



**Asia-Pacific
Economic Cooperation**

2012/SOM1/CPLG/032

Agenda Item: 10

Evaluating Competition Policy in Japan

Purpose: Information
Submitted by: Japan




**Competition Policy and Law Group Meeting
Moscow, Russia
12-13 February 2012**

 **公正取引委員会**
Japan Fair Trade Commission

Evaluating Competition Policy in Japan

Naohiko KOMURO
Senior Planning Officer, General Affairs Division,
Secretariat, General Secretariat
Japan Fair Trade Commission (JFTC)

APEC Competition Policy and Law Group
February 13, 2012

Outline of the Presentation  **公正取引委員会**
Japan Fair Trade Commission

1. Policy Evaluations in Japan
2. Ex-Post Evaluations by the JFTC
3. Organization for Policy Evaluations in the JFTC
4. Outline of the Results of the Major Ex-Post Evaluations in 2011
 - Prompt and appropriate merger investigation
 - Strict enforcement of the AMA
 - Promoting appropriate trade practices
 - Public relations and public hearings on competition policy
5. How Have We Incorporated the Results of the Policy Evaluations into Policy?
6. Challenges for the Future

2

1. Policy Evaluations in Japan



Government Policy Evaluations Act

- Into Effect in April 2002
- Objective
 - Promoting effective and efficient administration
 - Ensuring the Government's proper discharge of its responsibility to remain accountable to the public for its operations
- Each Government Ministry and Agency Needs to Conduct its Own Self-Evaluation

3

1. Policy Evaluations in Japan



- Ex-Ante Evaluation
 - Target: Public Projects, Foreign Aid, etc. (in and after 2002)
 - Regulatory changes in and after 2007
 - Cost-benefit analysis
- Ex-Post Evaluation
 - Target: Major Policies in Each Ministry and Agency
 - Evaluation Perspectives: Necessity, Effectiveness, Efficiency
 - Recent Reform: Introduction of the Advance Analysis Chart (publishing the pre-set goals of each activity) and the Standard Forms of the Reports on Policy Evaluations that supervise the goals of each activity
 - * Tried in 2011

4

2. Ex-Post Evaluations by the JFTC



■ The JFTC conducted Ex-Post Policy Evaluations based on the following system (Published as a part of the Basic Plan)

- Policy Goal: Protecting consumer interests and promoting the sound and democratic development of the national economy
- Policy: Promoting free and fair competition
- Activities:
 1. Measures against violations of the Antimonopoly Act (AMA), etc.
 - 1-1 Hearing Procedures
 - 1-2 Prompt and appropriate merger investigations
 - 1-3 Strict enforcement of the AMA
 2. Measures against violations of the Subcontract Act, etc.
 - 2-1 Promoting appropriate trade practices
 - 2-2 Appropriate administration of the Subcontract Act
 3. Public relations and public hearing on competition policy, etc.
 - 3-1 Public relations and public hearings on competition policy
 - 3-2 Promoting cooperation with overseas competition authorities
 - 3-3 Creating competitive market environment

5

2. Ex-Post Evaluations by the JFTC



■ The 2011 reforms

- From Synthetic Policy Evaluations (*1) to Achievement Policy Evaluations (*2)
Widening the scope of activities that are subject to Policy Evaluations by the methods of evaluating the accomplishment of the goal we previously set and published, and using the quantitative evaluation indexes.

***1** Conducting Policy Evaluations synthetically such as digging into the effect and influence of the specific activity from various aspects, grasping the problems with it, and analyzing the cause of the result

***2** Conducting policy evaluations by estimating the achievement on each activity periodically and continuously, and evaluating the overall activities in the term for achieving the goal and the final achievement in the last period

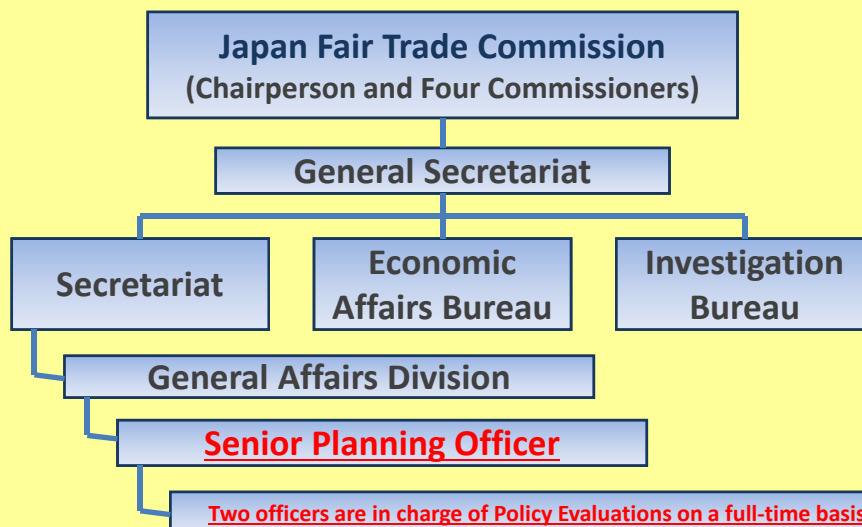
- Introduction of the Advance Analysis Chart and Standard Forms

6

2. Ex-Post Evaluations by the JFTC		公正取引委員会 Japan Fair Trade Commission	
Advance Analysis Chart (Image)			
Activity	Prompt and appropriate merger control		
Outline of Activity		
Goal		
Time of implementation	April 2012 – July 2012		
.		
Evaluation Index	Goal	Basis for the Index and the Goal	
Average investigation period	Within 30 (days)	
Consumer benefits protected by the JFTC's merger control	—	
.	
.	

2. Ex-Post Evaluations by the JFTC		公正取引委員会 Japan Fair Trade Commission			
Standard Forms (Image)					
Activity	Prompt and appropriate merger control				
Outline of Activity				
Goal				
Budget related Activity				
.				
Evaluation Index	FY2006	FY2007	FY2008	FY2009	FY2010
Average investigation period	19.7 (day)	20.8	20.6	21.3	23.0
Goal per year	30(day)	30	30	30	30
Number of accepted notifications	1,189 (case)	1,284	1,008	985	265
Consumer benefit protected by the JFTC's merger control	8.2 (billion yen)	5.0	3.7	103	7.0
.
Result of Evaluation					
Achievement goals				
Direction for future activities				
.				

3. Organization for Policy Evaluations in the JFTC



* Each Ex-Post Policy Evaluation is conducted by each division that is in charge of each activity.

9

4. Outline of the Results of the Major Ex-Post Policy Evaluations in 2011





In the 2011 Policy Evaluation, the JFTC evaluated seven activities, with only Hearing Procedures omitted.

We obtained the results of the positive and negative aspects for each evaluation index, made them public, concluded that these activities are generally effective and efficient, and showed the directions for future activities.

The results of the major Ex-Post Policy Evaluations in 2011 are given on the next slides.

10

4. Outline of the Results of the Major Ex-Post Policy Evaluations in 2011		 公正取引委員会 Japan Fair Trade Commission
■ Prompt and appropriate merger investigation		
Goal		
To maintain and promote free and fair competition by preventing mergers that substantially restrict competition through prompt and appropriate merger investigations (primary review within 30 days; secondary review within 90 days)		
Evaluation indexes (Evaluation indexes of the outcomes)		
(Evaluation indexes of the outcomes) Consumer benefits protected by the JFTC's merger control		
(Evaluation indexes of the output) The average investigation period, the number of accepted notifications, the number of results of investigations published in Major Business Combinations, etc.		
Status and assessment of implementation		
Merger investigation: All cases were closed within the given periods Publication of merger cases: Twelve cases of major mergers in FY2010 were published in June 2011 Amount of consumer benefits: Estimated at about 7 billion yen due to merger control (*)		
Directions for the future activities		
Strengthening the department of merger control and improving publications		

4. Outline of the Results of the Major Ex-Post Policy Evaluations in 2011		 公正取引委員会 Japan Fair Trade Commission
■ Strict enforcement of the AMA		
Goal		
To maintain and promote free and fair competition by eliminating violations of the AMA such as cartel, bid rigging, and unfair trade practices, and by promptly dealing with cases (within two months, in principle) involving unjust low price sales by specific retail market (liquor, petrochemical products, and consumer electrical appliances)		
Evaluation indexes		
(Evaluation indexes of the outcomes) Consumer benefit protected by the JFTC's legal measures against violation of the AMA		
(Evaluation indexes of the output) The average investigation period of unjust low price sale cases in the specific retail market, the number of reports on suspected violations, the number of legal measures taken, the amount of surcharge ordered, the volume of articles carried by daily newspapers, etc.		
Status and assessment of implementation		
Amount of Surcharge : About 72 billion yen (the highest on record) The average investigation period of cases involving unjust low price sales in the specific retail market: About 2.2 months (The goal was not accomplished.) Consumer benefits protected by the JFTC's legal measures against violation of the AMA : Estimated at about 179 billion yen due to the legal measures (*)		
Directions for future activities		
To deal with cases more promptly, resource and staff capabilities for investigation should be allocated for specific cases that have the potential to have a rather severe impact on Japanese people. The organization and ability to deal with unfair low price sales promptly and appropriately should be strengthened.		

4. Outline of the Results of the Major Ex-Post Policy Evaluations in 2011



• The JFTC has adopted the consumer benefit protected by JFTC's legal measures against violations of the Antimonopoly Act (**Note 1**) and by the JFTC's merger control (**Note 2**) as evaluation indexes, and has published the results since 2009. The methods of estimating the customer benefit are the same as those used by the European Commission (EC) from 2008 to 2010.

(Note 1) "Consumer benefits protected by the JFTC's legal measures against violations of the Antimonopoly Act (AMA)" are estimated for cartel cases against which the JFTC took legal measures, based on the assumption that the average expected lifespan of a cartel is five years and that the average cartel gain from setting a cartel price is equal to 10% of the estimated size of the market concerned, taking the annual discount rate into consideration. Protected consumer benefits for FY2010 in 10 estimated cases was about 179 billion yen.

(Note 2) "Consumer benefits protected by the JFTC's merger control" are estimated based on the assumption that customer benefits correspond to 10% of the relevant market of cases in a year in which the JFTC approves the merger, on the premise that the remedy will be taken. Protected consumer benefits in FY2010 in 2 estimated cases totaled about 7 billion yen.

13

4. Outline of the Results of the Major Ex-Post Policy Evaluations in 2011



■ Promoting appropriate trade practices

Goal

To prevent the violation of the AMA and to promote appropriate trade practices by

- Making guidelines more accessible to and more popular with the general public;
- Responding to consultations on the AMA by companies; and
- Conducting fact-finding surveys on trade practices and publishing the results.

Evaluation indexes

(Evaluation indexes of the output)
The number of published consulting cases, the number of published fact-finding surveys on trade practices, the number of consultation cases, the amount of time and number of officials required to conduct fact-finding surveys on trade practices, the number of seminars on antitrust compliance, etc.


Status and assessment of implementation


Seminars to explain the guidelines on unfair law price sales :
21 times in FY 2009 (about 490 participants), 8 times in FY 2010 (about 410 participants)
Consultations : 1,700 cases, most of which were handled within 7 days.
Published consultation :
The major 12 cases in 2009 were published as "Consultation Cases Related to the Antimonopoly Act"

Directions for the future activities

The JFTC should build recognition of "Consultation Cases Related to the Antimonopoly Act" by the public and publish novel cases of consultations continuously.

14

4. Outline of the Results of the Major Ex-Post Policy Evaluations in 2011		 公正取引委員会 Japan Fair Trade Commission
Public relations and public hearings on competition policy		
Goal		
To enhance public understanding on competition policy and to promote competition policy effectively and appropriately by <ul style="list-style-type: none"> - providing the public with a broad range of information on the details of the AMA and activities of the JFTC; and - gathering opinions and requests from the general public through close communication. 		
Evaluation indexes		
(Evaluation indexes of the output) The number of hosting seminars for consumers, the number of hosting lectures on the AMA for students, the number of press releases, the amount of advertising expenditures equivalent to the volume of articles appeared in newspapers, the number of accesses to the top page of the JFTC's website, etc.		
Status and assessment of implementation		
Number of press releases : 267 times Amount of advertising expenditures equivalent to the volume of articles reported in newspapers : 456.57 million yen Number of hosting events : 38 times of consumer seminars, 82 times of lectures on the AMA for students Number of the meetings with local experts : 84 times. Opinions and requests of the experts were reflected to activities by the JFTC.		
Directions for the future activities		
Increasing the number of participants in each activity, and making it easy for readers to understand press release materials.		

5. How Have We Incorporated the Results of the Policy Evaluations into Policy?		 公正取引委員会 Japan Fair Trade Commission
Prompt and appropriate merger investigation		
Actively utilizing outside human resources such as experts from the private sector, and strengthening the department of investigation (From 2004 to 2011 Policy Evaluations) <ul style="list-style-type: none"> ➤ Recruiting four attorneys and three economists between 2003 and January 2012 ➤ Staffing in the Department of Merger: 32 in FY 2004 → 37 in FY 2011 		
Strict enforcement of the AMA		
Strengthening the organization of the Investigation Bureau (From 2002 to 2011 Policy Evaluations) <ul style="list-style-type: none"> ➤ Staffing in the Investigation Bureau: 219 in FY 2002 → 382 in FY 2011 		
Appropriate administration of the Subcontract Act		
Hosting an active training course on the Subcontract Act (2003, 2006, 2007, and 2011 Policy Evaluations) <ul style="list-style-type: none"> ➤ The number of the training courses on the Subcontract Act: 27 in FY 2006 → 87 in FY 2010 		
Public relations and public hearings on competition policy		
Expanding activities for public relations and public hearings, such as increasing the number of events (2010 Policy Evaluations) <ul style="list-style-type: none"> ➤ Number of events: 38 consumer seminars in FY 2010 (0 in the previous year), 82 lectures on the AMA for students (47 in the previous year) 		
Creating competitive market environment		
Hosting seminars for the procuring agencies (2005, 2007 to 2011 Policy Evaluation) <ul style="list-style-type: none"> ➤ Number of seminars for procuring agencies: 75 in FY 2004 → 165 in FY 2010 		

6. Challenges for the Future



■ Methods of estimating the consumer benefit

With the objective of intelligibly and visually showing the outcome of the competition authority (CA) activities to the general public, it is very useful for CAs to define quantitative indexes of the outcomes of their activities, to evaluate them, and to publish the results.

We must further refine the methods for estimating the consumer benefit.

■ Indexes for competition policy evaluation

As it is challenging to evaluate the outcomes from CAs activities using quantitative evaluation indexes, we have to make greater efforts to develop quantitative indexes that enable us to evaluate the outcomes appropriately and that are easy to calculate.

17



Thank you for your attention!

I look forward to seeing you again at our website!

Website of the JFTC:

<http://www.iftc.go.jp/> (Japanese)

<http://www.iftc.go.jp/e-page/index.html> (English)



Dokkin

(Children's character for the JFTC)

18