

EVAUATION THE ACTIVITIES OF COMPETITION AUTHORITIES

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Ex-post evaluations of the activities of competition authorities are aimed at maintaining transparency in administrative activities, ensuring the efficiency and quality of the measures that are implemented, and realizing forms of administrative management that place emphasis on the results obtained from such measures. Ex-post evaluations are extremely useful in identifying areas of possible improvement in the activities of a competition authority and in promoting the effective use of the authority's resources in the future. Appropriate ex-post evaluation and the publication of the results are also important from the perspective of fulfilling the duties of accountability to the public. They provide the grounds for explaining the justification of competition policies and have a positive impact on the public's assessment of the reputation and credibility of the competition authority.

Beginning in fiscal 2002, the Japan Fair Trade Commission (JFTC) has been undertaking annual policy evaluations of its activities as required under the Government Policy Evaluations Act. This law mandates government ministries and agencies to timely determine the impact of the policies under their jurisdiction and evaluate the policies from perspectives including necessity, efficiency, and effectiveness, and to reflect their findings in the formulation of pertinent policies.

There are several ways to evaluate the activities of competition authorities. These include self-evaluation, evaluation by outside experts, and evaluation by other government agencies. In the case of JFTC, policy evaluations are undertaken by the Commission itself. But we also draw on the views of outside experts. JFTC has established a Policy Evaluation Committee comprised of scholars, a senior researcher at a think tank, a certified public accountants. Its function is to comment on the draft evaluation reports concerning evaluations conducted by JFTC itself. JFTC then considers these comments in preparing its final evaluation reports. The results of our policy evaluations are presented to the public, and public comment is solicited. This feedback is used as reference in future policy evaluations. Finally, in some instances, certain aspects of the evaluation process are outsourced.

I would like to present some examples of evaluations conducted by JFTC. During fiscal 2008, JFTC conducted policy evaluations of eight initiatives undertaken by the Commission during fiscal 2007. The results of these evaluations were published on August 25, 2008, and March 31, 2009.

For example, measures taken against violations of the Antimonopoly Act were evaluated as follows in the fiscal 2008 report. During fiscal 2007: (1) legal action was taken in a total of 24 cases; (2) legal action was taken against a

diverse range of high-impact cases; and (3) the average amount of surcharge levied per enterprise was the third highest on record. Judging from these facts, the objective of ensuring strict enforcement of the law in cases of violation of the Antimonopoly Act was achieved, and the effectiveness of these measures was judged to be appropriate. Furthermore, from the perspective of efficiency, the evaluation results showed that the average examination period for all cases in which legal action was taken during fiscal 2007 came to approximately nine months. This average examination period remained unchanged from the previous year.

Ex-post evaluations frequently identify specific issues and problems pertaining to the competition authority itself. Such findings should be reflected in the annual plans, organizational structure, budget, and other aspects of the competition authority. For instance, ex-post evaluations of JFTC have pointed to the following problems related to measures taken against violations of the Antimonopoly Act. (1) A large volume of information is brought to the Commission through complaints and reports based on the leniency program. However, the JFTC section responsible for investigation has not been adequately developed to handle this load. (2) JFTC should not stop at examining cases based on received information. In order to enforce the law in a way that meets the needs and demands of the public, JFTC should take the initiative and act more aggressively to discover violations and to bring these to the examination process. For this purpose, JFTC needs to strengthen its case initiation functions. To overcome these problems that were identified in the policy evaluation results, JFTC has adjusted its budget and personnel requests.

This is just a brief example of what JFTC repeats every year in its policy evaluations designed to verify its own activities.

JFTC has evaluated and verified a specific case that it had handled. For example, in order to further refine our merger review, we revisit a merger case that has been examined in the past to analyze how the merger has actually affected market competition. In this process, we also verify the determinations that were made during the original review. That is, we check to see whether our assessment of pro-competitive factors was correct. We also check the effectiveness of the remedies taken to resolve the problems posed by the proposed merger.

There is one final thing that I would like to mention. As you recall, at the start of this presentation, I made the following statement. "Appropriate ex-post evaluation and the publication of the results are also important from the perspective of fulfilling the duties of accountability to the public. They provide the grounds for explaining the justification of competition policies and have a positive impact on the public's assessment of the reputation and credibility of the competition authority." I would like to emphasize that all of this is

predicated on the premise that it is very important for competition agencies to have effective and comprehensive competition law and to enforce that law actively. If a competition authority has not accomplished what is expected of it in the enforcement of the law, its policy evaluations cannot produce anything that is convincing or compelling. A competition authority must be constantly advancing toward the achievement of its goals and objectives. That is, it must have effective and comprehensive competition laws, and it must enforce these laws actively. These constitute the most fundamental requirements for any competition authority. I end my presentation on this note.

Thank you.