

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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ROUNDTABLE ON COMPETITION AND SPORTS

Note by the delegation of Japan

This note is submitted by the delegation of Japan to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 16-17 June 2010.

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ROUNDTABLE ON COMPETITION AND SPORTS

-- Note by Japan --

1. Introduction

1. It can be said that, among professional sports in Japan, professional baseball is an especially popular team sports.

2. With regard to the relationship between professional sports in Japan and competition, this contribution paper presents (i) general ideas about the application of the Antimonopoly Act (AMA) to professional sports, and then, (ii) general ideas about the possible impediment of new entries to professional baseball with regard to the issue of the realignment of professional baseball leagues that took place in 2004, as described below.

2. Application of the AMA to professional sports

3. The AMA stipulates that the actors in prohibited acts such as cartels are “entrepreneurs” and Article 2, paragraph (1) of the Act defines an “entrepreneur” as follows.

4. The term “entrepreneur” as used in this Act means a person who operates a commercial, industrial, financial or any other business. (Snip)

5. This means that teams are entrepreneurs when their entertainment activities are concerned. Therefore, if they establish an agreement over admission fees, for example, the act will be illegal.

3. Issue of realignment of professional baseball leagues

6. At the top of professional baseball in Japan is an organisation named Nippon Professional Baseball (NPB). Under NPB, two leagues, the Central League and Pacific League, are set up, each consisting of six teams.

7. In 2004, two of the teams belonging to the Pacific League announced that they were planning to merge with each other.

8. With regard to the realignment issue of the professional baseball league, the possible points of controversy are thought to be the following:

- Whether or not new entries are inhibited without justifiable grounds, and
- Whether or not new entries are impeded by the large amount of membership or entry fees

9. For professional baseball to function as a business one team is not enough; that is, the existence of multiple teams is essential. Therefore, it is deemed reasonable to a certain degree that multiple teams establish (conclude agreements over) the basic framework of games (such as the number of teams, number

of games per year, and game schedules) to enable professional baseball to function as a business. Therefore, it is thought that this act is not immediately deemed problematic in light of the AMA.

10. It is thought that an act of establishing requirements for joining the NPB in a reasonable manner – requiring the team to have its own baseball field, for example – is not, in itself, immediately deemed problematic in light of the AMA.

11. It is not problematic for NPB to refuse the entry of a party without the sufficient infrastructure required of a professional baseball team. However, rejection of entry of a party without justifiable grounds is likely to impede competition to attract fans, increase the number of spectators, and increase sales of related goods, etc., and could therefore be problematic in light of the AMA.

12. With respect to large membership or entry fees, the guidelines of the trade association stipulate that “collecting an excessive amount of entry fees or contributions that are not reasonable under normal social conventions” is “very likely to be illegal where business activities are difficult to undertake without belonging to the trade association, because the act is very likely to fall under acts which unreasonably restrain the entry of entrepreneurs to the trade association.” Therefore, where the amount of fees, etc. is deemed unreasonable in light of the purpose of collecting the money and where the amount, etc. is a major impediment to entry into NPB, it will be deemed problematic as a factor impeding the entry.

13. With regard to this issue, new entries were admitted and the two-league system has been retained ever since.