Recommendation Decision No.27 of 2003

Decision

Mr. Hirosaku Yoneyama
President, the YONEX Corporation
3-23-13, Yushima, Bunkyo-ku, Tokyo

The Japan Fair Trade Commission (JFTC) made the recommendation to the above party under the provisions of the Section 48(1) of the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (hereinafter referred to as “Antimonopoly Act”) on October 24, 2003. As the above party has accepted it, the JFTC hereby issues the following decision under the provisions Section 48(4) of the Antimonopoly Act in line with the said recommendation.

Main Text

1. The YONEX Corporation shall cease and desist from the following conducts in its business dealings related to feather shuttlecocks among badminton shuttlecocks manufactured and sold by itself:

   (1) The conduct to urge its specific client retailers whose customers were taken by the import merchants selling feather shuttlecocks through mail-order and other sales methods to sell the YONEX feather shuttlecocks named “Standard” and “Standard II” that it marketed to compete against the imported feather shuttlecocks, and to push their customers that used the import merchants’ feather shuttlecocks to switch to the said YONEX feather shuttlecocks and to refrain from using the import merchants’ feather shuttlecocks., and in cases where its client retailers are about to sell or actually sell the import merchants’ feather shuttlecocks, the conduct to urge the client retailers to refrain from selling the said feather shuttlecocks by suggesting that it will not supply them with the above-mentioned products, “Standard” and others unless they accept the request of not selling the said feather shuttlecocks, and

   (2) In cases where the names of its client retailers are listed on the websites of the above-mentioned import merchants as their retailers, the conduct to urge the client retailers to refrain from selling the import merchants’ feather shuttlecocks by forcing the client retailers to request the import merchants to remove their names from the websites.
(3) The conduct to urge the sponsors and organizers of badminton competitions to refrain from accepting support from the import merchants by suggesting that the YONEX Corporation will not render support for the competitions if they accept support including supply of the feather shuttlecocks from the import merchants, and to refrain from using the import merchants’ feather shuttlecocks in the said competitions by requesting them not to designate them as the formal shuttlecocks to be used in the said competitions.

2. The YONEX Corporation shall notify the above-mentioned import merchants, the client retailers, and the sponsors and organizers of badminton competitions as well as inform its employees thoroughly of the following matters. The content and the manner shall be subject to the approval of the JFTC.

(1) The measures taken in accordance with the preceding paragraph, and
(2) The commitment to the effect that it will refrain from the conducts similar to those described in the preceding paragraph in the future.

3. The YONEX Corporation shall not unjustly interfere the business transactions between the import merchants who are in a domestic competitive relationship with itself and their trading partners as to the business related to the feather shuttlecocks through the conducts similar to 1 above in the future.

4. The YONEX Corporation shall promptly notify the JFTC with regard to the measures it has taken in accordance with preceding three paragraphs.

Findings of Fact

The findings of the JFTC are the followings:

1 (1) The YONEX Corporation (hereinafter referred to as “YONEX”) is headquartered at the address shown above, and manufactures and sells badminton equipments and others.
(2) The badminton equipments include shuttlecocks, rackets, shoes, clothes, etc., and while the shuttlecocks have two kinds, feather shuttlecocks made with waterfowl feathers, and synthetic shuttlecocks composing of materials other than waterfowl feathers, the majority of them are the feather shuttlecocks.
(3) YONEX sells the feather shuttlecocks to retailers directly or through its client wholesalers, and sells them through the retailers to badminton clubs of junior high schools, high schools, universities, businesses and their associations for badminton competition (hereinafter referred to as the “badminton clubs.”).
(4) a. The feather shuttlecocks approved by the Japan Badminton Association have
been used in most of the badminton competitions sponsored or organized by the Association, its member badminton competition groups or their subsidiaries.

b. The sponsors or organizers of badminton competitions (hereinafter referred to as the “competition sponsors”) designate the types of feather shuttlecocks for the use in the badminton competitions (hereinafter referred to as the “official shuttlecocks”). While the competition sponsors purchase the official shuttlecocks from manufacturers, distributors and retailers, they also receive supports from the manufacturers and distributors of the official shuttlecocks by means of supplying shuttlecocks used in the competitions and providing prizes for the badminton competitions. Once the feather shuttlecocks supplied by the manufacturers/distributors are designated as the official shuttlecocks, its impact on their sales promotions will be huge so that greater sales to badminton players are expected, and therefore they render such supports as supplying shuttlecocks used in the competitions.

(5) There are approximately 20 companies that manufacture or import to sell feather shuttlecocks in Japan. YONEX has a No.1 share in the sales volume of feather shuttlecocks in Japan, and its feather shuttlecocks are used in many badminton competitions. Therefore retailers find it advantageous to deal in the YONEX feather shuttlecocks.

2 (1) Against the backdrop of the trend of yen’s appreciation, since around 1993, some entrepreneurs started import of inexpensive feather shuttlecocks from overseas and their sales to the badminton clubs through such sales methods as mail-order (hereinafter referred to as the “import merchants”) had started to sell their imported feather shuttlecocks, and the increasing number of badminton clubs became to buy the feather shuttlecocks sold by the import merchants (hereinafter referred to as the “direct sales shuttlecocks”) for cost reduction. The retailers adversely affected by such a situation requested YONEX to take measures against the direct sales shuttlecocks. Upon such request, YONEX took the following measures against the import merchants and the direct sales shuttlecocks (hereinafter referred to as the “counter measures for direct sales shuttlecocks”) so that the customers including the competition sponsors would not use the direct sales shuttlecocks since around 1994 in order to suppress the expansion of the direct sales shuttlecocks and ensure the sales and profits of YONEX and their client retailers:

a. To urge the competition sponsors to refrain from accepting support from the import merchants and designating the direct sales shuttlecocks as the official shuttlecocks by suggesting that YONEX would not render support for the competitions if they accepted support including supply of feather shuttlecocks from the import merchants.

b. To urge the specific client retailers whose customers were deprived by the import merchants to sell the inexpensive YONEX feather shuttlecocks called “Standard” developed around in December 1994 (hereinafter referred to as the “Standard”) and the more inexpensive products called “Standard II” developed in around November 1995 (hereinafter referred to as the “Standard II”) in
order to compete against the direct sales shuttlecocks, and to push their customers that used the direct sales shuttlecocks to switch over to the YONEX feather shuttlecocks.

(2) In around September 2001, an import merchant in Chiba prefecture launched the retail business of feather shuttlecocks, and planned to sell them through retailers in addition to the mail-order sales. YONEX, therefore, in order to reduce the opportunity to sell the direct sales shuttlecocks by this import merchant and to ensure the sales and profits of YONEX and its client retailers, took the measures described in 2(1) above against the said import merchant, and in addition, since around October 2002, YONEX has taken the following measures so that its client retailers will not sell the direct sales shuttlecocks supplied by the said import merchant:

a. In cases where the client retailers were about to sell or actually sell the direct sales shuttlecocks, YONEX suggested that it would not supply them with the “Standard” and “Standard II” unless they accepted the YONEX’s request of not selling the direct sales shuttlecocks.

b. In cases where the names of the client retailers were listed on the website of the above-mentioned import merchant as its retailers, YONEX urges the client retailers to stop listing their names from the website by making the client retailers request the import merchant to remove them.

(3) The illustration of the conducts described in 2(1) and (2) above that YONEX has taken to the client retailers and the competition sponsors is as follows:

a. YONEX interfered the use of the direct sales shuttlecocks at the national badminton competition in Chiba held in March 2001 by negotiating for its support under the condition that YONEX’s feather shuttlecocks shall have been used in the competition and the direct sales shuttlecocks shall not have been allowed in the competition.

b. In around November 2002, YONEX urged a client retailer in Tokyo who tried to sell the direct sales shuttlecocks of the above-mentioned import merchant in Chiba to refrain from selling them, and suggested that it would not supply the “Standard” if the client retailer would sell the said direct sales shuttlecocks, then, the said client retailer decided not to sell them.
c. In around November 2002, YONEX urged a client retailer in Ishikawa prefecture, whose name was listed as the retailer handling the direct sales shuttlecocks on the website of the above-mentioned import merchant in Chiba, not to sell the direct sales shuttlecocks and to request the removal of its name from the said website, and suggested that YONEX would not supply the “Standard” unless its name was removed. The client retailer decided not to sell the direct sales shuttlecocks and requested the removal of its name from the website, and the name was finally deleted from the website of the import merchant.

Application of the Law

The application of the Law to the findings described above results in as follows; YONEX has unjustly interfered with transactions between the import merchants who are in a competitive relationship with YONEX and its client retailers in its feather shuttlecocks dealings. This conduct falls under the Paragraph 15 of the Unfair Trade Practices (Fair Trade Commission Notification No.15 of 1982) and violates the provision of Section 19 of the Antimonopoly Act. Thereby, JFTC issues the decision as stated in the Main Text.

November 27, 2003

Kazuhiko Takeshima, Chairman
Tadayoshi Honma, Commissioner
Makoto Kobayashi, Commissioner
Aiko Shibata, Commissioner
Hiroshi Mitani, Commissioner
Japan Fair Trade Commission