority on industrial policy to develop our industries and to improve our international competitive position. As a result, competition policy was weakened and a lot of exemptions from the Antimonopoly Act were created. There were more than 80 exemptions at the peak. This period is popularly referred to as the “Dark Ages of the Antimonopoly Act.”

However, in 1979 came a turning point with the issuance of “Recommendation of the Council on Competition Policy and Exempted or Regulated Sectors,” by the OECD. In this recommendation, the Council expressed the need to place greater reliance on competition and recommended to member countries to undertake, with the participation of competition authorities, reviews of regulatory regimes and to consider whether the initial reasons or circumstances which gave rise to regulations remain valid under contemporary conditions, and whether the same objectives could be achieved under contemporary

conditions through the operation of competition. As you know, many member countries reviewed their own regulations from this point of view, and of course in Japan, the JFTC initiated its challenges as a pioneer of promoting deregulations. In 1982, the JFTC proposed the need for reviews of regulations especially in 16 selected sectors. As of today, most of the proposals made by the JFTC have been realized, but at the time, regulatory authorities were reluctant to respond to them.

In 1988, the JFTC set up the Study Group on Government Regulations and Competition Policy. Since then the JFTC has been making approaches to regulatory authorities based on the proposals made by the study group. This study group is still active and dealing with contemporary problems concerning regulations.

In 1995, the government adopted the first plan for promoting regulatory reform as one of its main policies. Currently, Prime Minister Koizumi, who aggressively promotes structural reform, considers competition policy as one of the principal policies in the government.

The JFTC has not only tackled promoting regulatory reform, but also reducing exemptions from the Antimonopoly Act. Such exemptions have a nature of protecting incumbents and hurt consumer interests. The whole government, led by the JFTC, undertook a review of exemptions from the Antimonopoly Act and now only 21 exemptions remain.

#### *4. Challenges by the JFTC*

In this way the JFTC has actively tackled the promotion of regulatory reform, but regulatory authorities have been reluctant to respond. I would say this is because they didn't understand the need for regulatory reform. And the JFTC doesn't have a clear mandate in the Antimonopoly Act to advocate, which I think is another one of the reasons.

But now, such situations have been changing. The role of the JFTC and the importance of competition policy have been recognized and there are some instances in which the JFTC and regulatory authorities collaborate with each other in promoting regulatory reform.

One example is that the JFTC is involved in the process of designing future regulations by regulatory authorities. The JFTC participated in a study group organized by regulatory authorities and, from the viewpoint of competition policy, expressed its opinion on what the regulations should be in the electricity sector and the gas sector. Such involvement in the process of regulatory reform is quite an effective way for making regulatory reform successful in favor of competition policy. Earlier involvement makes it possible to create a more competition-friendly system.

Another example is the issuance of guidelines jointly with regulatory authorities. In newly deregulated sectors such as telecommunications, electricity and gas, the JFTC has issued guidelines which clearly define conduct that violates the Antimonopoly Act, in order to encourage new entry and to effectively establish the competitive environment. In addition, let me refer to the setup of a task-force to ensure prompt responses to violations in public utilities sectors, which is not part of competition advocacy, though.

As I noted, the role of the JFTC and the importance of competition policy has been recognized and such recognition has supported the promotion of regulatory reform. With regard to this, I would like to point out the importance of publicity activities.

Both the importance of competition policy and the activities of competition authorities, including law enforcement, are recognized by publishing them broadly. In other words, it has to be understood that promotion of competition policy ultimately accomplishes the assurance of the interests of general consumers. In the beginning of my speech I referred to the results of the opinion survey and I believe that enrichment of publicity activities will lead to the fair evaluation of activities by competition authorities. Moreover, fair evaluation will enhance the credibility of competition authorities and will contribute to the general support of activities by competition authorities, including competition advocacy.

## *5. Summing Up*

Finally, I would like to sum up my presentation.

Competition advocacy, especially the promotion of regulatory reform, is one of the main tasks of competition authorities in that it reduces or eliminates regulations which impede market functions. However, the principal task of competition authorities is enforcement of antitrust laws. I emphasize this because strict enforcement will enhance the credibility of competition authorities as an advocate.

In the integrated checklist under discussion here, B9 refers to the clear mandate of competition authorities in competition laws to advocate actively in order to promote competition and efficiency throughout the economy. I think most countries agree with the need for this and I will support it. But I am afraid many jurisdictions, including Japan, don't have such a clear mandate in competition laws. Under such circumstances, in particular, enrichment of publicity activities will lead to strong support for competition advocacy by competition authorities.

My conclusion is that strict enforcement and publicity activities enhance the credibility and convincing power of competition authorities, which will strongly support their competition advocacy.

Thank you very much.