

Status of Notifications Regarding Business Combinations in FY 2022

June 28, 2023

The Japan Fair Trade Commission

1. Notification Process and Status of Review of Acquisition of Stock, etc.

In FY 2022, 306 notifications of business combination plans were received (down 9.2% from the previous year), of which 270 were for stock acquisitions, 11 for mergers, 7 for splits, 3 for joint share transfer, and 15 for business acquisitions.

Of the 306 notifications received in FY 2022, 299 were notifications “that no cease and desist order will be issued as there is no problem under the Antimonopoly Act as a result of the preliminary review,” 7 were “withdrawn during the preliminary review,” and none were “transferred to the secondary review as a more detailed review is required.”

Of the cases examined in FY 2022, one case was judged to be no problem under the Antimonopoly Act based on the remedial measures proposed by the Parties, and there were 15 cases, including those in the digital field, concerning business combination plans that do not require notification (cases where the Parties were consulted or the Fair Trade Commission initiated the review ex officio) (see Reference 2 regarding the implementation of the review of business combination corresponding to digitalization, etc.).

The status of notifications received and reviewed for the past three fiscal years is shown in Tables 1, 2, and 3.

Table 1 Processing of notifications received in the past three fiscal years

	FY 2020	FY 2021	FY 2022
Number of notifications	266	337	306
Those completed in the preliminary review <small>(see note)</small>	258	328	299
Of which, the waiting period was shortened	(199)	(248)	(243)
Those withdrawn before the end of the preliminary review	7	8	7
Those moved to the secondary review	1	1	0

(Note) As a result of the preliminary review, a notification was issued to the effect that no cease and desist order would be issued because there was no problem under the Antimonopoly Act.

Table 2 Processing status of second screening in the past three fiscal years ^(Note 1)

	FY 2020	FY 2021	FY 2022
Those completed in the secondary review ^(Note 2)	1	1	0
Those without problem subject to the remedial measures offered by the Parties	1	0	0
Withdrawals received before the end of the secondary review	0	1	0
Those for which a cease and desist order has been issued	0	0	0

(Note 1) The figures are for items processed during the fiscal year, regardless of whether or not they were received during the fiscal year.

(Note 2) As a result of the secondary review, a notification was issued to the effect that no cease and desist order would be issued because there was no problem under the Antimonopoly Act.

Table 3 Changes in Notifications Concerning Business Combination Plans Involving Foreign Companies as Parties ^(Note)

	FY 2020	FY 2021	FY 2022
Notification of integration plans between Japanese and foreign companies	6	11	9
Notification of integration plans between foreign companies	14	33	28
total amount	20	44	37

(Note) Of the number of filings listed in Table 1, this table shows changes in filings relating to business combination plans that include foreign companies as parties.

(Reference) Status of review of business combination plans that do not require notification for the past three fiscal years

	FY 2020	FY 2021	FY 2022
Business combination plans that do not require notification among the projects completed during the fiscal year	9	14	15

2. Trends in Share Purchases, Mergers, Splits, Joint Share Transfers, and Business Acquisition, etc.

Tables 4 through 13 show the business combinations for which notifications were received in FY 2022 by total domestic sales, percentage of voting rights held, type of industry, and type of transaction.

Table 4 Number of stock acquisition notifications received by total domestic sales

Total domestic sales of the company issuing the shares Total domestic sales of the company acquiring the stock	More than 5 billion yen Less than 20 billion yen	More than 20 billion yen Less than 50 billion yen	More than 50 billion yen Less than 100 billion yen	More than 100 billion yen Less than 500 billion yen	More than 500 billion yen	total amount
More than 20 billion yen Less than 50 billion yen	31	7	0	1	0	39
More than 50 billion yen Less than 100 billion yen	22	5	0	2	0	29
More than 100 billion yen Less than 500 billion yen	55	13	5	3	0	76
More than 500 billion yen Less than 1 trillion yen	31	15	5	7	0	58
More than 1 trillion yen Less than 5 trillion yen	21	14	4	2	2	43
More than 5 trillion yen	10	6	5	4	0	25
Total	170	60	19	19	2	270

Table 5 Number of stock acquisition notifications received by percentage of voting rights acquired (Note)

More than 20 50% or less	More than 50	Total
65	205	270

(Note) The ratio of acquisition of voting rights refers to the ratio of the number of voting rights pertaining to shares held in a share-issuing company by a share-acquiring company after acquiring shares in the said share-issuing company, and the ratio of the number of voting rights of all shareholders of the share-issuing company adding the number of voting rights in the share-issuing company held by companies, etc. other than the acquiring company that belongs to the group of combined companies to which the acquiring company belongs.

Table 6 Number of Merger Notifications Received by Total Domestic Sales ^(Note)

The surviving company's total domestic sales \ The dissolving company's total domestic sales	More than 5 billion yen Less than 20 billion yen	More than 20 billion yen Less than 50 billion yen	More than 50 billion yen Less than 100 billion yen	More than 100 billion yen Less than 500 billion yen	More than 500 billion yen	Total
More than 5 billion yen Less than 20 billion yen	0	2	0	1	1	4
More than 20 billion yen Less than 50 billion yen	0	1	0	3	0	4
More than 50 billion yen Less than 100 billion yen	1	0	0	0	0	1
More than 100 billion yen Less than 500 billion yen	0	0	1	0	0	1
More than 500 billion yen Less than 1 trillion yen	0	0	0	0	0	0
More than 1 trillion yen Less than 5 trillion yen	0	0	0	0	1	1
More than 5 trillion yen	0	0	0	0	0	0
Total	1	3	1	4	2	11

(Note) In the case of a merger of three or more companies, i.e., two or more dissolving companies, the dissolving company with the largest total domestic sales is considered to be the reference company.

Table 7 Number of Joint Incorporation/Divestiture Notifications Received by Total Domestic Sales, etc. (Note)

<div> <div>Total domestic sales of Company 2 to be split (or domestic sales relating to part to be divided)</div> <div>Total domestic sales of Company 1 to be split off (or domestic sales relating to part to be divided)</div> </div>	More than 3 billion yen Less than 20 billion yen	More than 20 billion yen Less than 50 billion yen	More than 50 billion yen Less than 100 billion yen	More than 100 billion yen Less than 500 billion yen	More than 500 billion yen	Total
More than 5 billion yen Less than 20 billion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 20 billion yen Less than 50 billion yen	0(0)	0(1)	0(0)	0(0)	0(0)	0(1)
More than 50 billion yen Less than 100 billion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 100 billion yen Less than 500 billion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 500 billion yen Less than 1 trillion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 1 trillion yen Less than 5 trillion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 5 trillion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
Total	0(0)	0(1)	0(0)	0(0)	0(0)	0(1)

(Note) Of the companies that will be subject to a joint incorporation-type company split, the company with the largest total domestic sales or domestic sales related to the portion subject to the split is "Company 1 to be split" and the company with the next largest total domestic sales is "Company 2 to be split. The figures outside the parentheses represent the number of notifications received based on the total domestic sales of the company that intends to succeed the entire business, and the figures inside the parentheses represent the number of notifications received based on the domestic sales of the part of the company to be split that intends to succeed a substantial part of the business (not included in the number of notifications).

Table 8 Number of Accepted Absorption-Type Split Notifications by Total Domestic Sales, etc. (Note)

Domestic sales of the company to be divested (or domestic sales relating to part to be divided) Domestic sales of the succeeding company	More than 3 billion yen Less than 20 billion yen	More than 20 billion yen Less than 50 billion yen	More than 50 billion yen Less than 100 billion yen	More than 100 billion yen Less than 500 billion yen	More than 500 billion yen	Total
More than 5 billion yen Less than 20 billion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 20 billion yen Less than 50 billion yen	0(1)	0(0)	0(0)	0(0)	0(0)	0(1)
More than 50 billion yen Less than 100 billion yen	0(1)	0(1)	0(0)	0(0)	0(0)	0(2)
More than 100 billion yen Less than 500 billion yen	0(2)	0(0)	0(0)	0(0)	0(0)	0(2)
More than 500 billion yen Less than 1 trillion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
More than 1 trillion yen Less than 5 trillion yen	0(1)	0(0)	0(0)	0(0)	0(0)	0(1)
More than 5 trillion yen	0(0)	0(0)	0(0)	0(0)	0(0)	0(0)
Total	0(5)	0(1)	0(0)	0(0)	0(0)	0(6)

(Note) The figures outside the parentheses represent the number of notifications received based on the total domestic sales of the company that intends to succeed the entire business, and the figures inside the parentheses represent the number of notifications received based on the domestic sales of the part of the company to be split that intends to succeed a substantial part of the business (not included in the number of notifications).

Table 9 Number of Joint Share Transfer Notifications Received by Total Domestic Sales

(Note)

Total domestic sales of share transfer Company 1 \ Total domestic sales of share transfer Company 2	More than 5 billion yen Less than 20 billion yen	More than 20 billion yen Less than 50 billion yen	More than 50 billion yen Less than 100 billion yen	More than 100 billion yen Less than 500 billion yen	More than 500 billion yen	Total
More than 20 billion yen Less than 50 billion yen	1	0	0	0	0	1
More than 50 billion yen Less than 100 billion yen	0	0	0	0	0	0
More than 100 billion yen Less than 500 billion yen	0	0	1	1	0	2
More than 500 billion yen Less than 1 trillion yen	0	0	0	0	0	0
More than 1 trillion yen Less than 5 trillion yen	0	0	0	0	0	0
More than 5 trillion yen	0	0	0	0	0	0
Total	1	0	1	1	0	3

(Note) The company with the largest total domestic sales among the companies that will jointly transfer shares was designated "Share Transfer Company 1" and the company with the next largest total domestic sales was designated "Share Transfer Company 2"

Table 10 Number of Notifications of Acceptance of Business Acquisition, etc. by Total Domestic Sales, etc. ^(Note)

<div> <div>Total domestic sales relating to the portion subject to acquisition</div> <div>Total domestic sales of the transferee company</div> </div>	More than 3 billion yen Less than 20 billion yen	More than 20 billion yen Less than 50 billion yen	More than 50 billion yen Less than 100 billion yen	More than 100 billion yen Less than 500 billion yen	More than 500 billion yen	Total
More than 20 billion yen Less than 50 billion yen	3	0	0	0	0	3
More than 50 billion yen Less than 100 billion yen	2	1	0	0	0	3
More than 100 billion yen Less than 500 billion yen	5	0	0	0	0	5
More than 500 billion yen Less than 1 trillion yen	2	0	1	1	0	4
More than 1 trillion yen Less than 5 trillion yen	0	0	0	0	0	0
More than 5 trillion yen	0	0	0	0	0	0
Total	12	1	1	1	0	15

(Note) In the case of business acquisition from two or more companies, i.e., two or more transferring companies, the transferring company with the largest domestic sales relating to the portion to be transferred shall be considered as the base company.

Table 11 Number of Notifications Received by Industry ^(Note)

Type of Industry	Stock acquisition	Merger	Split	Absorption-type split	Joint share transfer	Business acquisition	Total
Agriculture, Forestry and Fisheries	0	0	0	0	0	0	0
Mining	1	0	0	0	0	0	1
Construction	5	0	0	0	0	0	5
Manufacturing	42	4	1	2	0	9	58
Wholesale and retail	43	1	0	0	2	3	49
Real estate	8	0	0	0	0	1	9
Transportation, communication, and warehousing	17	1	0	0	1	1	20
Services	11	2	0	1	0	1	15
Finance and insurance	15	1	0	0	0	0	16
Electricity and Gas Heat supply and water supply	2	0	0	2	0	0	4
Other	126	2	0	1	0	0	129
Total	270	11	1	6	3	15	306

(Note) The classification of industry is based on the industry of the company acquiring the stock in the case of stock acquisition, the industry of the surviving company after the merger in the case of a merger, the industry of the split company in the case of a joint incorporation-type company split, the industry of the company succeeding the business in the case of an absorption-type company split, the industry of the newly established company in the case of a joint share transfer, or the industry of the company acquiring the business in the case of business acquisition.

Table 12 Number of Notifications Received by Type (Note 1) (Note 2)

Type		Stock acquisition	Merger	Split	Absorption -type split	Joint share transfer	Business acquisition
Horizontal relationship		169	7	0	4	1	11
Vertical relationship	Forward	95	1	0	3	0	4
	Backward	80	5	0	0	0	4
Conglomerate relationship	Territory expansion	37	1	0	1	2	1
	Product expansion	42	3	0	2	0	1
	Pure	30	0	0	0	0	0
Number of notifications received		270	11	1	6	3	15

(Note 1) Types are based on the following classification.

(i) Horizontal relationship: When the relevant company groups are in a competitive relationship in any particular field of trade.

(ii) Vertical relationship: When the company groups are at different stages of transaction.

Forward: Business combination with a company in which the share acquiring company, the surviving company, the successor company, or the transferee company is the end user.

Backward: Business combination with a company that is in a position that is opposite to the forward direction

(iii) Conglomerate relationship: Neither horizontal nor vertical.

Territory expansion: Supplying the same type of goods or services to different markets.

Product expansion: Supplying different goods or services that are related in terms of production or sales.

Pure: If none of the above apply

(Note 2) In the case of a business combination that falls under more than one type, all applicable types are counted. Therefore, the total number of cases by type does not necessarily equal the number of notifications received.

Table 13: Notifications of Horizontal, Vertical, and Conglomerate Types of Business Combinations in the Past Three Fiscal Years

	FY 2020	FY 2021	FY 2022
Horizontal Business Combination	176 (66%)	188 (56%)	192 (63%)
Vertical Business Combination	118 (44%)	139 (41%)	158 (52%)
Conglomerate business combination	125 (47%)	142 (42%)	106 (35%)
Number of notifications received	266 (100%)	337 (100%)	306 (100%)

(Note) In the case of business combinations that fall under more than one type, all applicable items are aggregated. Therefore, the total percentages may not equal 100%, and the total does not necessarily equal the number of notifications received.

3. Trends in Business Reporting and Notification of Establishment under Article 9 of the Antimonopoly Act

The number of business reports submitted pursuant to Article 9, Paragraph 4 of the Antimonopoly Act was 116 (Table 14). In addition, there were five (5) filings of incorporation notifications submitted in accordance with Article 9, Paragraph 7.

(Note) Companies whose total assets exceed a certain size are required to submit a report on their business to the Japan Fair Trade Commission within three months of the end of each fiscal year. In addition, newly incorporated companies that meet certain requirements are required to notify the Japan Fair Trade Commission of incorporation within 30 days of the date of incorporation.

Table 14 Sum of Total Assets of Reporting Companies and their Subsidiaries by Size and Company Type based on Article 9, Paragraph 4 of the Antimonopoly Act

By company type By total asset size	Holding company (Total asset standard amount: 600 billion yen) Article 9, Paragraph 4, Item 1	Finance company (Total asset standard amount: 8 trillion yen) Article 9, Paragraph 4, Item 2	General business company (Total asset standard amount: 2 trillion yen) Article 9, Paragraph 4, Item 3	Total
More than 8 trillion yen	20	10	34	64
More than 5 trillion yen but less than 8 trillion yen	7	-	13	20
More than 2 trillion yen but less than 5 trillion yen	4	-	21	25
More than 1 trillion yen but less than 2 trillion yen	7	-	-	7
More than 600 billion yen but less than 1 trillion yen	-	-	-	-
Total	38	10	68	116

4. Trends in Authorization relating to the Ownership of the Voting Rights of Banks or Insurance Companies

The number of authorizations granted under Article 11 of the Antimonopoly Act was 21, of which 20 were granted under Paragraph 1 of the same Article (14 pertaining to banks and 6 pertaining to insurance companies) and 1 was granted under Paragraph 2 of the same Article (pertaining to banks). As of the end of FY 2022, there were 73 cases in which ownership of voting rights was recognized as a result of authorization (Table 15).

Table 15 Number of Authorizations under Article 11 of the Antimonopoly Act

	As of the end of FY 2022	
	Number of approvals for ownership of voting rights based on authorization	Of which, number of approvals in FY 2022
Bank	66	15
Insurance company	7	6
Total	73	21

Reference document: Changes in the number of notifications and reports related to
business combinations (Note 1)

Year	Article 9 Business report (Note 2)	Article 9 Notificat ion of Incorpor ation (Note 2)	Stock acquisiti on notificat ion (Note 3)	Notificat ion of interloc king officers (Note 4)	Report of stockholding by a party other than the company (Note 5)	Merger notific ation (Note 6)	Split notific ation (Note 7)	Notificat ion of joint share transfer (Note 8)	Notification of business acquisition (Note 9)
47			(2)		(0)	(23)			(22)
48			(31)		(0)	(309)			(192)
49			(13)		(0)	(123)			(53)
			2,373		0	448			143
50			3,840		0	420			207
51			4,546		0	331			182
52			4,795		0	385			124
53			3,863	268	0	344			126
54			2,827	328	0	325			167
55			3,033	268	0	338			143
56			3,080	457	0	381			209
57			3,069	375	0	398			140
58			3,316	557	0	381			118
59			3,170	466	0	413			139
60			2,991	644	0	440			144
61			3,211	675	1	591			162
62			3,231	804	0	715			193
63			3,844	758	0	997			223
64			3,921	527	4	864			195
65			4,534	487	1	894			202
66			4,325	462	0	871			264
67			4,075	458	2	995			299
68			4,069	480	3	1,020			354
69			4,907	647	0	1,163			391
70			4,247	543	2	1,147			413
71			5,832	552	0	1,178			449
72			5,841	501	1	1,184			452
73			6,002	874	0	1,028			443
74			5,738	794	0	995			420
75			5,108	754	9	957			429
76			5,229	925	6	941			511
77			5,085	916	1	1,011			646
78			5,372	1,394	0	898			595
79			5,359	3,365	0	871			611
80			5,759	2,556	2	961			680
81			5,505	2,958	1	1,044			771
82			6,167	2,477	1	1,040			815

Year	Article 9 Business report (Note 2)	Article 9 Notificat ion of Incorpor ation (Note 2)	Stock acquisiti on notificat ion (Note 3)	Notificat ion of interloc king officers (Note 4)	Report of stockholding by a party other than the company (Note 5)	Merger notific ation (Note 6)	Split notific ation (Note 7)	Notificat ion of joint share transfer (Note 8)	Notification of business acquisition (Note 9)
83			6,033	3,389	4	1,020			702
84			6,604	3,159	2	1,096			790
85			6,640	3,504	6	1,113			807
86			7,202	2,944	1	1,147			936
87			7,573	3,776	1	1,215			1,084
88			6,351	3,450	0	1,336			1,028
89			8,193	4,420	0	1,450			988
90			8,075	4,312	0	1,751			1,050
91			8,034	6,124	2	2,091			1,266
92			8,776	5,675	0	2,002			1,079
93			8,036	6,330	3	1,917			1,153
94			8,954	5,137	18	2,000			1,255
95			8,281	5,897	1	2,520			1,467
96			9,379	5,042	0	2,271			1,476
97	0	0	8,615	5,955	7	2,174			1,546
98	2	0	7,518	447	0	1,514			1,176
99	1	1	1,029			151			179
00	5	1	804			170			213
01	7	7	898			127	20		195
02	16	7	899			112	21		197
03	76	4	959			103	21		175
04	79	1	778			70	23		166
05	80	5	825			88	17		141
06	87	2	960			74	19		136
07	93	2	1,052			76	33		123
08	92	4	829			69	21		89
09	93	5	840			48	15	3	79
10	92	2	184			11	11	5	54
11	100	0	224			15	10	6	20
12	99	1	285			14	15	5	30
13	100	0	218			8	14	3	21
14	103	0	231			12	20	7	19
15	104	2	222			23	17	6	27
16	108	2	250			26	16	3	24
17	105	0	259			9	13	3	22
18	107	2	259			16	15	2	29
19	112	0	264			12	12	3	19
20	114	1	223			16	7	0	20
21	114	3	288			10	17	3	19
22	116	5	270			11	7	3	15

(Note 1) Figures in parentheses represent the number of authorizations.

(Note 2) The system of filing business reports and notification of establishment under Article 9 of the Antimonopoly Act was newly established by the Act Amending the Antimonopoly Act of 1997. There were no cases before that time. Under the Antimonopoly Act before its amendment in the 2002 Act Amending the Antimonopoly Act, holding companies that exceeded a certain threshold of total assets were required to file business reports and notification of incorporation. However, under the amendment of the Antimonopoly Act, in addition to holding companies, financial companies and general business companies that exceed certain total asset thresholds are also required to file business reports and notification of incorporation.

(Note 3) The amendment to the exemption requirements (total assets) for share ownership reporting is as follows.

Year of amendment	Exemption requirement (total assets)
1949	Over 5 million yen
1953	Over 100 million yen
1965	Over 500 million yen
1977	Over 2 billion yen

Under the Antimonopoly Act before its amendment by the 1998 Act Amending the Antimonopoly Act, any domestic company (excluding companies engaged in the financial business) or foreign company (excluding companies engaged in financial services) with total assets exceeding 2 billion yen was required to submit a stockholding report within three months of the end of each business year in the case of ownership of shares in a domestic company. However, under the Antimonopoly Act following the amendment, a company with total assets exceeding 2 billion yen and a sum of total assets of 10 billion yen is required to submit a stockholding report in the case that it acquires or owns more than 10%, 25%, or 50% of the shares of a domestic company with total assets of more than 1 billion yen or a foreign company with total domestic sales exceeding 1 billion yen.

In addition, revisions were made to the notification criteria in the Act Amending the Antimonopoly Act of 2009, setting a requirement for a company with total domestic sales exceeding 20 billion yen to make notification in advance in the same manner as for mergers, etc. in the case that it holds voting rights in excess of 20% or 50% (two levels) when acquiring shares in a company with domestic sales exceeding 5 billion yen including domestic sales of its subsidiaries.

(Note 4) Under the Antimonopoly Act prior to its revision in the Act Amending the Antimonopoly Act of 1998, a director or employee of a company was required to issue a notification if he or she concurrently held the position of director or employee of a domestic company in a competitive relationship in Japan and if the total assets of either company exceeded 2 billion yen. However, this requirement was abolished in the amended Antimonopoly Act.

(Note 5) Under the Antimonopoly Act prior to its revision by the Act Amending the Antimonopoly Act of 1998, a party other than a company was required to submit a

shareholding report if it came to hold more than 10% of the total number of issued shares of two or more domestic companies in a mutually competitive relationship. However, this requirement was abolished in the amended Antimonopoly Act.

(Note 6) Under the Antimonopoly Act prior to its revision by the Act Amending the Antimonopoly Act of 1998, it was necessary to make advance notification of any and all company mergers. Under the amended Antimonopoly Act, however, the requirement for notification now only applies in cases in which a company has total assets exceeding 10 billion yen and the other company has total assets exceeding 1 billion yen, for example.

In addition, in the 2009 Act Amending the Antimonopoly Act, the notification criteria were revised again, requiring notification in the case of a merger between a company with total domestic sales exceeding 20 billion yen and a company with total domestic sales exceeding 5 billion yen.

(Note 7) Notification of splits was newly established in accordance with the 2000 amendment to the Commercial Code. There were no cases before FY 2000.

In addition, the notification standards were revised in accordance with the Act Amending the Antimonopoly Act of 2009. The requirement is for a notification of a plan for a company split to be issued in the case that a total succession company (i.e., a company that intends to succeed in the entire business) that exceeds total domestic sales of 20 billion yen intends to succeed to a business with total domestic sales in excess of 5 billion yen.

(Note 8) The notification of joint share transfer was newly established by the Act Amending the Antimonopoly Act of 2009. There were no cases until FY 2008.

(Note 9) Under the Antimonopoly Act prior to its revision by the Act Amending the Antimonopoly Act of 1998, a company was required to issue advance notification in all cases in which it intended to acquire all or a significant portion of a business. Under the amended Antimonopoly Act, however, notification is now required when a company with total assets exceeding 10 billion yen acquires the entire business of a domestic company with total assets exceeding 1 billion yen.

In addition, an amendment to the notification criteria was made in accordance with the 2009 Act Amending the Antimonopoly Act, which requires a company with total domestic sales exceeding 20 billion yen to issue notification of a plan for business acquisition, etc. when it acquires the entire business of a company with total domestic sales exceeding 3 billion yen.

Business Combination Review

If competition is substantially restricted by a business combination (shareholding, interlocking officers, mergers, divisions, joint share transfers, business acquisitions, etc.), (1) not only will users be disadvantaged because their choices are narrowed but also (2) the incentive of the companies concerned to respond appropriately to demand will be lost, resulting in the companies concerned missing opportunities for further growth, and thereby hindering economic vitality.

For this reason, business combinations that would substantially restrain competition in a particular field of trade are prohibited in the Antimonopoly Act and the Japan Fair Trade Commission conducts business combination reviews in accordance with the provisions of the Antimonopoly Act.

1 Business Combination Review Process

(1) Business combination plans for which notification is required

When a company that meets certain conditions as shown in Table 1 below enters into a business combination, it must file a notification with the Japan Fair Trade Commission in advance.

If the JFTC determines that there is no problem with the notified business combination in light of the provisions of the Antimonopoly Act within 30 days from the date of acceptance of the notification, the review will be completed within this period (preliminary review).

If the JFTC deems it necessary to conduct a detailed review, it will request the notifying company to submit the necessary reports, etc. (secondary review). Within 90 days from the date of receipt of all reports, etc., the JFTC will determine whether there is a problem with this business combination under the provisions of the Antimonopoly Act.

Even if it is determined that a business combination will substantially restrict competition in a particular field of trade, if the parties can eliminate the problem by taking certain appropriate remedial measures (remedy), it may be determined that there is no problem with the business combination under the Antimonopoly Act (the parties may conduct this business combination).

(2) Business combination plans that do not require notification

If a company planning a business combination that does not require notification consults the JFTC with respect to such a business combination plan in which the specific details of the plan are indicated, the JFTC shall respond in the same manner as when a notification is filed with respect to a business combination plan that requires notification.

In the case of a business combination plan that does not require notification based only on the fact that the amount of domestic sales of the company to be substantially

acquired out of the companies concerned does not meet the notification criteria, if the total consideration for the acquisition is large and is expected to affect domestic consumers, the JFTC may conduct a business combination review, including requesting the submission of materials, etc. from the Parties.

Table 1 Summary of cases requiring notification by type

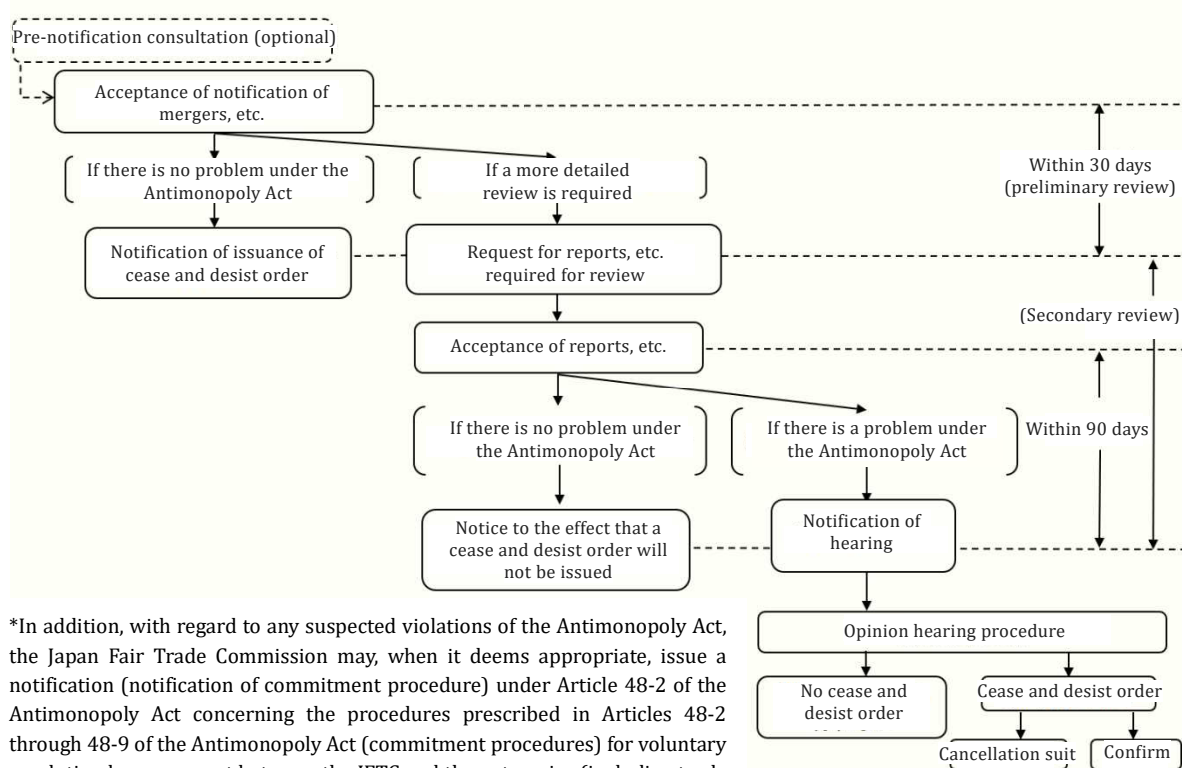
Type (Applicable provisions)		Summary of cases requiring notification
Acquisition of stocks (Article 10)		(i) When a company with total domestic sales ^(Note 1) exceeding 20 billion yen (ii) Acquires stock of a stock-issuing company for which the total domestic sales of the stock-issuing company and its subsidiaries exceed 5 billion yen, and (iii) the percentage of voting rights held ^(Note 2) will exceed 20% or 50%.
Merger (Article 15) and joint share transfer (Article 15-3)		(i) When a company with total domestic sales exceeding 20 billion yen and (ii) a company with total domestic sales of more than 5 billion yen (iii) conduct a merger (or joint transfer of shares)
Split (Article 15-2)	Joint incorporation-type split	(i) When a company with total domestic sales exceeding 20 billion yen and (ii) a company with total domestic sales of more than 5 billion yen (iii) succeed the entire business to a company to be established through a joint incorporation-type split, etc.
	Absorption-type split	(i) When a company with total domestic sales of more than 20 billion yen (ii) succeeds the entire business to (iii) a company with total domestic sales in excess of 5 billion yen
Acquisition of business, etc. (Article 16)		(i) When a company with total domestic sales of more than 20 billion yen (ii) acquires the entire business from a company with domestic sales exceeding 3 billion yen, or (i) When a company with total domestic sales of more than 20 billion yen (ii) acquires a substantial part of the business (or all or a substantial part of fixed assets in the business) with domestic sales exceeding 3 billion yen

(Note 1) Total domestic sales refers to the total domestic sales of the companies, etc., in the group of combined companies (a group consisting of the "ultimate parent company" of the notifying company and its subsidiaries).

(Note 2) The percentage of voting rights held refers to the percentage of voting rights

held by companies, etc. belonging to the group of combined companies.

Table 2 Flowchart of Business Combination Review



*In addition, with regard to any suspected violations of the Antimonopoly Act, the Japan Fair Trade Commission may, when it deems appropriate, issue a notification (notification of commitment procedure) under Article 48-2 of the Antimonopoly Act concerning the procedures prescribed in Articles 48-2 through 48-9 of the Antimonopoly Act (commitment procedures) for voluntary resolution by agreement between the JFTC and the enterprise (including trade associations, etc.).

2 Basic Approach to Business Combination Review

The approach of the Japan Fair Trade Commission to the review of business combinations is published in the "Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination" (Business Combination Guidelines) (Japan Fair Trade Commission, May 31, 2004).

First, based on the definition of the scope of a particular field of trade (market) from the viewpoint of the range of suppliers from which users can procure goods and services, a review of whether there is a problem based on the Antimonopoly Act is made as to whether the business combination will substantially restrict competition, in other words, whether it will create a situation where users will not have sufficient choice.

(1) A particular field of trade represents the scope ("scope of goods" and "geographic scope") for determining whether a business combination will result in a restriction of competition.

This particular field of trade is basically delineated in terms of substitutability for the user and, if necessary, for the supplier.

Substitutability for users is determined with consideration for the extent to which

users would switch their purchase of the product or service to another product or service or to another region based on the assumption that a certain enterprise is a monopoly supplier of a certain good or service in a certain region, and, if the monopoly operator raises the price of the good or service in a "small but significant and non-transitory increase" for the purpose of maximizing profit.

- The above approach in defining a particular field of trade (market) is called the SSNIP (Small but Significant and Non-transitory Increase in Price) test.
- The SSNIP test is a concept used in Europe and the United States.
- The term "small but substantial and non-transitory price increase" usually refers to an increase of 5% to 10% and a period of about one year in duration.

(2) Substantial restriction of competition

A. Safe Harbor Criteria

(a) Safe harbor criteria for horizontal business combinations

In markets where the HHI ^(Note 3) after the business combination falls under any of (i) through (iii) below, it is not usually considered that a horizontal business combination will substantially restrict competition in a particular field of trade.

- (i) If the HHI after the business combination is less than or equal to 1,500
- (ii) If the HHI after the business combination is more than 1,500 but less than or equal to 2,500 and the incremental HHI ^(Note 4) is less than or equal to 250
- (iii) If the HHI after the business combination exceeds 2,500 and the incremental HHI is 150 or less

(Note 3) HHI is calculated based on a calculation of the square sum of the market shares of each operator in this particular field of trade.

(Note 4) The incremental HHI from a business combination can be calculated by multiplying the market share of each of the parties by two if there are two companies involved.

(b) Safe Harbor Criteria for Vertical and Conglomerate Business Combinations

If the group of companies involved after the business combination falls under (i) or (ii) below, it is not usually considered that a vertical business combination or a conglomerate business combination will substantially restrict competition in a particular field of trade.

- (i) In the case where the market share of the group of the parties after the business combination is 10% or less in all particular fields of trade in which the parties are involved.
- (ii) If the HHI after the business combination is 2,500 or less in all particular fields of trade involving the parties, and the market share of the company group after the business combination is 25% or less.

B. If the safe harbor criteria are not met

If the safe harbor criteria are not met, the JFTC will consider (1) whether the unilateral conduct of the group of companies would effectively restrict competition in a particular field of trade and (2) whether the coordinated conduct of the group of companies and its competitors would effectively restrict competition in a particular field of trade.

In this consideration, (1) a decision will be made based on considerations regarding "whether price increases, etc. by the group of companies after the business combination will be facilitated by the enhancement of the market position of the Parties, etc." with respect to the effective restriction of competition by the unilateral conduct of the group of the companies concerned based on the actual conditions of the market and transactions identified through interviews and questionnaire surveys, and, with regard to the increase in prices by the Parties, "whether there will be competitive pressure from competitors," "whether there will be competitive pressure from imports or entrants," "whether there will be competitive pressure based on the competing bargaining power of consumers," "whether there will be competitive pressure based on the countervailing bargaining power of users," and "whether there will be competitive pressure from competing goods from adjacent markets."

Similarly, (2) a decision will be made based on considerations with respect to "whether it will become easier for the group of the companies concerned and their competitors to raise prices, etc. in concert after the business combination" in connection to any substantial restriction of competition through concerted conduct by the group of the companies concerned and their competitors, and, with regard to any increase in prices by the Parties, "whether there will be competitive pressure from imports or entrants," "whether there will be competitive pressure based on users countervailing bargaining power," and "whether there will be competitive pressure from competing products in adjacent markets."

(3) Remedies

Even when a business combination results in a substantial restriction of competition in a particular field of trade, it may be possible to remedy the problem by taking certain appropriate measures (remedies) by the Parties.

Specific individual considerations of appropriate remedial measures to be taken as remedies will be made for each business combination.

Remedies are, in principle, structural remedial measures including business transfers based on being capable of restoring competition lost through the business combination. However, in markets where market structure changes rapidly due to technological innovation, etc., it may be more appropriate to adopt remedial measures related to certain conduct.

Implementation of Business Combination Review in Response to Digitalization, etc.

June 2023

In “Actively Promoting Competition Policy in Response to Digitalization and Other Socioeconomic Changes - Coordination and Enhancement of Advocacy and Enforcement” (June 2022), the Japan Fair Trade Commission clarified that prompt and appropriate enforcement will be promoted through the following efforts with regard to business combinations in the digital market, etc.

1 Soliciting information and opinions from third parties

Having announced that opinions from third parties will be heard to coincide with the commencement of a secondary review in relevant cases. The JFTC widely solicited such opinions. However, under complex and rapidly changing market conditions centering on the digital field, there may be cases in which it is considered necessary to collect opinions from a wider range of third parties. Therefore, the JFTC solicits information and opinions from third parties as necessary for individual cases, regardless of whether or not the secondary review is initiated.

In FY 2022, between June 16 and July 15, the JFTC solicited information and opinions from third parties regarding (1) the integration of Google, LLC and Mandiant, Inc. and (2) the integration of Microsoft Corporation and Activision Blizzard, Inc.

2 Use of internal documents

In order to promptly and accurately examine business combination cases in the digital market, etc., the JFTC clarified its policy of utilizing internal documents from the Parties. In addition, in order to contribute to smooth communication between the Parties and the JFTC when requesting the submission of internal documents, the “JFTC Practices relating to the Submission of Internal Documents in Business Combination Reviews” was published on June 22, 2022, which clarified the practices pertaining to a request for the submission of internal documents (scope of internal documents to be submitted, submission method, etc.).

In FY 2022, for example, of the cases listed in the main “Examples of Business Combinations” in [Attachment 2](#) (including cases of business combinations in fields other than the digital field), regarding the acquisition of stock of Kumamoto Flour Milling Co. Ltd. by Nisshin Flour Milling Corporation, and the integration of Microsoft Corporation and Activision Blizzard Inc., the JFTC examined internal documents such as the minutes of the Board of Directors meetings, which the JFTC requested the Parties to submit.

3 Use of economic analysis

In the review of business combinations, the JFTC has been actively using economic analysis. The JFTC will continue to use more sophisticated economic analysis to ascertain the effects on competition and the effectiveness of remedial measures primarily through the Economic Analysis Office established in April 2022.

In FY 2022, for example, the JFTC conducted economic analyses of the acquisition of the nickel-cadmium battery business of SANYO Electric by Furukawa Battery and the integration of Microsoft Corporation and Activision Blizzard Inc.