#### Major Business Combinations in Fiscal 2007

June 13, 2008 Japan Fair Trade Commission

The Japan Fair Trade Commission has, in an effort to improve transparency and predictability of the reviews of business combinations, drawn up and announced perspectives on application of the Antimonopoly Act to the business combination reviews and its policies concerning prior consultation in the form of the "Guidelines for Applications of the Antimonopoly Act Concerning the Review of Business Combination" (hereinafter, "Business Combination Guidelines") the "Policies Dealing with Prior Consultation Regarding Business Combination Plans", both of which were amended in March 2007. It has additionally published the results of reviews of principal cases of business combinations in the past.

In the current fiscal year as well, the JFTC is publishing the results of reviews of major business combinations that took place in fiscal 2007 and provides data relating to business combinations during this particular fiscal year.

The JFTC hopes that companies planning to engage in business combinations will make full use of the Business Combination Guidelines as well as the results of reviews of outstanding examples of business combinations published on this occasion.

For inquiries, please contact: Mergers and Acquisition Division, Economic Affairs Bureau, General Secretariat, Japan Fair Trade Commission Phone 03-3581-3719 (direct) Website: http://www.jftc.go.jp

#### Major Business Combinations in Fiscal 2007

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Reference 1	Numbers of Notifications of Mergers, Divisions, Business Transfers and Others		
	and of Reports on Stockholdings Submitted in Fiscal 2007	.69	
Reference 2	Results of the Reviews of Business Combinations in Fiscal 2007	.70	

- Note 1: With the exception of Case 11, the order in which the cases are mentioned is based on the order of products handled by the companies concerned according to the Japan Standard Industry Classification.
- Note 2: Descriptions of individual cases make use of alphabetic and other characters, such as A, B, C,  $\alpha$ ,  $\gamma$  and  $\beta$ , in the place of some proper names to preserve the confidentiality of classified information, competitors and other information relating to the companies concerned.
- Note 3: Numerical data on the market scale, the market share, the Herfindahl-Hirschman Index (HHI) values before and after business combination and suchlike are approximate calculated by the JFTC on the basis of materials submitted from the companies concerned. The market share values are in

principle represented to the nearest five percent.

# Case 1 Integration of Nuclear Business between Hitachi, Ltd. and General Electric Company

#### Part I Summary of the Integration

This case concerns a plan that involves the Japanese component of the worldwide integration of the nuclear business segments between Hitachi, Ltd. (hereinafter, "Hitachi") and General Electric Company (hereinafter, "GE"). Hitachi planned to implement an absorption-type split of its own nuclear business segment into a company that had been newly established by Hitachi and GE planned to investe the company.

This case is subject to Articles 10 and 15-2 of the Antimonopoly Act.

# Part II Particular Fields of Trade

# 1. Product Summary

A light water reactor refers to a nuclear reactor that uses light water, or ordinary water, as coolant and moderating material for controlling the reactor. Reactors of this kind are roughly classified into two types, according to the cooling method: boiling water reactors and pressurized water reactors. With boiling water reactors, steam generated from coolant water boiled inside the reactor is supplied to the turbine. In pressurized water reactors, heat of the pressurized coolant water, which serves as the primary coolant, circulating in the reactor is transferred to the secondary coolant through a steam generator and the steam generated from the coolant boiled in the secondary cooling system is supplied to the turbine.

### 2. Businesses of the Companies Concerned

The companies concerned engage in the design and construction of nuclear power plants equipped with boiling water reactors (hereinafter referred to as "the supply of plants") as well as in the maintenance. Neither of the businesses involves any nuclear power plant equipped with pressurized water reactors.

The business of supplying fuel to nuclear power plants was integrated into Global Nuclear Fuel, L.L.C. (hereinafter, "GNF"), a joint venture set up by Hitachi, GE and another rival in 2001. GNF supplies fuel to nuclear power plants equipped with boiling water reactors around the world while its Japanese subsidiary sells products in Japan.

# 3. Definition of the Particular Field of Trade

There are two different types of nuclear reactors – boiling water reactors and pressurized water reactors. There is little difference in functionality, but a significant difference in design between the two models. After introducing one model, it would be very costly to introduce the other model. For general electric power suppliers that have

determined the type of reactor, it is unrealistic to choose the other type. Therefore, there is no substitutability between the business of supplying plants that use boiling water reactors and that for supplying plants that use pressurized water reactors. Maintenance services are not substitutable either because of the disparity in product specifications and technologies between the two reactor types. For these reasons, the product ranges were defined by business of supplying plants using boiling water reactors, and maintenance services for boiling water reactors, respectively.

The geographic range has been defined as nationwide, given that each of the companies concerned covered the whole country in their business of supplying plants using boiling water reactors and the maintenance services, and given that there are no special circumstances in view of product characteristics or suchlike.

# Part III Review of the Impact of the Business Combination on Competition1. Selection of Suppliers of Plants Using Boiling Water Reactors

Electric power companies and other entities adopting boiling water reactors have demand for plants that use boiling water reactors.

When a company chooses a supplier for a plant using a boiling water reactor, they give priority to suppliers with a well-developed base in Japan that enables them to provide reliable maintenance services after their plants start operation. As a result, they generally place orders with domestic companies. Past records on orders for plants using boiling water reactors confirm that Japan-based businesses have received all such orders after 1975 with a few exceptions. Around 1975, Japanese companies became able to supply plants independently.

#### 2. Selection of Providers of Maintenance Services for Boiling Water Reactors

In principle, electric power companies and other parties adopting boiling water reactors and seeking maintenance services place orders with companies that have supplied plants to them due to safety reasons, even though they conduct maintenance work on their own to some extent. However, the majority of orders for maintenance services for boiling water reactors supplied by GE are placed with domestic operators in view of their prompt services. Nevertheless orders for services requiring new technologies and expertise owned by GE are placed with GE.

#### Part IV Assessment on the Basis of the Antimonopoly Act

#### 1. The Business of Supplying Plants Using Boiling Water Reactors

Of the companies concerned, Hitachi is engaged in the supply of plants using boiling water reactors in Japan. GE operates the same business in overseas markets, although it does not operate in Japan. GE is a potential competitor in the Japanese market in this

field.

However, GE has already transferred its technologies relating to plants using boiling water reactors to domestic companies, namely Hitachi and other competitors. It has no difference in technical level from domestic operators. Companies that have demand for such plants give priority to entrepreneurs with well-developed bases in Japan that are ready to provide appropriate maintenance services after their plants go online, and consequently place orders chiefly with domestic entrepreneurs. GE's competitive pressures as a potential competitor are so limited that the integration in question is deemed to have minor impact on competition

The JFTC has hence estimated that competition in the business of supplying plants using boiling water reactors is not substantially restrained by the unilateral conducts of the companies concerned or the coordinated conducts between them and other competitors.

## 2. Maintenance Services for Boiling Water Reactors

In principle, companies that require maintenance services outsource the services to the companies that deliver the plants to be serviced. However, their preference is to place orders with domestic companies in view of their quick response, and it is mainly Japan-based service providers that receive the orders for maintenance services for boiling water reactors supplied by GE.

Although GE receives orders for maintenance services requiring technical superiority, the services are limited. GE's potential competitive pressures are also so limited in the area where it may compete with domestic providers that the integration in question is deemed to have a minor impact on the competition.

For these reasons, JFTC has concluded that competition in the provision of maintenance services for boiling water reactors is not substantially restrained by the unilateral conducts of the companies concerned or the coordinated conducts between them and other competitors.

# Part V Conclusion

In the light of the circumstances mentioned above, The JFTC has judged that the transaction in question does not substantially restrain competition in these particular fields of trade.

# Case 2 Merger between Mitsubishi Pharma Corporation and Tanabe Seiyaku Co., Ltd.

# Part I Summary of the Merger

This case concerns the planned merger between Mitsubishi Pharma Corporation (hereinafter, "Mitsubishi Pharma") and Tanabe Seiyaku Co., Ltd. (hereinafter, "Tanabe"), both of which engage in manufacturing and selling pharmaceutical products for medical use.

This case is subject to Article 15 of the Antimonopoly Act.

# Part II Particular Fields of Trade

# 1. Summary of Pharmaceutical Products for Medical Use and Others

Pharmaceutical products for medical use refer to pharmaceutical products that are supplied either for use by medical practitioners or dentists or for use in accordance with their prescriptions or guidance.

In accordance with the provisions in the Pharmaceutical Affairs Act, it is compulsory to make prior separate applications with materials on clinical test results for individual product items to the Minister of Health, Labour and Welfare and thereby to obtain approval from the Minister before manufacturing and selling pharmaceutical products for medical use.

It takes approximately at least ten years from the commencement of basic research through clinical testing and other processes to the release of new drugs. On the other hand, the period of preparation for the release of generic drugs is normally around two to three years, given that their ingredients are identical to the original drugs and that the basic research and the clinical trials can be skipped.

Generally, pharmaceutical products for medical care are sold by pharmaceutical manufacturers through wholesalers to medical institutions and suchlike.

# 2. Prices of Pharmaceutical Products for Medical Care

(1) Drug prices

Drug prices refer to the official fixed prices of pharmaceutical products for medical care set by the Ministry of Health, Labour and Welfare in accordance with the Health Insurance Act. They serve as a reference for medical treatment fees paid from health insurance to medical institutions and other bodies for pharmaceutical products they have used. Drug prices are separately set for individual pharmaceutical products identified with the brand, the type and the quantity.

(2) Settlement prices and others

Settlement prices refer to prices applied to sale by pharmaceutical manufacturers to wholesalers. This industry has a practice in which pharmaceutical manufacturers set a uniform settlement price for each specific brand. The settlement prices do not vary depending on the trade partner.

Apart from that, pharmaceutical manufacturers provide wholesalers with a rebate (Note 1) and an allowance (Note 2) according to the quantity in which they have dealt, their target achievement level and other factors. They enable wholesalers to purchase pharmaceutical products for medical care virtually at lower prices than the settlement prices.

The settlement prices set by pharmaceutical manufacturers and the amount or ratio of the rebate and the allowance are not disclosed.

- Note 1: The rebate refers to money offered to a wholesaler according, for example, to the sales of key products or to the total amount of purchases made by the wholesaler. For accounting purposes, it is treated as an adjustment to the settlement prices.
- Note 2: The allowance refers to money offered according, for example, to the level of achievement of sales targets. For accounting purposes, it is treated as a sales promotion expense.

# **3.** Approach to the Classification of Pharmaceutical Products for Medical Care and Others

The particular field of trade has been defined referring to the classification pursuant to the Anatomical Therapeutic Chemical (ATC) Classification System.

The ATC Classification System has been developed to create an integrated classification system as a foundation of pharmaceutical market surveys. This internationally adopted method classifies drugs by such criteria as the anatomical region to which the drug applies, the indications, the use, the chemical composition and the mechanism by which the drug functions.

The ATC Classification System assigns an ATC code composed of Levels 1 to 3 (or to 4 for some drugs) to each pharmaceutical product. The following table represents a specific example of the ATC code.

Laval	Example		
Level	ATC Code	Name	
1 (main group)	J	Anti-infectives for systemic use	
2 (therapeutic subgroup)	J07	Vaccines (incl. toxoids)	
3 (pharmacological subgroup)	J07A	Stand-alone vaccines	

Example of the ATC code

4 (chemical subgroup) J07A2 Te	Tetanus toxide
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Note: The lower the level, the more specialized the classification.

In principle, the ATC Classification System classifies up to Level 3. Some pharmaceutical products to which three-level coding is insufficient for identification are provided with ATC codes with a level that is inferior to Level 3.

#### 4. Definition of Particular Fields of Trade

### (1) Product range

Many of the pharmaceutical products classified into the same pharmacological subgroup under the ATC Classification System have several characteristics in common, such as the site of action, the effect, the mechanism by which they operate and the applications. In the eyes of the consumer, they are substitutable. For most of the pharmaceutical products sold by the companies concerned, the product range has been defined as the scope of the pharmacological subgroup under the ATC Classification System. However, different product ranges have been set for those products that fall under the three subgroups listed below from the perspective of substitutability in the eyes of the consumers.

#### a. Stand-alone vaccines

Stand-alone vaccines are classified into chemical subgroups that are at a level lower than the pharmacological subgroup, according to what illness they can be applied to. If they fall into different chemical subgroups, they have different applications and they are not substitutable in the eyes of consumers. Therefore, the product range for stand-alone vaccines has been defined as a chemical subgroup.

Among the different subgroups of stand-alone vaccines, tetanus toxoid as detailed in Part III-2 below is a drug to fight tetanus and has the same effect of preventing tetanus as combined vaccines against tetanus in the category of combined vaccines. However, combined vaccines against tetanus are priced about two or three times higher than tetanus toxoid. Normally, no demand shift to anti-tetanus combined vaccines is likely to occur even if the price of tetanus toxoid rises considerably. Therefore, combined vaccines against tetanus have been regarded as falling under a different product range than that of tetanus toxoid.

#### b. Systemic hemostatic drugs

Among the pharmaceutical products categorized as systemic hemostatic drugs according to the ATC Classification System, Thrombin is sold by seven companies including Mitsubishi Pharma. As shown in the table below, it differs from other systemic hemostatic drugs in effect, activity mechanism and administration and it is not substitutable for them in the eyes of consumers.

Pharmaceutical product  $\alpha$ , manufactured and sold by Mitsubishi Pharma, is not classified as a systemic hemostatic drug according to the ATC Classification System. However, it is a combination drug prepared by adding vitamins to other systemic hemostatic drug. The table below shows that it is similar to systemic hemostatic drugs other than Thrombin in terms of basic effects, active ingredients, activity mechanism and administration.

	Thrombin	Other systemic	Pharmaceutical Product
		hemostatic drugs	α
Principal effects	Bleeding from a small vessel, capillary vessel or organ that is hard to stop with normal ligation (Note)	Bleeding or bleeding tendency after decline in capillary resistance or increased capillary permeability	Bleeding or bleeding tendency after decline in capillary resistance or increased capillary permeability
Active ingredients and activity mechanism	It exerts its action towards fibrinogen in the blood to generate fibrin to stop bleeding by blood clotting.	Active ingredient "a" exerts its action towards fine vessels to inhibit the increase of permeability and to stop bleeding by strengthening vessels.	Active ingredient "a" exerts its action towards fine vessels to inhibit the increase of permeability and to stop bleeding by strengthening vessels. In addition, vitamins help strengthen the vessels to increase blood clotting substances.
Administration	Normally, the solution is sprayed directly onto the bleeding region or it is spread in powder form.	Oral administration, injection or intravenous drip	Oral administration

Note: It refers to binding of a surgical thread or suchlike to stop bleeding.

On the basis of the data mentioned above, the product ranges for (i) Thrombin and (ii) systemic hemostatic drugs other than Thrombin plus Pharmaceutical Product  $\alpha$  (hereinafter, "specified systemic hemostatic drugs") have been separately defined.

Anti-plasmin agents are alternative to the specified systemic hemostatic drugs for some applications, but they differ in activity mechanism for stopping bleeding. As for utilization in ophthalmological areas or against diabetes or high blood pressure diseases, the specified systemic hemostatic drugs alone are effective and therefore cannot be replaced with anti-plasmin agents.

In view of these factors, it is estimated that approximately 20% of the quantity of the specified systemic hemostatic drugs consumed can be replaced with anti-plasmin agents.

The JFTC has therefore deemed that anti-plasmin agents are likely to constitute a product range that is different from that of the specified systemic hemostatic drugs (Note).

- (Note) Before conducting a more detailed study on whether or not the specified systemic hemostatic drugs as a product range include anti-plasmin agents, the JFTC received a proposal about the remedy from the companies concerned. The JFTC determined the product range without including anti-plasmin agents to perform the review.
- c. Other central nerve drugs

The group of "other central nerve drugs" has no further specialized subgroups but, as its name shows, it is a group of central nerve drugs that fall under no other category. They have merely been grouped for convenience. Some of them do not share the site of action, the effect, the activity mechanism, applications and others with the rest of the group. From the perspective of substitutability to consumers, the drugs in this group have been further segmented for the purpose of defining product ranges for them.

In the category of other central nerve drugs, pharmaceutical product  $\beta$  is marketed by Mitsubishi Pharma while pharmaceutical product  $\gamma$  by Tanabe. These two products differ in effect and they are not substitutable for each other to consumers. They are considered to fall under different product ranges.

	Pharmaceutical Product β	Pharmaceutical	Product γ
Effect	Improvement in nervous symptoms,	Improvement in	ataxia in
	activities of daily living disorders	spinocerebellar	degeneration
	and functional disorders in the acute	(Note)	
	phase of cerebral infarction		

Note: It is a general term for illnesses that degenerate and destroy spinocerebellar nerves responsible for motion to bring about ataxia, dysautonomia or other symptoms without there being any lesion or other obvious cause.

(2) Geographic range

Pharmaceutical products for medical use from pharmaceutical companies are all marketed around the country. The scope of pharmaceutical companies for consumers to choose from does not vary depending on the geographical conditions. The geographical range has been defined as nationwide.

# Part III Review of the Impact of the Business Combination on Competition

# 1. Products Requiring Analysis

Among the particular fields of trade defined in Part II-4 above, those concerned with tetanus toxoid and the specified systemic hemostatic drugs are subject to analysis of the impact of the business combination on competition. In these two fields of trade, the companies concerned compete with each other and these particular fields of trade do not fall under the safe harbor criteria.

# 2. Tetanus Toxoid

# (1) Market scale

The scale of the tetanus toxoid market was approximately 2.5 billion yen in fiscal 2006.

# (2) Market share and the HHI

The table below shows the market share of individual tetanus toxoid distributors. The HHI after the transaction is around 3,800, representing an approximate increase of 300.

Rank	Company	Market Share	
1	Company A	Approx. 50%	
2	Mitsubishi Pharma	Approx. 35%	
3	Company B	Approx. 10%	
4	Tanabe	Approx. 5%	
5	Company C	Approx. 2%	
	Others	Approx. 3%	
( <b>2</b> )	Combination of the	<b>A</b>	
(2)	companies concerned	Approx. 40%	
	Total	100%	

Note: The figures represent actual values for fiscal 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (3) Manufacturers

Including the companies concerned, many distributors of tetanus toxoid contract with the manufacturers of vaccines and toxoids to produce tetanus toxoid.

Manufacturers of tetanus toxoid have obtained approval for its manufacture and sale from the Minister of Health, Labour and Welfare, but distributors do not obtain approval because they are not required to.

# (4) Product differentiation

Tetanus toxoid products dealt with by all pharmaceutical companies are produced from the same bacterial strain. They are therefore highly homogeneous and not particularly differentiated.

# (5) Market entry

As mentioned in (3) above, many of the tetanus toxoid distributors commission manufacturers of vaccines and toxoids to produce tetanus toxoid. It is easy to enter the tetanus toxoid market as a distributor by purchasing tetanus toxoid from manufacturers, and it can be done very quickly.

# (6) Trade realities

Generally, wholesalers deal with pharmaceutical products supplied from multiple distributors. It is relatively easy for them to change the pharmaceutical company that supplies them.

Wholesalers usually place orders with distributors for the shortfall below a fixed stock quantity. In this manner, they place orders almost every day.

## 3. Specified Systemic Hemostatic Drugs

(1) Market scale

The market scale of the specified systemic hemostatic drugs was about 3.5 billion yen in fiscal 2006.

#### (2) Market share and the HHI

The table below portrays the market shares of individual distributors in the market of the specified systemic hemostatic drugs. The HHI after the transaction is around 7300, representing an approximate increase of 800.

Rank	Company	Market Share
1	Tanabe	Approx. 80%
2	Mitsubishi Pharma	Approx. 5%

3	Company D	0%-5%
4	Company E	0%-5%
6	Company F	0%-5%
	Others	0%-5%
(1)	Combination of the	Approx. 85%
	companies concerned	
	Total	100%

Note: The figures represent actual values for fiscal 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (3) Market entries and withdrawals

Over the past ten years, two companies have entered the market. One of them is Company D. It started to experience in its market share at a healthy pace several years after it entered the market. It now has the third largest market share, as mentioned above.

On the other hand, one competitor pulled out of the market in the past five years.

The patent for originals of the specified systemic hemostatic drugs already expired. There is no outstanding obstacle to market entry.

# (4) Competitive pressure from related markets

It is discussed in Part II-4-(1)-b that anti-plasimin agents are substitutable for the specified systemic hemostatic drugs in some applications. As mentioned earlier, approximately 20% of the consumption of the specified systemic hemostatic drugs is estimated to be substitutable for anti-plasmin agents and these two categories of drugs are considered to constitute separate markets. However, anti-plasmin agents are thought to have a certain degree of competitive pressure.

#### (5) Trade realities

Generally, wholesalers deal with pharmaceutical products supplied from multiple distributors. It is relatively easy for them to change pharmaceutical companies as suppliers.

#### Part IV Assessment on the Basis of the Antimonopoly Act

### 1. Tetanus Toxoid

(1) Substantial restraint of competition by unilateral conducts

a. The companies concerned have a total market share of around 40%. It is the second largest market share in the market. However, this market supports a leading

competitor with the largest market share of about 50%.

- b. It is easy and not time-consuming to launch a business as a distributor of tetanus toxoid by purchasing tetanus toxoid from existing manufacturers.
- c. Tanabe's market share is small at approximately 5%. The merger in question is considered to have a minor impact on the market structure.
- d. Tetanus toxoid is a homogeneous product and it is considered easy for medical institutions to change the brand they use.

For these reasons, no unilateral conduct by the companies concerned is deemed to substantially restrain the competition in this particular field of trade.

(2) Substantial restraint of competition by coordinated conducts

In addition to what is mentioned in (1)-b and (1)-c above, it is thought to be difficult to discover from outside the actual selling prices to wholesalers as pharmaceutical companies keep their settlement prices, rebates and allowances undisclosed. No coordinated conduct is deemed to substantially restrain competition in this particular field of trade.

## 2. Specified Systemic Hemostatic Drugs

(1) Substantial restraint of competition by unilateral conducts

Tanabe has the largest market share at some 80% while Mitsubishi Pharma holds the second largest at about 5%. After the transaction, their total market share is very high at about 85% and is the highest on the list.

Meanwhile, the market shares of the competitors are very low at less than 5% each. Their business scale is small. It is difficult to rate them as having a sufficient competitive pressure.

Although anti-plasmin agents are partly substitutable for the specified systemic homeostatic drugs, the ratio of substitutability is around 20%. They may not have adequate constraining power although they exercise competitive pressures to a certain extent.

It is hence thought that an unilateral conduct of the companies concerned may substantially restrain the competition in this particular field of trade.

#### (2) Substantial restraint of competition by coordinated conducts

It is unlikely to easily discover from outside the actual selling prices to wholesalers as the settlement prices paid by pharmaceutical companies, the rebates and the allowances are not published. Even so, the companies concerned have a total market share of around 85% in this particular field of trade while competitors have a small market share of less than 5% each. The business combination will result in a situation where sale on the market is for the most part concentrated in a single influential entrepreneur. It will be easy for other competitors to forecast the behavior of the companies concerned holding an overwhelming market share.

The competitors have a small market share of less than 5% each. Many of them are generic drug makers and their business scale is limited. There is only a slight possibility that they will lower their prices to boost their market share and capture some market share from the competition.

For these reasons, a coordinated conduct may substantially restrain the competition in this particular field of trade.

#### Part V Remedies by the Companies Concerned

In the course of the review on the merger in the respect of the specified systemic hemostatic drugs, the companies concerned proposed engaging in the following remedies:

"The approval for manufacture given by the Minister of Health, Labour and Welfare and the trademarks for all specified systemic hemostatic drugs manufactured and sold by Mitsubishi Pharma will be transferred to a third-party pharmaceutical company. A basic agreement on this transfer will be signed prior to the date of the merger, and the transfer will be executed as soon as possible thereafter."

#### Part VI Assessment of the Basis of the Antimonopoly Act in View of the Remedies

After the transfer of the manufacturing approval from the Minister of Health, Labour and Welfare to a third-party pharmaceutical company, this third party alone is entitled to manufacture and sell the specified systemic hemostatic drugs that have been transferred. The companies concerned can no longer do it.

It is thought that this action prevents the merger from increasing the market share of the companies concerned and resolves the problem mentioned in Part IV-2 above.

# Part VII Conclusion

In the light of abovementioned circumstances, the JFTC has judged that the transaction in question substantially restrain competition in no particular field of trade provided that the remedy proposed by the companies concerned is definitely carried out.

# Case 3 Integration of Industrial Explosives Business Activities between Asahi Kasei Chemicals Corporation and Nippon Kayaku Co., Ltd.

#### Part I Summary of the Integration

#### **1. Summary of the Integration**

This case concerns a plan to set up a joint venture between Asahi Kasei Chemicals Corporation (hereinafter, "AKC") and Nippon Kayaku Co., Ltd. (hereinafter, "Nippon Kayaku") for the integration of their industrial explosives business (Note).

This case is subject to Articles 10 and 16 of the Antimonopoly Act.

Note: In this case, after the end of prior consultation, the companies concerned executed a corporate split at their convenience to integrate their business into their joint venture company. This event is subject to Articles 10 and 15-2 of the Antimonopoly Act. However, the change in the approach to integration has no substantial impact on the judgment concerning competition.

#### 2. Integration Scheme

AKC manufactures industrial explosives and sells them through Asahi Kasei Geotech KK, which is a wholly owned subsidiary of AKC.

Nippon Kayaku sells industrial explosives that it manufactures independently and those manufactured by Hokuyo Kayaku Co., Ltd., a wholly owned subsidiary of Nippon Kayaku, through Kayatech Co., Ltd., another wholly owned subsidiary of Nippon Kayaku.

In this case, both companies concerned intend to set up a joint venture and integrate their industrial explosives business, including that of their group companies.

#### Part II Particular Fields of Trade

#### 1. Summary of Industrial Explosives

Industrial explosives consist of an explosive material and a blasting cap.

Industrial explosives are subject to restrictions on manufacturing, sale, storage, transport, consumption and other aspects under the Explosives Control Act aimed at preventing accidents involving explosives.

#### (1) Explosive material

In reaction to heat or shock, explosive material produces a sudden detonation (Note) to destroy an object. It is classified into two types: ammonium nitrate fuel oil explosive (hereinafter, "ANFO explosive") and general explosive, which is further classified into water gel explosive and dynamite.

ANFO explosive is cheap and superior in terms of safety. It costs about one third that of general explosive. On the other hand, it has poor water resistance, and it emits a toxic gas when it explodes. Because of the fumes it emits, ventilation is required when it is used in tunnels or similar sites. Its destructive force is poorer than general explosive, and it is barely able to destroy solid bedrock. General explosive is used whenever ANFO explosive cannot be used.

The water gel explosive and dynamite are comparable in terms of destructive force and other performance, as well as price. For safety reasons, there is a shift taking place towards water gel explosive.

The explosive manufacturing process includes measuring materials, mixing and packing for shipment. Specifically, the packing involves putting the material into heavy-duty sacks or dividing them into small portions before packing them in boxes. Manufacturing equipment varies with the type of explosive. Some of the devices may technically be used for manufacturing other kinds of explosive but this requires permission under the Explosives Control Act. In practice, therefore, it is difficult to divert the equipment.

Note: It refers to a phenomenon in which flames propagate at ultrasonic speed after the explosion.

	Pr	oduct Type	Characteristics	Form	Remarks
Ammonium nitrate fuel oil (ANFO) explosive		mmonium rate fuel oil (ANFO) explosive	<ul> <li>Superior safety, easy to produce and inexpensive</li> <li>Poor water resistance, emits toxic fumes, less destructive force than general explosive</li> <li>Not triggered by a blasting cap (Triggered by general explosive used as a booster and a blasting cap)</li> </ul>	Granules (in heavy-duty sacks or plastic tubes)	<ul> <li>Mainstream at the moment</li> <li>Modified models with water resistance or with less fumes emitted have been developed. The shift from general explosive is gaining momentum.</li> </ul>
naterial	General expl	Water gel explosive	<ul> <li>Enhanced safety compared to dynamite (less sensitive to heat and shock)</li> <li>High power and excellent water resistance</li> </ul>	Colloid (Note) (wrapped in paper or in plastic tubes)	
	osive	Dynamite	<ul> <li>Nitric acid ester as main ingredient</li> <li>High power and superior water resistance</li> </ul>	Colloid (wrapped in paper)	A shift to water gel explosive is gradually taking place.

[Table: Characteristics of Explosives by Type]

Note: It refers to a gelatinous or jelly-like state with plasticity.

# (2) Blasting cap

A blasting cap is a cylinder filled with preliminary explosive to ensure detonation of the main explosive. It is ignited by an electric signal or in other ways. Blasting caps are divided into two types: electric blasting caps and non-electric ones. Electric ones are ignited by an electric signal. A non-electric one has some explosive applied to the inside of a plastic tube and a flame is applied to the end of the cap to ignite it.

These two kinds of blasting caps differ in the manner of transferring the blasting signal, and therefore require different peripherals for transmitting the blasting signal. Furthermore, the manufacturing equipment also differs between the two types. However, there is no difference in the effect of detonating the explosive.

Ignited by an electric signal, electric blasting caps cannot be used where lightning or ground leakage occurs because they may cause an explosion. Non-electric blasting caps are free from this risk and are easy to install, but their price is nearly double that of electric ones.

Outside Japan, especially in Europe, non-electric blasting caps are commonly used. In Japan, non-electric caps have started to be used fairly recently and their usage is limited.

Electric blasting caps are produced in Japan, but all the non-electric ones manufactured overseas and imported.

	Product Type	Characteristics	Remark
В	Electric blasting cap	<ul> <li>Ignited by an electric signal</li> <li>Cannot be used where there is any static electricity or fault current.</li> </ul>	- Commonly used in Japan
lasting cap	Non-electric blasting cap	<ul> <li>A plastic tube with explosive applied to the inner surface and ignition is transmitted in a non-electric manner.</li> <li>A high degree of safety against static electricity and fault current</li> </ul>	<ul> <li>Commonly used outside</li> <li>Japan</li> <li>Not produced in Japan. All are imported.</li> </ul>

Table: Characteristics of Blasting Caps by Type

#### 2. Definition of Particular Fields of Trade

- (1) Product ranges
  - a. Explosive

There are three different sorts of explosives: ANFO explosive, water gel explosive and dynamite. The second and third types of explosives fall under the group of general explosive. ANFO explosive is cheaper, has less destructive power than general explosive and emits fumes. It is therefore thought to have a low degree of substitutability for general explosive. Within the category of the general explosive, water gel explosive is superior in safety to dynamite while they are

comparable in functions and effects including destructive force, explosiveness and water resistance. Water gel explosive and dynamite are therefore considered highly substitutable for each other. Both companies concerned are engaged in manufacturing and selling ANFO explosive while, as for general explosive, they are in a competitive relationship merely in terms of sales.

Consequently, the product ranges have been separately defined for the manufacture and sale of ANFO explosive and for the sale of general explosive, which covers the water gel explosive and dynamite.

#### b. Blasting caps

Blasting caps are classified into two types: electric ones and non-electric ones. Ignited with the use of an electric current, electric blasting caps cannot be used under weather conditions where there is a risk of explosion caused by lightning or other leakage current. Non-electric blasting caps are not subject to this limitation on use. In terms of price, non-electric models are twice as expensive as electric ones. Therefore these two types are not seen as substitutable. The companies concerned are competitive with each other only in terms of the sale of the two kinds of blasting caps.

Product ranges have hence been separately defined for the sale of electric blasting caps and for sale of non-electric ones.

# (2) Geographic range

Irrespective of the type, industrial explosives are traded all over the country. There is no factor that hampers it. The geographic range is defined as nationwide.

# Part III Review of the Impact of the Business Combination on Competition

# 1. ANFO Explosive

(1) Market scale

The market scale for ANFO explosive was about 5.7 billion yen in fiscal 2004.

## (2) Market share and HHI

The table below shows market shares of individual participants in the ANFO explosive market.

After business combination, the total market share of the companies concerned is about 40% and it is ranked second.

HHI after the business combination in question is about 3100, with an approximate increase of 700.

Rank	Company	Market Share
1	Company A	Approx. 40%
2	AKC	Approx. 20%
3	Nippon Kayaku Group	Approx. 20%
4	Company B	5% - 10%
5	Company C	0% - 5%
6	Company D	0% - 5%
7	Company E	0% - 5%
8	Company F	0% - 5%
	Imported products	0% - 5%
(2)	Combination of the	Approx. 40%
	companies concerned	
	Total	100%

Note: The figures represent averages of the actual values for fiscal years 2003 - 2005. (Source: created by the JFTC based on materials submitted by the companies concerned)

# (3) Excess supply capacity

Under the Explosives Control Act, the production of industrial explosives is subject to allowable limits per day set for different plants and items. However, there is no constraint applicable to the procurement of raw materials and it is permissible to increase production to the allowable production limits. Judging from these limits and from production quantities of each company, it is thought that the companies concerned and their competitors have sufficient excess supply capacity.

# (4) Users' ability to affect price

Given that ANFO explosive is low priced, a large proportion of it is consumed for the purpose of mining limestone and crushing stones. These applications consume enormous quantities of explosive. Limestone miners and others always consume explosive and have price negotiations according to the change in situations after the transaction prices are fixed when entering into their initial transactions. Some of them invite bids on a regular basis to change suppliers and transaction quantity according to the bidding prices. The prices for major constructors show a downward trend. However, it is impossible to assume that all users have the ability to affect the prices.

## (5) Market entry

ANFO explosive is easy to produce. Some end users that consume large amounts manufacture ANFO explosive on their own and other entrepreneurs have recently commenced internal production. The explosive manufactured internally is for consumption by producers themselves but they might sell their product to outsiders if it is beneficial to them in terms of price. It is therefore thought that market entry, including internal production on the part of the users, is easy.

# (6) Imported products

Some explosive dealers import ANFO explosive from South Korean manufacturers, but the import volume is very limited. Under the current circumstances, it is unlikely that imported ANFO explosive will be sold across Japan in the future. There is little pressure from imported products.

#### 2. General Explosive

(1) Market scale

The market scale for general explosive was about 6.4 billion yen in fiscal 2004.

# (2) Market share and HHI

The table below represents the market share of individual players in the general explosives market.

After the business combination, the total market share of the companies concerned is about 60% and it is ranked first.

HHI after the business combination in question is about 4500, with an approximate increase of 600.

Rank	Company Market Shar		
1	Company A	Approx. 35%	
2	АКС	Approx. 30%	
3	Nippon Kayaku Group Approx.		
4	Company G (imported) 0%		
5	Company H	0% - 5%	
6	Company D (imported) 0% -		
(1)	Combination of the	Approx. 60%	
	companies concerned		
	Total	100%	

Note: The figures represent averages of actual values for the fiscal years 2003 - 2005. (Source: created by the JFTC based on materials submitted by the companies concerned)

(3) Excess supply capacity

Calculation of excess supply capacity in a manner similar to the case with ANFO explosive reveals that competitors cannot be regarded as having ample excess supply capacity, given that their excessive supply capacity is limited compared to the sales volume of the companies concerned.

# (4) Users' ability to affect prices

General explosive is largely used for civil engineering and stone crushing purposes. To procure general explosive for civil engineering works, general constructors and others invite bids from explosives manufacturers for individual projects. The prices at which they purchase the explosive are declining but it cannot be confirmed that all the users have the ability to affect prices.

## (5) Market entry

Unlike the ANFO explosive, general explosive is not easy to manufacture, so market entry is not easy either.

# (6) Imported products

Companies D and G deal in imported overseas products, but it has not been observed that they are sold to small-lot consumers. There is little pressure from imported products.

# **3. Electric Blasting Caps**

#### (1) Market scale

The market scale for electric blasting caps was about 2.2 billion yen in fiscal 2004.

#### (2) Market share and HHI

The table below indicates the market share of individual players in the electric blasting cap market.

After the business combination, the total market share of the companies concerned is about 70% and it is ranked first.

HHI after the business combination in question is about 5700, with an approximate increase of 2400.

Rank	Company	Market Share
1	АКС	Approx. 40%
2	Nippon Kayaku Group	Approx. 30%
3	Company A	Approx. 30%
4	Company D (imported)	0% - 5%
5	Imported products	0% - 5%
(1)	Combination of the	Approx.70%
	companies concerned	
	Total	100%

Note: The figures represent averages of actual values for the fiscal years 2003 - 2004. (Source: created by the JFTC based on materials submitted by the companies concerned)

(3) Excess supply capacity

Estimation of excess supply capacity in a manner similar to the case with ANFO explosive reveals that the competitors have a certain level of excess supply capacity, which is by no means small in comparison with actual sales of the companies concerned.

(4) Users' ability to affect prices

Electric blasting caps are largely employed for civil engineering and stone crushing purposes. Although a downward trend is seen in purchase prices of general constructors, cannot be confirmed that all the users have the ability to affect prices.

(5) Market entry

Electric blasting caps are not easy to manufacture, so market entry is not easy either.

(6) Imported products

A very small quantity of products from South Korean manufacturers are imported and sold. There is little pressure from imported products.

## 4. Non-Electric Blasting Caps

(1) Market scale

The market scale for non-electric blasting caps was about 0.3 billion yen in fiscal 2004.

(2) Market share and HHI

The table below indicates the market share of individual players in the non-electric blasting cap market.

After the business combination, the total market share of the companies concerned is about 40% and it is ranked second.

HHI after the business combination in question is about 5200, with an approximate increase of 570.

Rank	Company	Market Share
1	Company G (imported)	Approx. 60%
2	AKC (imported)	Approx. 30%
3	Nippon Kayaku (imported)	Approx. 10%
(2)	Combination of the companies	Approx. 40%
	concerned	
	Total	100%

Note: The figures represent averages of actual values for the fiscal years 2003 – 2004. (Source: created by the JFTC based on materials submitted by the companies concerned)

# (3) Market entry

There exists no manufacturer that produces non-electric blasting cap in Japan. The market scale is so small that no entrepreneur is expected to set up its production equipment to enter the market.

#### (4) Imported products

Non-electric blasting caps are not produced in Japan and they are all imported. There exist several manufacturers of non-electric blasting caps around the world. It is considered possible for domestic manufacturers to import such blasting caps as needed.

#### Part IV Assessment on the Basis of the Antimonopoly Act

## 1. ANFO Explosive

(1) Substantial restraint of competition by unilateral conducts

After the integration, the value for HHI is around 3100 and the companies concerned take second place in terms of market share with about 40%. There is an influential competitor with some excess supply capacity. It is easy to enter the market, including entry by internal production by users. These circumstances lead to the

estimation that no unilateral conduct of the companies concerned substantially restrains the competition in this particular field of trade.

(2) Substantial restraint of competition by coordinated conducts

After the integration, the value for HHI is around 3100. There are six competitors and each of them has some excess supply capacity. It is easy to enter the market, and including entry by internal production by users. For these reasons, no coordinated conduct between the companies concerned and their competitors is considered to substantially restrain the competition in this particular field of trade.

## 2. General Explosive

(1) Substantial restraint of competition by unilateral conducts

After the integration, the value for HHI is around 4500 and the companies concerned have a very large market share at about 60%, putting them in the first place. The business combination creates a massive HHI increment at nearly 1600. Competitors' excess supply capacity and the pressure from market entry or imported products are not deemed significant. The ability of users to affect price is also deemed insignificant. An unilateral conduct of the companies concerned may substantially restrain the competition in this particular field of trade.

(2) Substantial restraint of competition by coordinated conducts

After integration, the value for HHI is around 4500. The companies concerned plus Company A account for a huge market share of over 90%. The excess supply capacity of each company and the pressure from market entrants or imported products are not deemed significant. Users are not deemed able to have a significant affect on prices. A coordinated conduct between the companies concerned and their competitors may substantially restrain the competition in this particular field of trade.

# **3. Electric Blasting Caps**

(1) Substantial restraint of competition by unilateral conducts

After the integration, the value for HHI is around 5700. The companies concerned have an enormous market share of nearly 70%, putting them in the first place. The HHI increase is also considerable at about 2400. The pressure from market entry or imported products is regarded as minimal. Users are not seen as having the ability to affect prices. An unilateral conduct of the companies concerned may substantially restrain the competition in this particular field of trade.

(2) Substantial restraint of competition by coordinated conducts

After the integration, the value for HHI is around 5700. A market share of around 99% is held by the companies concerned plus Company A. The pressure from market entry or imported products is not estimated as being significant. Users are not considered to have the ability to affect prices. A coordinated conduct between the companies concerned and their competitors may substantially restrain the competition in this particular field of trade.

#### 4. Non-Electric Blasting Caps

AKC and Nippon Kayaku both deal in non-electric blasting caps imported from certain overseas manufacturers. There are many other makers of blasting caps of this kind outside Japan and domestic manufacturers and other players can independently start import. Actually, Company A once engaged in importing and selling non-electric blasting caps. For these reasons, it is thought that the integration between the companies concerned does not substantially restrain the competition in this particular field of trade.

## Part V Remedies Proposed by the Companies Concerned

The JFTC made a remark about the risk of restraining competition in the markets of general explosive and electric blasting caps. In response to that, the companies concerned suggested implementing the following measures.

"We will be offering our competitors the opportunity to purchase products at prices equivalent to their respective production costs.

We will be providing industrial explosive manufacturers and trading companies excluding Company A with the right to purchase at least 1000 metric tons of general explosive per year, which is equivalent to a market share of about 10%, and at least 2.5 million electric blasting caps per year, which is equivalent to a market share of around 20%. Furthermore, upon request, we will be providing the opportunity to purchase up to 2500 metric tons of general explosive per year, inclusive of the 1000 metric tons per year pledged above, equivalent to a market share of 25%, and up to around 3.8 million electric blasting caps per year including the abovementioned 2.5 million units, equivalent to a market share of nearly 30%."

### Part VI Assessment on the Basis of the Antimonopoly Act in View of the Remedies

The remedies, in principle, have to be a structural measure. In the fields being reviewed, namely those of sale of general explosive and electric blasting caps, it is possible to create new competitors and to boost the position of existing competitors by offering them purchase rights. It is considered a resolution to the problem arising from the integration. If the measures proposed by the companies concerned are implemented, the market share of the companies concerned falls by 10-25% for the general explosive and by 20-30% for the electric blasting caps. The level of HHI after the combination and the HHI increment both drop. Competitors except Company A have a market share of several percent each. If the companies concerned provide the purchase right to any of them, the standing of the competitor obtaining the right goes up in the area of the sale of products. Even if the purchase right is provided to a trading company or other business, instead of a manufacturer, this move creates a new competitor. Therefore, it is thought that business integration does not substantially restrain the competition if this action is definitely implemented.

# Part VII Conclusion

In the light of the circumstances discussed above, the JFTC has judged that the act in question substantially restrain competition in no particular field of trade provided that the remedies proposed by the companies concerned are carried out without fail.

#### Case 4 Acquisition of Shares of Oji Steel Co., Ltd. by Nippon Steel Corporation

#### Part I Summary of the Acquisition

This case concerns a plan for Nippon Steel Corporation (hereinafter, "Nippon Steel"), an entrepreneur engaged in steelmaking, to acquire the shares of Oji Steel Co., Ltd. (hereinafter, "Oji Steel"), a company engaged in the manufacture and sale of steel flat bars.

This case is subject to Article 10 of the Antimonopoly Act.

# Part II Particular Fields of Trade

#### **1. Product Summary**

A steel flat bar is a steel product rolled on four sides. Flat bars are classified by the cross-section profile – flat bars in its narrow sense, steel square bars and deformed flat bars.

A flat bar in the narrow sense has a rectangular cross section. A square bar has a square cross section. A deformed flat bar is a flat bar with a cross section that is neither a rectangle nor a square. As it is rolled, it is produced to suit the final purpose.

Flat bars are also classified by whether any special material is added to make an alloy or whether or not the ingredients are altered in any way. Common steel does not contain any special alloy. Special steel contains some special alloy or has its ingredients manipulated.

Irrespective of the category, nearly 50% of the flat bars serve civil engineering and construction purposes. And they are also used in a wide variety of areas, including industrial machinery, construction equipment, automobiles and shipbuilding. Special steel flat bars are more intended for the manufacturing industry than are common steel flat bars.

Existing flat bars have many different cross sections. They can be manufactured on a single manufacturing line by changing the mill roll.

Special steel flat bars require special processes different from those for common steel flat bars. They include ingredient design, such as the addition of alloys, temperature management, heat treatment, testing and reconditioning. Technologies, know-how and readiness of the equipment are indispensable for the production of special steel flat bars. No manufacturer of common steel flat bars can additionally manufacture special steel ones without making appropriate capital investment and spending a reasonable length of time. On the other hand, it is easy for manufacturers of special steel flat bars to produce common steel flat bars.

# 2. Definition of Particular Fields of Trade

Given that special steel flat bars are used for applications requiring a higher degree of strength, machinability, wear resistance and other types of functionality and quality characteristics than those of common steel flat bars, product ranges have been separately defined for common steel flat bars and for special steel ones. The geographic range has been defined as nationwide for both types.

# Part III Review of the Impact of the Business Combination on Competition

#### **1. Special Steel Flat Bars**

Special steel flat bars fall under the safe harbor for horizontal business combination. The JFTC judges that the transaction under review does not substantially restrain the competition in the particular field of trade.

# 2. Common Steel Flat Bars

(1) Market scale and others

The common steel flat bar market was worth around 100 billion yen in fiscal 2006.

In fiscal years 2002-2003, the transaction volume and the price were both at low levels, the result of slumping demand based on a decline in public projects and the downward trend of capital investment in the private sector. In fiscal 2004, the manufacturing sector's activities were brisk and private capital investment increased. Soaring demand led to a rise in transaction quantity and price and boosted sales. In fiscal 2006, demand remains strong.

(2) Market share and HHI

The table below shows market shares of individual players in the common steel flat bar market.

After the business combination, the total market share of the groups of companies concerned is about 35%, ranking first.

The HHI after the business combination in question is about 2,100, with approximate increase of 500.

Rank	Company	Market Share
1	Oji Steel	Approx. 25%
2	Company A	Approx. 20%
3	Company B	Approx. 15%
4	Company C	Approx. 10%
5	Nippon Steel	Approx. 10%
6	Company D	Approx. 5%
7	Company E	Approx. 5%
8	Company F	Approx. 5%
(1)	Combination of the	Approx. 35%
	groups of the companies	
	concerned	
	Total	100%

(Note 1) The figures represent actual values for fiscal 2006.

(Note 2) The market share of Nippon Steel represents the total market share including those of common steel flat bar manufacturers that are already consolidated with Nippon Steel.

(Source: created by the JFTC based on materials submitted by the companies concerned)

#### (3) Existence of competitors

The market has multiple competitors with a market share of 10% or more.

### (4) Excess supply capacity

In the first half of fiscal 2007, the industry produced around 50-80% of its production capacity, or its maximum production during the bubble years. Given that each company has fewer operations personnel than it had in the bubble period, it is difficult to immediately increase production to full capacity. Common steel flat bar makers set their operation hours and employ operation staff commensurate with demand. When demand increases, they can boost production by asking their workers to work overtime or by bolstering their shifts. With the period for recruiting and training personnel taken into consideration, they can reach full capacity in half a year.

The current excess supply capacity is estimated from the production capacity of major competitors to reach nearly 1.4 times the sales volume of the groups of the companies concerned. The competitors are therefore considered to have sufficient excess supply capacity.

(5) Competitive pressure from consumers

There is no outstanding difference in technology and quality of common steel flat bars. It is easy for users to change manufacturer.

With respect to distribution channels, it is also easy to change the flat bar manufacturer as a supplier in shop transactions (Note 1). If flat bars are purchased in tied transactions (Note 2), change in manufacturer is possible as the purchaser's discretion, although it will take some time for reasons such as quality and delivery date management,.

- (Note 1) This refers to transactions in which wholesalers and authorized distributors purchase products from manufacturers, store them in their warehouses and sell them in response to small-lot orders from end users and others. In general, many individual orders from end users are for small lots.
- (Note 2) This refers to transactions in which flat bar manufacturers receive orders from end users through trading companies. The order quantity is larger than in shop transactions.

#### (6) Competitive pressure from related markets

Common steel intermediate and thick plates (Note) have similar effects to those of common steel flat bars. They have a broad range of applications, including general and welded construction; such as civil works, buildings, bridges, industrial machinery, oil tanks and marine structures; as well as shipbuilding, boilers, pressure vessels and line pipes.

According to the companies concerned, common steel flat bars can be substituted for in building, civil engineering, machinery, shipbuilding and many other areas by common steel intermediate and thick plates with cutting in the same sizes. In particular, these plates have similar effects to common steel flat bars with a large width of around 100 mm or more. Flat bars with large widths are easier to cut and are likely to compete with common steel plates, which are expected to cover around 30% of the demand for common steel flat bars.

The volume of common steel intermediate and thick plates sold in Japan is about seven times larger than that of common steel flat bars. The table below shows that the market sees several competitors other than the companies concerned, which hold a market share of 10% or more each. Common steel intermediate and thick plates provided by the competitors are considered to exert a competitive pressure on the common steel flat bar market.

(Note) They refer to steel plates with the thickness of at least 3 millimeters and a greater width than that of flat bars. Specifically, intermediate plates have a thickness of 3 mm or more and less than 6 mm, thick plates 6 mm or more and ultra-thick plates 150 mm or more.

Rank	Company	Market Share
1	Nippon Steel	Approx. 35%
2	Company A	Approx. 30%
3	Company B	Approx. 10%
4	Company C	Approx. 10%
5	Company D	Approx. 5%
6	Company E	Approx. 5%
7	Company F	0%-5%
	Others	0%-5%
	Imports	0%-5%
(1)	Combination of the	Approx. 35%
	groups of the	
	companies concerned	
	Total	100%

(Note) The figures represent actual values for fiscal 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (7) Imports

There are many different sizes for common steel flat bars and users generally place orders for small lots. It is necessary to meticulously meet users' needs. Imported products from overseas are so disadvantageous in transport cost and other aspects that they cannot fully satisfy the needs of users. At the moment, the import volume is therefore very limited and they are considered unlikely to put any pressure.

# (8) Market entries

Manufacturers of common steel bars are potential entrants into the market for

manufacturing and selling common steel flat bars. They have gained a certain level of income over the past few years and have no substantial excess supply capacity for the time being. The common steel flat bar market has no major shortage of supply capacity. In the past couple of years, none of them have actually dared to reduce their production of common steel bars for the purpose of entering the common steel flat bar market.

However, there is no difference in the basic production process between common steel bar manufacturers and those producing common steel flat bars. Common steel bar manufacturers could produce common steel flat bars simply by changing mill rolls. By making a capital investment of about several ten million yen, they can easily produce common steel flat bars even though detailed equipment specifications vary from manufacturer to manufacturer.

It is fairly likely that manufacturers will quickly enter the market if the benefits of entry increase, for example after their equipment is idle due to a contraction of the common steel bar market, after the demand-supply balance tightens in the common steel flat bar market and after profitability is increased by a price rise.

#### Part IV Assessment on the Basis of the Antimonopoly Act

#### 1.Assessment on Substantial Restraint of Competition by Unilateral Conducts

There exist a number of competitors holding market shares of 10% or more. There is no difference in quality and technology among manufacturers. It is easy to change suppliers. Competitors have excess supply capacity. The market is under competitive pressure from related markets. And it is straightforward to enter the market. In view of all these factors, no unilateral conduct of the groups of the companies concerned is considered likely to substantially restrain the competition in the particular field of trade.

## 2.Assessment on Substantial Restraint of Competition by Coordinated Conducts

The market has several competitors. Changing suppliers is straightforward. There is competitive pressure from related markets. And market entry is easy. In consideration of all these factors, no coordinated conduct between the groups of the companies concerned and their competitors is likely to substantially restrain competition in the particular field of trade.

## **Part V Conclusion**

In the light of the circumstances mentioned above, the JFTC has judged that the transaction in question does not substantially restrain competition in the particular field of trade.

# Case 5 Full Business Acquisition from Nitto Metal Industry Co., Ltd. by San-Etsu Metals Co., Ltd.

# Part I Summary of the Acquisition

This case concerns a plan in which San-Estu Metals Co., Ltd. (hereinafter referred to as "San-Estu Metal"), a company running a business of manufacturing and selling brass rods, takes over the entire business operation from Nitto Metal Industry Co., Ltd. (hereinafter referred to as "Shin-Nitto Kinzoku"), a company engaged in the same business.

This case is subject to Article 16 of the Antimonopoly Act.

# Part II Particular Fields of Trade

# **1. Product Summary**

(1) Brass rods

A brass rod is a rod-shaped product made of brass, or a copper-zinc alloy. Brass rods are classified into two categories by composition: (i) general products that comply with the Japanese Industrial Standards (JIS) and (ii) special products, which refer to all brass rods other than general products. They are further divided into six types as listed in the table below. Containing 2-3% lead content for improved machinability, free cutting brass rods are used for a wide spectrum of applications including gas appliance components and faucet fitting parts. They make up at least 50% of all the brass rod products.

Category	Туре	Major Characteristics	Main Applications
General	Free cutting brass	Machinability and	Screws, bolts, nuts, gas
products	rods	extensibility	appliances, air
			conditioner parts
	Forging brass rods	Hot forgeability	Machinery parts and
			valves
	Naval brass rods	Corrosion	Ship parts and shafts
		resistance and	
		seawater	
		resistance	
	High strength brass	High strength and	Pump shafts and
	rods	corrosion	propeller shafts for
		resistance	ships
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Special	Brass rods with	Dezincification	Faucet fittings
products	dezincification	corrosion	
	corrosion	resistance	
	resistance		
	Lead-less	Lead content of	Nearly the same
	cadmium-less	100 ppm or less	applications as those of
	brass rods	and cadmium	general products and
		content of 10 ppm	brass rods with
		or less	dezincification
			corrosion resistance

(Source: created by the JFTC based on materials submitted by the companies concerned)

## (2) Brass wires

A brass wire is a wire-shaped brass product. Similarly to brass rods, brass wires are classified into two by the breakdown: (i) general products that are JIS-compliant and (ii) special products, which refer to all brass wires excluding the general products. They are further split into four types as shown in the table below. Of brass wire products, lead-free brass wires excel in extensibility and rollability. They are used for many different purposes including electric and mechanical components. They make up 90% of all brass wire products.

Category	Туре	Major Characteristics	Main Applications	
Generan	Brass wires	Extensibility and	Rivets, small	
products		rollability	screws, pins and	
			hooks	
	Free cutting brass	Machinability	Screws, bolts, nuts,	
	wires	and extensibility	electronic parts and	
			lighter parts	
	Brass wires for	Machinability	Nipples and nuts	
	nipples	and extensibility		
Special	Brass wires for	Weldability	Welding rods	
products	welding			

(Source: created by the JFTC based on materials submitted by the companies

### (3) Processed brass products

Processed brass products refer to screws, nuts, automotive parts, precision machinery parts and other components for various machinery and electric and electronic devices produced by processing brass rods and wires. There are a great many different kinds of such products.

Differences in processing approaches divides processed brass products into two kinds: (i) cut products, produced by cutting free cutting brass rods and lead-free brass wires and (ii) forged products, produced by heating and pressing brass rods for forging at 600 to 800 degrees Celsius before shape processing.

### 2. Definition of Particular Fields of Trade

- (1) Product ranges
  - a Brass rods

As far as general brass rod products and brass rods with dezincification corrosion resistance are concerned, utility and applications vary with the product type. Users make use of different products according to their processing purposes. From the perspective of consumers, these products have no substitutability. Meanwhile, they can be produced with the same production equipment and they are confirmed as substitutable with lead-less cadmium-less brass rods (Note). Threfore a product range has been defined for all brass rod products. However, brass rods and brass wires are both extruded products and the difference between them lies merely in whether the final finishing process produces a rod form or a coil form. Three types of brass wire products, namely free cutting brass wires, brass wires for nipples and those for welding, can share the same production facilities with general brass rod products and brass rods with dezincification corrosion resistance. In this case, a product range shall be defined as comprising all kinds of brass rod products plus certain brass wire products, specifically the three types of products mentioned above excluding the lead-free brass wires. However, the review of this range is replaced with the review on the range of brass rods, given that the sales quantity of fine cutting brass wires, brass wires for nipples and brass wires for welding approximates one percent of that of products in the range of brass rods and the three particular brass wires.

(Note) A lead-less cadmium-less brass rod is an environmentally friendly product with reduced lead and cadmium content, and it is used for almost the same purposes as general brass rod products and brass rods with dezincification corrosion resistance. Since the price of bismuth, which is added instead of lead, has jumped from 1,200 yen per kilogram to 5,000 yen per kilogram in the past three years, there is a shift from the lead-less cadmium-less brass rod to general brass rod products or to brass rods with dezincification corrosion resistance.

### b Brass wires

With respect to brass wires, a product range is defined solely for lead-free brass wires, which is excluded from the product range of brass rods and others set in (1) above.

The lead-free brass wires are excluded from the object of the review as there is no competition between the companies concerned.

#### c Processed brass products

Many different processed brass products are manufactured according to users' purposes. They are classified by the processing method into cut products and forged products. These two groups differ in terms of processing and raw materials. Moreover, manufacturers performing the copper rolling process own either cutting machines or forging machines. Generally, they specialize in either cutting or forging, wherever their technical strength lies. There is no substitutability in terms of supply. Therefore, two separate product ranges are defined for cut products and for forged products. The review, however, focuses on cut products, given that the companies concerned compete with each other in this product range.

## (2) Geographic range

There is no constraint on physical distribution and other aspects of any of the products being reviewed. All such products are sold all over Japan. The geographic range has been defined as nationwide.

### Part III Review of the Impact of the Business Combination on Competition

## **1. Processed Brass Products**

With respect to processed brass products, particularly cut products, the

integration in question generates a limited rise in HHI and is subject to the safe harbor provisions for horizontal business combination. This integration is hence deemed unlikely to substantially restrain competition in the market for the products concerned.

## 2. Brass Rods

(1) Market scale

The brass rod market was worth approximately 175 billion yen in fiscal 2006. This figure has risen by some 123 billion yen from the level of five years earlier, but this was due to the soaring copper price. Shipping volumes have remained nearly unchanged at about 240,000 metric tons.

## (2) Market share and HHI

The table below indicates market shares of individual players in the brass rod market.

After the business combination in question, the total market share of the companies concerned is about 35% and it is ranked first.

The HHI after the business combination is about 2,200, with an approximate increase of 500.

Rank	Company	Market Share
1	Company A	Approx. 25%
2	San-Estu Metal	Approx. 20%
3	Company B	Approx. 15%
4	Company C	Approx. 10%
5	Shin-Nitto Kinzoku	Approx. 10%
6	Company D	Approx. 10%
7	Company E	0%-5%
8	Others	0%-5%
	Imported products	0%-5%
(1)	Combination of the	Approx. 35%
	companies	
	concerned	
	Total	100%

(Note) The figures represent actual values for fiscal 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

### (3) Existence of competitors

There are several competitors with a market share of 10% or more.

## (4) Ease of changing suppliers

No quality difference is observed among general products, which account for 90% of brass rod products. Users purchase them from multiple suppliers and change the amount they procure. This suggests that users can easily change suppliers.

## (5) Excess supply capacity

Judging from production capacity and actual production of each company, the companies concerned and their competitors have sufficient excess supply capacity. In particular, the excess supply capacity of competitors is comparable with the sales volume of the companies concerned.

## (6) Competitive pressure from related markets

Consumers are now shifting from conventional brass to aluminum, resins, stainless steel, iron and other materials. For example, brass rods for water and gas utilities, which account for 60% of total brass rod demand, have readily substitutes in the form of other materials if they meet end users' functional and price requirements. Depending on the pricing of brass rods, the shift towards other materials may gather momentum. It is possible to see that this will, to a certain extent, act to curb the rise in brass rod prices.

## (7) Imports

The brass rod import track record shows that imported brass rods have accounted for less than 1% of the total domestic demand in the last five years. However, the ratio of South Korean products to total imported products is rising. Nowadays, most of the imported brass rods are from the Republic of Korea.

In South Korea, brass rod manufacturers have steadily merged in the past decade and today the market has only one manufacturer. Japanese counterparts still use production equipment that is nearly 40 years old and have a total production capacity of 30,000 metric tons per month. The South Korean maker

boasts very high production efficiency as it owns cutting-edge facilities with capacity of 15,000 metric tons and actually produces 12,000 metric tons per month.

General brass rod products are JIS compliant. The South Korea-based manufacturer is accredited as a JIS-certified factory. It set up a liaison office in Japan to enter this market. It started full-scale sales activities in Japan through its Japanese agents.

Following the entry of the South Korean manufacturer into Japan, brass rod imports from the Republic of Korea were about 17 times the pre-entry 2003 level, rising to approximately 2,400 metric tons in 2005. However, the figure fell to some 1,700 metric tons in the following year 2006. The South Korean maker has suspended sales promotion in the Japanese market after the recent sharp appreciation of the South Korean currency.

However, the South Korean manufacturer has already set up a sales base in Japan and actually supplies considerable volumes to Japan. The sales promotion activities are considered likely to resume, although it may depend on future trends in the foreign exchange market. This is thought to act as a constraint that deters domestic brass rod manufacturers from increasing prices to a certain degree.

### Part IV Assessment on the Basis of the Antimonopoly Act

## 1.Assessment on Substantial Restraint of Competition by Unilateral Conducts

No unilateral conduct of the companies concerned is deemed to substantially restrain the competition in the particular field of trade, given that it is easy for users to change suppliers, the market has influential competitive entrepreneurs which have excess supply capacity, related markets apply pressure as there is an ongoing shift from brass to aluminum, resin and other materials, and there is potential pressure from imported products.

#### 2. Assessment on Substantial Restraint of Competition by Coordinated Conducts

No Coordinated conduct between the companies concerned and their competitors is deemed to substantially restrain the competition in the particular field of trade, given that users can easily change their suppliers, the companies concerned and other companies have excess supply capacity, and there is competitive pressure from related markets as well as latent pressure from imported products.

# **Part V Conclusion**

In the light of the circumstances mentioned above, the JFTC has judged that the transaction in question does not substantially restrain competition in the particular field of trade.

# Case 6 Integration of Turbo Molecular Pump Business from Mitsubishi Heavy Industries, Ltd. into Shimadzu Corporation

### **Part I Summary of the Integration**

This case concerns a plan in which Shimadzu Corporation (hereinafter referred to as "Shimadzu") takes over the business of manufacturing and selling turbo molecular pumps, a kind of high vacuum pump, from Mitsubishi Heavy Industries, Ltd. (hereinafter referred to as "MHI") through an absorption-type split for an aim to integrate the said business of both companies.

This case is subject to Article 15-2 of the Antimonopoly Act.

## Part II A Particular Field of Trade

## 1. Product Summary

(1) Summary of high vacuum pumps

A high vacuum pump is a device for creating high vacuum conditions. For instance, the semiconductor manufacturing process necessitates a high-level vacuum and the semiconductor manufacturing system incorporates a high vacuum pump. High vacuum pumps are also used in the processes of manufacturing liquid crystal panels, solar cells and other precision devices.

## (2) Types of high vacuum pumps

High vacuum pumps are classified into two different systems. One is the turbo molecular pump, which rotates an aluminum alloy vane at high speed to flick nitrogen, oxygen and other molecules to generate a high vacuum. The other is the cryopump, which produces a very low temperature that condenses gas or performs low-temperature absorption to create a high vacuum.

Both types are used in the process of producing semiconductors and other products. Although they share some applications in common, users basically use the two different systems for different purposes, for the following reasons:

- a Excellent though it is in removing water molecules, the cyropump differs from the turbo molecular pump in that it takes molecules in and accumulates them inside the pump instead of discharging them to the outside atmosphere. For this reason, it requires maintenance work at regular intervals.
- b The cyropump is not used if any part of the semiconductor manufacturing process uses a corrosive gas, since the device may be damaged by the corrosive gas adsorbed inside.

Normally, either type of pump is continuously used while the same manufacturing system is produced even if both types can achieve the similar function, except when there is reason for changing the type, such as a need to discharge water molecules. Which type of pump is incorporated into the system is already determined in the design stage.

## 2. Definition of the Particular Field of Trade

Both companies concerned manufacture and sell turbo molecular pumps, which are a sort of high vacuum pumps. They do not produce or market any cryopump.

High vacuum pumps have two different systems, namely turbo molecular pumps and cryopumps. As mentioned in 1-(2) above, users basically employ both for different purposes. A product range to be reviewed is defined for turbo molecular pumps.

Manufacturers of turbo molecular pumps sell their products to users across the country and users make purchases from manufacturers all over the country. Therefore geographic range is defined as nationwide.

# Part III Review of the Impact of the Business Combination on Competition 1. Market Scale

The turbo molecular pump market was worth approximately 20 billion yen in fiscal 2005. Demand for turbo molecular pumps is growing following the recent hike in demand for semiconductors and liquid crystal panels.

## 2. Market Share and HHI

The table below shows the market shares of individual players in the turbo molecular pump market.

After the business combination, the total market share of the groups of the companies concerned is about 30% and it is ranked first in the industry.

The HHI after the business combination in question is about 1,900, representing an approximate increase of 340.

Rank	Company	Market
		Share
1	Shimoday	Approx.
	Siiiiiadzu	25%
2	Company A	Approx.

Rank	Company	Market
		Share
		25%
3	Compony D	Approx.
	Company B	20%
4	Component	Approx.
	Company C	15%
5	MHI	Approx. 5%
6	Company D	0%-5%
7	Others	5%-10%
(1)	Combination of	Approx.30%
	the companies	
	concerned	
	Total	100%

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

## 3. Existence of Competitors

The market has multiple competitors with market shares of 10% or more.

## 4. Ease of Changing Suppliers

With a view towards having an edge in price negotiations, users design their manufacturing systems to be compatible with turbo molecular pumps from multiple manufacturers, to avoid a situation in which the supplier is limited to any specific manufacturer. Therefore, it is considered straightforward for users to change their suppliers of turbo molecular pumps.

## 5. Competitors' Excess Supply Capacity and Others

In response to growth in demand for semiconductors and liquid crystal panels, turbo molecular pump makers actively upgraded their production equipment. Boosting turbo molecular pump production does not require substantial space for building any large plant or facility. It can be done merely by purchasing additional machine tools for metal processing. It is therefore straightforward to increase production.

## 6. Market Entry

The manufacture of turbo molecular pumps requires no technology other than those for producing rotating bodies and vacuum technology. They pose low barriers to entry and market entry itself is straightforward.

### 7. Competitive Pressure from Users

The competition is so intense in the market for semiconductors and other devices that manufacturers of production systems supplying them to semiconductor makers are often requested by their customers to lower their prices. In this event, manufacturing system makers call on turbo molecular pump manufacturers to cut prices, by stressing that they purchase the systems in large quantities and by hinting that they could possibly switch suppliers to other manufacturers. In cases where products are sold to users via sales agents, the sales agents have limited pricing power as the basic transaction price is fixed between sales agents and turbo molecular pump manufacturers, although there could be a price cut on an ex post facto basis.

Handling about 70% of the total trade volume, manufacturers of systems for producing semiconductors and others are seen to have strong pricing power.

The selling price of turbo molecular pumps dropped sharply ten years ago as a result of advances in production technologies. The price has since been on the decline.

### 8. Competition Status

Manufacturers of turbo molecular pumps regard the growth of the turbo molecular pump market as an opportunity to increase their sales and actively compete with one another. As a consequence, their market shares are changing dramatically. Some of the manufacturers increased their market shares considerably in the period between 2001 and 2005 and others lost nearly half their market shares over the same period.

### Part IV Assessment on the Basis of the Antimonopoly Act

## 1. Assessment on Substantial Restraint of Competition by Unilateral Conducts

Receiving price cutting requests from the intensely competitive markets for semiconductors, liquid crystal panels and other devices, semiconductor manufacturing systems manufacturers in turn make stronger demands to turbo molecular pump makers to reduce prices to minimize costs. In the market for turbo molecular pumps, there are several leading competitors, other than the companies concerned. It is straightforward to increase production of turbo molecular pumps. It is thought that if the companies concerned raised their price, competitors could quickly boost their production to easily gain customers.

For these reasons, no unilateral conduct of the companies concerned is believed to substantially restrain the competition in the particular field of trade.

## 2.Assessment on Substantial Restraint of Competition by Coordinated Conducts

There is strong downward pressure on the price from downstream markets dealing with semiconductors and liquid crystal panels. There are many competing entrepreneurs and their market shares are changing radically. Following the growing demand for turbo molecular pumps, market players are actively competing with one another. It is difficult to predict what action will be taken by other competitors.

Given these factors, no coordinated conduct between the companies concerned and their competitors is deemed to substantially restrain the competition in the particular field of trade.

## **Part V Conclusion**

In the light of the circumstances mentioned above, the JFTC has judged that the transaction in question does not substantially restrain the competition in the particular field of trade.

# Case 7 Acquisition of Fixed Assets for Magnetic Head Manufacturing Business from Alps Electric Co., Ltd. by TDK Corporation

### Part I Summary of the Acquisition

This case concerns a plan in which TDK Corporation (hereinafter referred to as "TDK"), a company engaged in the business of magnetic heads for hard disk drives (hereinafter referred to as "HDDs") takes over the fixed assets relating to the business of HDD magnetic heads from Alps Electric Co., Ltd. (hereinafter referred to as "Alps Electric"), an entrepreneur operating the same business.

This case is subject to Article 16 of the Antimonopoly Act.

## Part II A Particular Field of Trade

## **1. Product Summary**

Magnetic heads are one of the key parts of an HDD, which is a device that stores data and programs on magnetic disks in a magnetic manner. Magnetic heads convert electronic signals into magnetic signals and vice versa with the use of an electromagnetic conversion element performing magnetic field generation for writing signals onto a disk serving as a storage medium as well as for the detection of the magnetic flux constituting recorded signals from the disk.

For high-speed retrieval of high-capacity data stored on disks in the HDD, the disk rotates at an ultra high speed ranging from several thousand to tens of thousands revolutions per minute. If the magnetic head were to come in contact with the magnetic material on the storing surface of the disk, it would be worn by friction. For this reason, the HDD is designed to create an air flow from the high-speed disk revolutions between the magnetic material surface and the magnetic head so that the head can maintain a slight gap, specifically 0.02 micrometers (one micrometer equals a one-millionth of a meter), from the disk surface.

Magnetic heads vary in specifications depending on the HDD size, but they are manufactured using the same production equipment. When it is necessary to produce magnetic heads for HDDs with a different size, it is possible to do so in a very short period of time by changing the program responsible for the configuration of the manufacturing equipment.

### 2. Technologies Relating to Magnetic Heads

(1) Technologies requisite to magnetic heads

At present, there is a major need to increase the density and capacity for the purpose of enhancing the performance of HDDs. Providing boosted density and capacity involves multiple technical factors, including not only magnetic heads but also disks, head control and device control. A particular emphasis is placed on technology for boosting the reading capacity and increasing the writing density of magnetic heads.

### (2) Recent technological trend

In terms of writing technologies, the longitudinal magnetic recording (LMR; Note 1) technology is now reaching its limit in terms of recording density. Recently, the market has witnessed an increase in the number of products adopting the perpendicular magnetic recording (PMR; Note 2) technology. The reading method is shifting from the giant magneto-resistive (GMR; Note 3) technology to the tunneling magneto-resistive (TMR; Note 4) technology. It is said that the TMR method has dramatically improved recording density.

Based on this technological advance, magnetic head manufacturers compete to develop TMR/PMR products. From the first quarter of 2006 to the first quarter of 2007, magnetic head manufacturers began mass producing such products, with the exception of Alps Electric.

Alps Electric has lagged behind the competition in developing TMR magnetic heads, which will be the mainstream product in the future, as it gave priority to developing magnetic heads incorporating a technology different from the TMR approach.

- (Note 1) This technology records signals as magnetic patterns parallel with the recording film surface.
- (Note 2) This technology records signals as magnetic patterns perpendicular to the recording film surface. Recording the same data in a smaller area than the LMR technology does, it is understood to improve the surface recording density.
- (Note 3) This technology is based on the giant magneto-resistance effect.
- (Note 4) This technology is based on the tunneling magneto-resistance effect. With a higher magneto-resistance ratio than that of the GMR technology, it can read fainter signals.

## 3. Trade of Magnetic Heads

Apart from the companies concerned, there are four other manufacturers of magnetic heads worldwide. All four are HDD manufacturers.

Users of magnetic heads, namely HDD manufacturers, coordinate magnetic heads, media and other parts to construct HDDs. HDD makers request magnetic head manufacturers to produce magnetic heads that meet the specifications they designate. Before their products are adopted, magnetic head manufacturers need to submit samples for different HDD models to HDD manufacturers and obtain approval for design, prototyping, mass production and technology.

Magnetic head manufacturers make price discussions on the basis of the prices calculated in the form of "X percent of the HDD price" from the past price information supplied from HDD manufacturers and market prices published from research companies.

## 4. Definition of the Particular Field of Trade

(1) Product range

Magnetic heads are produced in accordance with the specifications designated by HDD manufacturers and delivered in all quantities as components to HDD manufacturers placing orders. An HDD manufacturer and its supplier of magnetic heads are effectively in an integrated relationship in terms of development, production and pricing of magnetic heads. Whether magnetic heads are manufactured by HDD manufacturers or by contracted magnetic head makers, competition for the HDD involves fierce competition mainly in the technical development of magnetic heads as a key component of the HDD.

Even though their size varies, magnetic heads all serve the same functions. Supply substitutability is acknowledged with respect to magnetic heads with different specifications.

For these reasons, magnetic heads for HDDs, including those produced internally by HDD manufacturers, are considered to form a particular field of trade.

### (2) Geographic range

As users of magnetic heads, HDD manufacturers deal with magnetic head manufacturers that are expected to satisfy the requisite technical conditions and to supply products at the right prices. Magnetic head manufacturers sell their products at the same base price irrespective of the region for which they are designed.

Therefore, the entire world, including the Japanese market, is deemed to in effect form a single market for magnetic heads.

## Part III Review of the Impact of the Business Combination on Competition

## 1. Market Scale

In fiscal 2006, approximately 1.4 billion magnetic heads were shipped on an HGA (Note) basis. This denotes a shipment value of some 5.6 billion dollars. The market is gradually increasing, chiefly in terms of the models for 2.5-inch HDDs.

(Note) A magnetic head is formed on a slider. The HGA, which stands for head gimbal assembly, refers to a component with the slider attached to a suspension.

## 2. Market Share and HHI

After the business combination under review, the total sales volume share of the groups of the companies concerned is about 40% and it is ranked first.

The HHI after the business combination in question is about 3,000, with an approximate rise of 600.

Rank	Company	Sales Volume
		Share
1	TDK (Japan)	Approx.30%
2	Company A (USA)	Approx.30%
3	Company B (USA)	Approx.15%
4	Company C (Japan)	Approx.10%
5	Alps Electric (Japan)	Approx.10%
6	Company D (Japan)	Approx.5%
(1)	Combination of the	Approx.40%
	companies concerned	
	Total	100%

(Note) The figures represent actual values for fiscal 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

## 3. Price Trend

An HDD manufacturer and its supplier of magnetic heads are effectively in an integrated relationship in terms of development, production and pricing of magnetic heads. It is difficult for magnetic head manufacturers to set their own prices without regard to the HDD manufacturing and sales market. The magnetic head prices are continuously sliding in sync with the HDD prices.

### 4. Competitive Pressure from Users

Major computer manufacturers have very strong pricing power over HDD manufacturers. HDD makers make strong technical and cost reduction demands of magnetic head manufacturers.

#### **5. Existence of Competitors**

The market has several competitors with a sales volume share of 10% or more.

### 6. Competitors' Excess Supply Capacity

There is still some gap between full capacity and actual operation of magnetic head manufacturers. It is quite possible for competitors to increase their production.

### 7. Related Markets (Competitive Products)

Since 2006, the storage capacity of semiconductor-based flash memories has been growing rapidly and their prices have been falling quickly. There is a growing shift towards mounting flash memories, away from small-sized HDDs.

Producing no magnetic head on their own, Companies E and F have developed and boosted flash memories with larger storage capacity comparable with that of 2.5-inch and larger HDD models. If prices of flash memories go down, there will be a rapid switch from large-capacity HDDs to flash memories.

### 8. Developments in Technical Innovation

Magnetic head manufacturers are competing intensely on technical development for the higher density and capacity HDDs sought by HDD manufacturers. A key to changing market share is whether any product incorporating new technologies can be transferred to mass production.

Alps made a slow start in developing TMR magnetic heads, which will be the mainstream product in the future. Transactions between Alps and HDD manufacturers are already on the decline.

### Part IV Assessment on the Basis of the Antimonopoly Act

## 1. Substantial Restraint of Competition by Unilateral Conducts

It is difficult for magnetic head manufacturers to set prices on their own. They are under very strong pressure from users. Competitors have excess supply capacity and flash memories are competing with HDDs. For these reasons, no unilateral conduct of the companies concerned is considered to substantially restrain the competition in the particular field of trade.

### 2. Substantial Restraint of Competition by Coordinated Conducts

No coordinated conduct between the companies concerned and their competitors is deemed to substantially restrain the competition in the particular field of trade, given that HDD manufacturers as users make strong technical and price cut demands toward magnetic head makers and that there are sharp fluctuations in market shares as a result of technological innovations.

## Part V Conclusion

In the light of the circumstances mentioned above, the JFTC has judged that the

transaction in question does not substantially restrain the competition in the particular field of trade.

#### Case 8 Acquisition of Shares of Sokkia Co., Ltd. by Topcon Corporation

#### Part I Summary of the Acquisition

This case involves a plan to acquire shares of Sokkia Co., Ltd. (hereinafter referred to as "Sokkia") by Topcon Corporation (hereinafter referred to as "Topcon"). Both companies engage in manufacturing and selling surveying instruments.

This case is subject to Article 10 of the Antimonopoly Act.

### **Part II Particular Fields of Trade**

### **1. Product Summary**

Normally, basic measurements requisite to a land survey comprise measurements of distances, angles and differences of elevation. A theodolite is an instrument for measuring angles while a level and laser are for measuring differences in elevation. A manual-type total station (TS), a motor-driven total station(motor-driven TS) and a GPS surveying system each perform all the three measurements without any extra instrument.

The TS radiates light to a reflection mirror, called a prism, placed at the surveying point and measures the light reflected from the prism to gain positional information of the surveying point. The TS cannot be used without at least two experienced personnel—of which one operates the instrument manually and the other stands at the surveying point to hold the prism. Measurement using a motor-driven TS needs at least one worker, as it not only has the features of the TS but also the function of automatically, not manually, tracking and collimating the prism.

The GPS surveying system measures positional information of the surveying point by analyzing the radio signals from multiple satellites received by a dedicated receiver placed at the ground surveying point. It may not be used depending on the place where it is surveyed and the measurement accuracy required, but it can survey a large number of surveying points in a short length of time.

## 2. Definition of Particular Fields of Trade

The companies concerned compete in five products, namely the theodolite, the level and laser, the TS, the motor-driven TS and the GPS surveying system.

Users choose surveying instruments in consideration of their features, utility, accuracy and other aspects, and the particular fields of trade have been separately defined for these different products.

The geographic range is defined as nationwide, since users basically purchase such instruments from different manufacturers across the country and there are no special circumstances associated with product characteristics and others. Among the five surveying instruments, the TS has a feature that the market is expected to be highly oligopolistic after the share acquisition as the companies concerned hold a massive market share as discussed in Part III-2 below. The JFTC conducted an in-depth review on this particular product to examine if the share acquisition has any impact on the competition.

## Part III Review of the Impact of the Business Combination on Competition

## 1. Market Scale

The TS market was worth around 6 billion yen in fiscal 2006.

### 2. Market Share and HHI

The table below shows sales volume shares of individual players in the TS market.

After the acquisition of shares, the total sales volume share of the companies concerned is about 60%, ranking it first.

The HHI after the share acquisition in question is about 4,700, with an approximate increase of 2,000.

Donk	Company	Sales Volume	
Kalik	Company	Share	
1	Topcon	Approx. 35%	
2	Company A	Approx. 30%	
3	Sokkia	Approx. 25%	
4	Company B	Approx. 5%	
	Others	Approx. 5%	
	Combination of the		
(1)	companies	Approx. 60%	
	concerned		
	Total	100%	

(Note) The figures represent actual values for fiscal 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

#### **3.** Circumstances Surrounding Users

TSs are chiefly used by land survey operators, land and house investigators and builders. A large majority of users purchase them from the sales agents of surveying instrument manufacturers, whereas leading constructors and other users procure them under a lease or similar arrange.

In choosing a TS model, users focus on habituation to a certain extent and on

reliability since use of the instrument requires manual tuning of collimation and other tasks. Users tend to continue to prefer products from the same manufacturers and they rarely change the maker.

Among users of TSs from multiple manufacturers, those using the products of both companies concerned account for a higher percentage than those with products from any of the companies concerned and from any other competitor. The level of substitutability between the products of the companies concerned is considered higher than that between products from the companies concerned and those of their competitors.

### 4. Pricing Power of Trade Partners

The trade terms between sales agents and manufacturers are fixed on the basis of actual transactions in the preceding fiscal year. Price discussions between them do not often take place.

### 5. Imports

At the moment, some TSs are imported from China. However, there is a quality gap between products of domestic manufacturers and those of Chinese counterparts. Users see maintenance as important, and Chinese makers are less prepared to provide maintenance services than Japanese manufacturers are. Therefore imports from Chinese manufacturers are unlikely to expand.

## 6. Market Entry

Seeking high precision from TSs, users place emphasis on product reliability at the time of choosing the manufacturer. It is not easy for any operator to launch a new TS manufacturing and sales business.

### 7. Related Markets (Competitive Products)

### (1) GPS surveying systems

To measure positional information using a GPS surveying system in network-based real time kinematic (RTK) GPS positioning (Note 1), users have only to place a receiver at the surveying point even if no horizontal visibility is secured. In this sense, it is more efficient and useful than the TS, although it cannot be used when there is a need for high precision. However, the static surveying (Note 2) technique enables high precision measurement using a GPS survey system. It is effective for surveying a large area when visibility is not always available. It is more efficient to use a TS for measuring a small area when there is visibility, since it is quick and requires no other instrument. The GPS surveying system is useless for measurement where there is no sufficient field of vision towards the sky, for example at a low position near high-rise buildings. At a place like that, it is difficult to pick up radio signals from satellites.

In other words, users choose either the TS or the GPS surveying system according to the place where the survey takes place and the survey accuracy required. The planned launch of a quasi-zenith satellite in 2009 is expected to allow the GPS surveying system to be used in more situations.

- (Note 1) With this method, measurement is performed by receiving data transmitted from electronic benchmarks installed by the Geographical Survey Institute as well as radio signals from satellites using a single GPS surveying system.
- (Note 2) With this method, normally, four or more GPS surveying systems are used. Continuous measurement for a duration of about one hour results in high precision.

## (2) Motor-driven TSs

At present, there is a price gap between a motor-driven TS and a manual TS. Motor-driven models account for merely 10% of overall unit sales of TSs, motor-driven stations and GPS surveying systems. In contrast, motor-driven TS are functionally substitutable as TS and require fewer workers. In view of this cost savings, the price gap is thought to constitute no major disadvantage. More and more users are aware of the higher work efficiency enjoyed by using a motor-driven TS. A demand shift from TSs to motor-driven stations is gathering momentum.

#### Part IV Assessment on the Basis of the Antimonopoly Act

#### 1. Assessment on Substantial Restraint of Competition by Unilateral Conducts

After the share acquisition being reviewed, the total sales volume share of the companies concerned in the TS market is high at about 60%. Users tend to continuously purchase products from specific manufacturers as they regard habituation and product reliability as important. Substitutability between products from both companies concerned is higher than between products from the companies concerned and those from competitors. After the share acquisition, it will be easier for the companies concerned to raise TS prices. Competitive pressures from users, imported products and market entrants are all failing.

There are some related markets, namely those of GPS surveying systems and motor-driven TSs. At the current stage, GPS surveying systems are not considered to exert any competitive pressure. Users choose either the TS or the GSP surveying system according to the place surveyed or the measurement accuracy required. However, the launch of a quasi-zenith satellite is expected to broaden the range of places that can be surveyed and to increase demand for GPS surveying systems in several years. It will then be possible to confirm a certain level of competitive pressure from GPS surveying systems.

Motor-driven TSs are not considered to exert competitive pressure as few users are aware of their advantages. In the next couple of years, however, the surveying instrument market will see the widespread adoption of motor-driven TSs and more users will learn of their efficiency. As a result, the transition to motor-driven TSs will accelerate and it will be possible to recognize their competitive pressure.

In other words, it takes a certain length of time until competitive pressure from GPS surveying systems and motor-driven TSs can be acknowledged. In the meantime, it is thought that the companies concerned can unilaterally control TS prices at their discretion to a certain degree.

## 2. Assessment on Substantial Restraint of Competition by Coordinated Conducts

The stock acquisition reduced the number of major players in the TS market to two. It transforms the market structure into a very oligopolistic one. Competitive pressure from users, imported products and market entrants does not work effectively. As discussed in 1 above, competitive pressure from GPS surveying systems and motor-driven TSs is limited. It is thought that the companies concerned and other competitors can take coordinated conduct to freely control TS prices to a certain extent until competitive pressure from the products mentioned above is considered recognizable.

## Part V Remedies Proposed by the Companies Concerned

During the review process, the companies concerned submitted additional materials on the switchover from TSs to motor-driven versions or to GPS surveying systems and proposed taking the action described below on the occasion of the planned share acquisition.

- 1 For a certain period of time after the share acquisition, one of the companies concerned will supply the TSs that it manufactures to a third party not currently involved in manufacture or sale of the TSs, so that the third party can sell them. For three years after the share acquisition, TSs will be supplied to the third party at the same price as the current settlement price applied to sales subsidiaries of the company concerned.
- 2 For three years after the share acquisition, the companies concerned will take action to prevent any information about TSs separately manufactured by them from being

shared by them.

### Part VI Assessment on the Basis of the Antimonopoly Act in View of the Remedies

Provided that the remedies stated in Part V above are certainly carried out, it is assumed that one of the companies concerned that manufactures and sells TS products on its own will independently compete in the TS market with the third party to which the other company concerned supplies its products.

After the end of the period of the remedy, a certain level of competitive pressure is expected from two related markets, namely GPS surveying systems and motor-driven TSs, as discussed in Part IV above. The companies concerned are thought to be hampered from freely controlling the TS price to a certain extent.

## **Part VII Conclusion**

In the light of the above circumstances, the JFTC has judged that the transaction in question constitutes no substantial restraint of competition in any particular field of trade provided that the remedies proposed by the companies concerned are carried out without fail.

### Case 9 Acquisition of Shares of Meihankintetsu Co., Ltd. by Sanco Holdings, Inc.

### Part I Summary of the Acquisition

This case involves a plan in which Sanco Holdings, Inc. (hereinafter referred to as "Sanco") acquires shares of Meihankintetsu Co., Ltd. (hereinafter referred to as "Meihankintetsu").

This case is subject to Article 10 of the Antimonopoly Act.

### Part II A Particular Field of Trade

## 1. Field to be Reviewed

The companies concerned both engage in the public bus and chartered bus businesses. In the public bus business, there is no route in which they compete. The following refers to a careful review of the chartered bus business.

## 2. Chartered Bus Business

(1) Summary of the chartered bus business

In the chartered bus business, operators offer chartered buses to carry passengers.

Pursuant to the Road Transport Act, nobody can operate the chartered bus business without a license from the Director-General of the competent district transport bureau. Licenses are basically granted on a prefecture-by-prefecture basis. Chartered bus operators are required to have offices within the licensed area of operation and, in principle, to equip such an office with a depot.

Chartered bus operators are licensed to carry passengers whose place of departure or destination is within their respective licensed service areas.

#### (2) Chartered bus fares

Chartered bus operators are required to make prior notification of their chartered bus fares and fees to the authorities, but they do not need to notify them if they are within the upper and lower limits published by the competent district transport bureau. When they set any fare beyond the range published, it is subject to examination by the district transport bureau. If the bureau finds an unjustifiable differential, the

Minister of Land, Infrastructure and Transport issues a change order.

The companies concerned generally set their fares near the lower limits.

### (3) Circumstances surrounding the chartered bus business

The companies concerned explain that competition is intensifying following an increase in market entrants as a result of deregulation and low-price orders arising from fiercer competition in the downstream travel industry. They claim that bus operators continue to face adverse business circumstances.

## 3. Definition of the Particular Field of Trade

Given that both companies concerned are chartered bus operators, the case being reviewed has an aspect of horizontal business combination. Since the Sanco Group includes a travel agency that has demand for chartered bus operation services, the case also has an aspect of vertical business combination.

## (1) Horizontal business combination

Sanco's five wholly owned subsidiaries engage in chartered bus business in Mie Prefecture, while Meihankintetsu operate its chartered bus business in Gifu, Aichi and Mie Prefectures.

At least 99% of the services provided by the groups of companies concerned do not cross prefectural boundaries. They have competing routes in Mie Prefecture. A particular field of trade is defined for the chartered bus business in Mie Prefecture.

## (2) Vertical business combination

Chartered bus operators rarely organize bus tours or directly make contracts with consumers. In 90% or more of the cases, they offer their services to travel agencies. The particular fields of trade have been defined as the chartered bus business as an upstream market and the travel agency business as a downstream market. The geographic range has been defined as Mie Prefecture.

## Part III Review of the Impact of the Business Combination on Competition

### 1. Market Share and Others

(1) Chartered bus business

The chartered bus business in Mie Prefecture has a market scale of approximately 10 billion yen.

The table below shows shares in numbers of vehicles for chartered bus services owned by individual operators. After the share acquisition, the total share of the companies concerned is about 50% and it is ranked first.

The HHI after the transaction in question is about 2,800, with an approximate increase of 650.

Rank	Company	Share
1	The Sanco Group	Approx. 45%
2	Meihankintetsu	5%-10%
3	Company A	Approx. 5%
4	Company B	Approx. 5%
5	Company C	0%-5%

Rank	Company	Share
6	Company D	0%-5%
7	Company E	0%-5%
8	Company F	0%-5%
9	Company G	0%-5%
10	Company H	0%-5%
	Others (approx. 40)	Approx. 25%
(1)	Combination of the groups	A mmore 500/
	of the companies concerned	Approx. 50%
	Total	100%

(Note) The figures are based on the numbers of relevant vehicles owned at the end of August 2006.

(Source: created by the JFTC based on materials submitted by the companies concerned)

(2) Travel agency business

The table below broadly portrays the sales shares of travel agencies in Mie Prefecture. The HHI value is about 1,300.

It should be noted that Meihankintesu does not engage in a travel agency business.

Rank	Company	Sales Share
1	Company I	Approx. 20%
1	Company J	Approx. 20%
1	The Sanco Group	Approx. 20%
Others (numbering approx. 120)		Approx. 40%
Total		100%

<sup>(</sup>Source: created by the JFTC based on materials submitted by the companies concerned)

## 2. Excess Supply Capacity

(1) Operating ratio

The operating ratio of chartered bus operators excluding the companies concerned was nearly 50% in fiscal 2006.

The total share of the groups of the companies concerned is around 50%. At the moment, competitors' excess supply capacity covers almost all current supply from the groups of the companies concerned.

## (2) Ease of increasing supply capacity by existing competitors

Those existing competitors with offices in Mie Prefecture which also operate the chartered bus business in other prefectures can increase their own supply capacity in Mie Prefecture by assigning buses managed by offices in other prefectures to their offices in Mie Prefecture.

They can easily and quickly change the number of buses belonging to a specific office by reporting this to the Director-General of the district transport bureau in advance.

Among the major chartered bus operators with offices in Mie Prefecture, the number of chartered buses in neighboring Aichi Prefecture that Company A has is equivalent to nearly 20% of all chartered buses in Mie Prefecture. If Company A were to shift some of these buses to Mie, it could easily and swiftly boost supply capacity in Mie Prefecture.

### 3. Market Entry

(1) New entry

The recent deregulation of chartered bus services has lowered the entry barriers and made it easier to enter the market. The used bus market is so well developed that it can be purchased quickly and at relatively low cost. This means that it is easy for new entrants to procure vehicles for chartered bus services.

Under these circumstances, the number of chartered bus operators in Mie Prefecture is on the increase, as shown in the table below.

Fiscal year	2002	2003	2004	2005	2006
Number of	100	103	116	125	130
operators	100	105	110	123	150

(Note) The number of operators represents an index value. The index value of 100 corresponds to the level in fiscal 2002.

(Source: created by the JFTC based on materials submitted by the companies concerned)

### (2) Entry from neighboring prefectures

It is easy to enter the chartered bus market in Mie Prefecture, since those operating chartered bus business in adjacent prefectures already have the vehicles, expertise and other essentials for the business. It is considered straightforward for them to start the same business in Mie Prefecture.

The table below indicates the number of vehicles for chartered bus services in two neighboring prefectures in the same Chubu district, namely Gifu and Aichi Prefectures.

	Number of vehicles for chartered bus services	
	(Owned by the groups of the	
		companies concerned)
Gifu Prefecture	Approx. 1,000	Approx. 90
Aichi Prefecture	Approx. 1,500	Approx. 90

(Source: created by the JFTC based on materials submitted by the companies concerned)

Mie Prefecture is estimated to have an approximate total of 600 such vehicles. This means that there are about four times as many chartered buses in total in Gifu and Aichi Prefectures as there are in Mie Prefecture.

### 4. Ease of Changing Suppliers and Pricing Power

Travel agencies are the principal sources of demand for chartered bus operation services. Generally, they have trading relationships with a large number of chartered bus operators. For each new transaction, they request quotations from multiple bus operators before selecting the party with which to place an order as well as determining the transaction price. This makes it easy for travel agencies to switch chartered bus operators.

Moreover, as discussed in 3-(1) above, the number of chartered bus operators is on the rise after deregulation. There is intense competition in the chartered bus industry. Travel agencies have strong pricing power.

### Part IV Assessment on the Basis of the Antimonopoly Act

## 1. Horizontal Business Combination

(1) Assessment on substantial restraint of competition by unilateral conducts

Other chartered bus operators are considered to have ample excess supply capacity and to be able to considerably increase that capacity in a short period of time. Customers also have strong pricing power. For these reasons, no unilateral conduct of the companies concerned is deemed to substantially restrain the competition in the particular field of trade.

(2) Assessment on substantial restraint of competition by coordinated conducts

No coordinated conduct between the companies concerned and their competitors is found to substantially restrain competition in the particular field of trade, given that the market is easy to enter, there are nearly 50 operators and Meihankintetesu has such a small market share of only 5-10% that the business combination being reviewed is considered to have a relatively limited impact on the market structure.

## 2. Vertical Business Combination

The transaction in question is deemed to constitute no substantial restraint of competition in the particular field of trade. Given that other chartered bus operators have adequate excess supply capacity and that the chartered bus service market is easy to enter, travel agencies can readily deal with chartered bus operators other than the companies concerned as alterative suppliers.

## Part V Conclusion

In the light of the circumstances mentioned above, the JFTC has judged that the transaction in question does not substantially restrain the competition in the particular field of trade.

### Case 10 Acquisition of Shares of Kobashou, Inc. by Mediceo Paltac Holdings Co., Ltd.

### Part I Summary of the Acquisition

This case concerns a plan in which Mediceo Paltac Holdings Co., Ltd. (hereinafter referred to as "Mediceo Paltac") acquires shares of Kobashou, Inc. (hereinafter referred to as "Kobashou"). Both companies concerned are engaged in the wholesale of pharmaceutical and other products.

This case is subject to Article 10 of the Antimonopoly Act.

### **Part II Particular Fields of Trade**

## 1. Product and Service Summary

There is competition between the groups of the companies concerned over the wholesale of over-the-counter (OTC) pharmaceutical products, cosmetics, daily necessities and healthy food. In the field of wholesaling cosmetics, daily necessities and healthy food, the groups of the companies concerned rank so low that the transaction in question is considered to have a minor impact on competition. A close review is carried out on the wholesale market for OTC pharmaceutical products.

## (1) Summary of over-the-counter pharmaceutical products

Over-the-counter (OTC) pharmaceutical products refer to those pharmaceutical products that are purchased and used by the general public themselves on the basis of appropriate information offered from pharmacists. They are designed to relieve the symptoms of minor illnesses, to prevent any symptom of lifestyle-related and other diseases from developing, to enable people to check their own health, to maintain and improve general health conditions, and to achieve other health and sanitation purposes. Available without prescription issued by a medical doctor, they are sold at drugstores staffed by pharmacists.

In 2006, the OTC pharmaceutical product market was worth approximately 600 billion yen on a production basis.

## (2) Distribution channels of OTC pharmaceutical products

Around 70% of the OTC pharmaceutical products are distributed to retailers through wholesalers including the companies concerned. Some OTC drug makers bypass wholesalers of OTC pharmaceutical products (hereinafter referred to as "wholesalers") and sell them direct to retailers. (Pharmaceutical manufacturers of this kind are hereinafter referred to as "direct sales manufacturers.")

## 2. Definition of the Particular Fields of Trade

## (1) Product range

OTC pharmaceutical products have many different medicinal benefits. Their functions and efficacy vary. Wholesalers can deal with all OTC products with all medicinal properties. Therefore, a product range is defined for the wholesale business of OTC pharmaceutical products.

## (2) Geographic range

Drugstore chains procure their merchandise not only from wholesalers with distribution bases in the prefecture where their own logistical centers are located but also from other wholesalers with bases in the same region. On the other hand, local drugstores basically purchase solely from wholesalers with distribution bases in the prefecture where they are based. Geographic range is defined at multiple levels for individual regions and prefectures.

# Part III Review of the Impact of the Business Combination on Competition

## 1. Business Coverage Areas of the Companies Concerned

The companies concerned compete with each other in six regions: Tohoku, Kanto, Koshinetsu, Tokai, Kinki and Chugoku (Note).

(Note) The entire country is divided into regions as follows.

- (1) Hokkaido Hokkaido
- (2) Tohoku Aomori, Akita, Iwate, Yamagata, Miyagi and Fukushima Prefectures
- (3) Kanto Tokyo and Kanagawa, Saitama, Chiba, Ibaraki and Gumma Prefectures
- (4) Koshinetsu Niigata, Toyama, Fukui, Ishikawa, Nagano and Yamanashi Prefectures
- (5) Tokai Aichi, Mie, Gifu and Shizuoka Prefectures
- (6) Kinki Osaka, Kyoto, Hyogo, Nara, Wakayama and Shiga Prefectures
- (7) Chugoku Hiroshima, Okayama, Shimane, Tottori and Yamaguchi Prefectures
- (8) Shikoku Ehime, Kagawa, Kochi and Tokushima Prefectures
- (9) Kyushu and Okinawa Fukuoka, Saga, Nagasaki, Kumamoto, Oita, Miyazaki, Kagoshima and Okinawa Prefectures

## 2. Competition in Individual Geographical Coverage Areas

(1) By region

The table below portrays the status of competition in the regional markets in which the groups of the companies concerned compete with each other.

The Tohoku, Koshinetsu and Tokai regions are excluded from the table because they fall under the safe harbor criteria.

	Wholesalers only		Wholesalers + Direct Sales Manufacturers	
	Rank of the firms	Competitors with	Rank of the	Competitors with market
	concerned,	market share of 10% or	firms	share of 10% or more
	total market share,	more	concerned,	
	HHI,		total market	
	HHI increment		share	
Kanto	First Approx. 30% Approx. 1,500 Approx. 400	Second: Approx. 15% Third: Approx. 15% Fourth: Approx. 10%	First Approx. 20%	Second: Approx. 15% (D) Third: Approx. 10%
Kinki	First Approx. 40% Approx. 2,400 Approx. 900	Second: Approx. 15% Third: Approx. 15%	First Approx. 30%	Second: Approx. 10% (D) Third: Approx. 10% Fourth: Approx. 10%
Chugoku	First Approx. 70% Approx. 5,100 Approx. 2,200	N/A	First Approx. 45%	Second: Approx. 15% (D)

(Note 1) The figures represent actual values for fiscal 2004.

(Note 2) The table covers the regions which do not fall under the safe harbor criteria. The rank, the market share and HHI figures represent the values after the transaction under review. The (D) symbol represents a direct sales manufacturer.

(Source: created by the JFTC based on materials submitted by the companies concerned)

## (2) By prefecture

The table below shows the state of competition in the prefectural markets in which the groups of the companies concerned compete with each other.

The prefectures listed below are excluded from the table because they fall under the safe harbor criteria: Saitama, Kanagawa, Nagano, Niigata, Gifu, Shizuoka, Aichi and Mie.

	Wholesalers only		Wholesalers + Direct Sales Manufacturers	
	Rank of the firms		Rank of the	
	concerned,	Competitors with	firms	Competitors with market
	total market share,	market share of 10% or	concerned,	share of 10% or more
	HHI,	more	total market	share of 1076 of more
	HHI increment		share	
Aomori	First Approx. 40% Approx. 2,700 Approx. 700	Second: Approx. 30% Third: Approx. 15% Fourth: Approx. 10%	First Approx. 25%	Second: Approx. 20% Third: Approx. 15% (D)
Akita	Second Approx. 25% Approx. 4,000 Approx. 300	First: Approx. 60%	Second Approx. 15%	First: Approx. 35% Third: Approx. 15% (D)

	Wholesalers only		Wholesalers + Direct Sales Manufacturers	
	Rank of the firms concerned, total market share, HHI, HHI increment	Competitors with market share of 10% or more	Rank of the firms concerned, total market share	Competitors with market share of 10% or more
Ibaraki	First Approx. 60% Approx. 3,900 Approx. 1,400	Second: Approx.15% Third: Approx.10%	First Approx.40%	Second: Approx.15% (D)
Tochigi	Second Approx. 25% Approx. 1,900 Approx. 300	First: Approx. 30% Third: Approx. 15% Fourth: Approx. 10%	Second Approx. 15%	First: Approx. 20% Third: Approx. 15% (D)
Chiba	First Approx. 30% Approx. 1,900 Approx. 300	Second: Approx. 20% Third: Approx. 15% Fourth: Approx. 10%	First Approx. 20%	Second: Approx. 15% (D) Third: Approx. 15% Fourth: Approx. 10%
Tokyo	First Approx. 30% Approx. 1,500 Approx. 300	Second: Approx. 15% Third: Approx. 15% Fourth: Approx. 10% Fifth: Approx. 10%	First Approx. 20%	Second: Approx. 15% (D) Third: Approx. 10%
Yamanashi	First Approx. 60% Approx. 4,200 Approx. 1,800	Second: Approx. 20%	First Approx. 40%	Second: Approx. 15% Third: Approx. 15% (D)
Shiga	First Approx. 55% Approx. 3,900 Approx. 1,400	Second: Approx. 30%	First Approx. 40%	Second: Approx. 25% Third: Approx. 10% (D)
Kyoto	Second Approx. 40% Approx. 3,200 Approx. 600	First: Approx. 40%	Second Approx. 30%	First: Approx. 30% Third: Approx. 10% (D)
Osaka	First Approx. 40% Approx. 2,100 Approx. 700	Second: Approx. 15% Third: Approx. 15% Fourth: Approx. 10%	First Approx. 30%	Second: Approx. 10% (D) Third: Approx. 10%
Hyogo	First Approx. 45% Approx. 2,700 Approx. 1,000	Second: Approx. 20% Third: Approx. 10%	First Approx. 35%	Second: Approx. 15% Third: Approx. 10% (D)
Nara	First Approx. 40% Approx. 2,600 Approx. 800	Second: Approx. 20% Third: Approx. 20%	First Approx. 30%	Second: Approx. 15% Third: Approx. 15% Fourth: Approx. 10% (D)

	Wholesalers only		Wholesalers + Direct Sales Manufacturers	
	Rank of the firms concerned, total market share, HHI, HHI increment	Competitors with market share of 10% or more	Rank of the firms concerned, total market share	Competitors with market share of 10% or more
Wakayama	First Approx. 65% Approx. 4,800 Approx. 1,800	Second: Approx. 20%	First Approx. 50%	Second: Approx. 15% Third: Approx. 10% (D)
Tottori	First Approx. 90% Approx. 8,500 Approx. 2,300	N/A	First Approx. 60%	Second: Approx. 15% (D)
Shimane	First Approx. 85% Approx. 6,900 Approx. 3,000	N/A	First Approx. 55%	Second: Approx. 15% (D)
Okayama	First Approx. 90% Approx. 7,900 Approx. 3,100	N/A	First Approx. 60%	Second: Approx. 15% (D)
Hiroshima	First Approx. 75% Approx. 5,700 Approx. 2,600	N/A	First Approx. 50%	Second: Approx. 15% (D)
Yamaguchi	Second Approx. 30% Approx. 2,300 Approx. 400	First: Approx. 30% Third: Approx. 25%	Second Approx. 20%	First: Approx. 20% Third: Approx. 15% Fourth: Approx. 15% (D)

(Note 1) The figures represent actual values for fiscal 2004.

(Note 2) The table covers the areas which do not fall under the safe harbor criteria. The rank, the market share and HHI figures represents the values after the transaction under review. The (D) symbol represents a direct sales manufacturer.

(Source: created by the JFTC based on materials submitted by the companies concerned)

## 3. Ease of Changing Suppliers

Wholesalers trade with a large number of OTC pharmaceutical manufacturers to deal with products with broad efficacy. Some of them do not trade with specific OTC drug makers, but they can purchase from other wholesalers that deal with these manufacturers to ensure a broad product lineup.

There is little difference in the fundamental functions of wholesalers, such as non-delayed delivery and the absence of stock shortages or incorrect delivery.

It is consequently easy for OTC product retailers to change wholesalers to purchase from. Actually, the change in suppliers often takes place.

## 4. Excess Supply Capacity

Wholesalers are each estimated to have ample excess supply capacity as they can easily increase their supply volume by increasing the purchase quantity from OTC pharmaceutical manufacturers.

## 5. Competitive Pressure from Related Markets

(1) Direct sales manufacturers

Basically, direct sales manufacturers deal with products with all medicinal effects. The companies concerned report that direct sales manufacturers are responsible for about 30% of the OTC pharmaceutical products handled by retailers.

The JFTC has learned through interviews with OTC drug retailers that wholesalers cannot ignore the prices of products from direct sales manufacturers at the time of setting wholesale prices. The interviewees have also revealed that they can put some price reduction pressure on wholesalers by slightly reducing purchases from wholesalers while boosting purchases from direct sales manufacturers or by stopping sales promotion of products from wholesalers while introducing the sales promotion of products from direct sales manufacturers in the price discussions with wholesalers.

#### (2) Geographically adjacent markets

Drugstore chains may purchase not only within the regions where their own logistical centers are located but also from wholesalers whose distribution bases are located in neighboring regions. This means that there is some competitive pressure from wholesalers owning distribution bases in geographically adjacent regions.

Local drugstores may also procure merchandise from wholesalers with distribution facilities in geographically adjoining prefectures. Wholesalers are under competitive pressures from physically connecting prefectural markets.

## 6. Competitive Pressure from Retailers

The OTC drug retail market sees a fierce competition chiefly among drugstore chains and the retail price is on the downward trend. OTC pharmaceutical product retailers make strong demands of wholesalers to cut costs. They basically purchase from multiple supply sources and make a comparison of prices suggested by different wholesalers in pursuit of lower purchase prices.

Among others, drugstore chains are key trade partners to wholesalers. They stress their huge purchase quantities to seek lower-cost supply from wholesalers.

### 7. Market Entry
#### (1) Regulations pursuant to the Pharmaceutical Affairs Act

Under the Pharmaceutical Affairs Act, every business establishment that has in stock pharmaceutical products for sale requires authorization from the metropolitan or prefectural governor. However, authorization is not required if any business establishment only sells pharmaceutical products and has nothing in stock. Such establishments can operate sales in any other prefecture. Requiring no immediacy, OTC pharmaceutical products can be sold at facilities that only have selling functions. The market is thought to have low market barriers.

## (2) Amendment to the Pharmaceutical Affairs Act

After the 2006 amendment to the Pharmaceutical Affairs Act was enacted, new categories of OTC pharmaceutical products that can be sold without pharmacists will be launched in 2009.

Specifically, OTC pharmaceutical products are classified into three categories by risk level. It will be permissible to retail products in the two low-risk categories on condition that any registered seller (Note) is stationed.

In their interviews, the companies concerned and retailers have explained that convenience stores, supermarkets and other retailers may install registered sellers to embark on the retail of OTC pharmaceutical products in certain areas and that in response to their demand some wholesalers such as those handling food, cosmetics, daily commodities and others could start wholesaling OTC pharmaceutical products.

(Note) As the amended Pharmaceutical Affairs Act comes into force, a system on new specialists responsible for selling OTC pharmaceutical products, called registered sellers, will be launched separately from the system on pharmacists.

#### Part IV Assessment on the Basis of the Antimonopoly Act

# 1. Regions Excluding Chugoku and Prefectures Excluding Tottori, Shimane, Okayama and Hiroshima

(1) Assessment on substantial restraint of competition by unilateral conducts

No unilateral conduct of the companies concerned is deemed to constitute substantial restraint of competition in the particular fields of trade, given that there are several competitors holding a market share of 10% and more, that it is easy for drugstores as users to change their suppliers, that wholesalers are considered to have sufficient excess supply capacity, that there is competitive pressure from direct sales manufacturers, geographically neighboring markets, and that there is competitive pressure from retailers and market entrants.

(2) Assessment on substantial restraint of competition by coordinated conducts

Wholesalers have ample excessive supply capacity. There is competitive pressure from direct sales makers, physically adjacent markets, retailers and market entrants. For these reasons, no coordinated conduct between the companies concerned and competitors is estimated to substantially restrain the competition in the particular fields of trade.

### 2. Chugoku Region and Tottori, Shimane, Okayama and Hiroshima Prefectures

(1) Assessment on substantial restraint of competition by unilateral and coordinated conducts

As in other regions, it is acknowledged that there is competitive pressure from direct sales manufacturers and market entrants. However, after the transaction under review, the market share of the groups of companies concerned is so high that monopolistic situations are generated in several neighboring prefectures. Drugstores as purchasers may have no other alternative.

Interviewed by the JFTC, some OTC pharmaceutical product retailers have voiced their fear about a rise in purchase prices and a decline in the quality of information provision services after a failure of the competition mechanism among wholesalers if the companies hold a monopolistic market share after the transaction in question. Others have commented that it is very difficult to find any alternative supplier in the nearby areas in a case like that.

On the basis of the above information, it is considered likely that an unilateral conduct of the companies concerned or a coordinated conduct between them and competitors may substantially restrain the competition in the particular fields of trade.

(2) Remedies proposed by the companies concerned

The JFTC pointed out the companies concerned that it was likely that their planned transaction may substantially restrain the competition in the OTC pharmaceutical product wholesale market in the areas mentioned above. In response to that, Kobashou proposed remedies that would comprise a partial sale of the shares of a subsidiary operating in the Chugoku Region (hereinafter referred to as "Company X") owned by Kobashou to multiple entities engaged in the same business to lower its voting right ownership ratio and discontinuation of the dispatch of officers from Kobashou to Company X.

## (3) Assessment on the basis of the Antimonopoly Act in view of the remedies

If the remedies detailed in (2) above are certainly implemented, the business

combination between Kobashou and Company X is thought to be dissolved and Company X is considered to stand as a competitor with a constraining influence. In this situation, the competition in the particular fields of trade is deemed not to be substantially restrained.

# 3. Shikoku Region and Tokushima, Ehime and Kochi Prefectures

Mediceo Paltac holds certain voting rights of a company operating in the Shikoku region (hereinafter referred to as "Company Y"). No business combination is thought to have been formed between the two companies in light of Mediceo Paltac's voting right ownership ratio and other factors at the moment.

However, if a business combination is established between Mediceo Paltac and Company Y, the groups of the companies concerned and Company Y hold a total market share of around 70% in the Shikoku region, around 70% in Tokushima Prefecture, about 80% in Ehime Prefecture and about 80% in Kochi Prefecture. Monopolistic conditions are created and the competition may well be substantially restrained.

Therefore, the JFTC has judged that it is necessary to request the companies concerned to report in advance to the JFTC any act that strengthens the ties between the two companies, such as an increase in Mediceo Paltac's voting right ownership regarding Company Y and appointment of any single person as officer on both sides.

	Wholesalers only		(Reference) Wholesalers + Direct Sales Manufacturers		
	Rank of the firms concerned, total market share, HHI, HHI increment	Competitors with market share of 10% or more	Rank of the firms concerned, total market share	Competitors with market share of 10% or more	
Shikoku	First Approx. 70% Approx. 4,900 Approx. 2,200	Second: Approx. 15%	First Approx. 45%	Second: Approx. 20% (D)	
Tokushima	First Approx. 70% Approx. 5,200 Approx. 2,400	Second: Approx. 20%	First Approx. 45%	Second: Approx. 20% (D) Third: Approx. 15%	
Kagawa	First Approx. 40% Approx. 2,800 Approx. 800	Second: Approx. 30% Third: Approx. 15%	First Approx. 25%	Second: Approx. 20% Third: Approx. 20% (D) Fourth: Approx. 10%	

Ehime	First Approx. 80% Approx. 6,600 Approx. 2,700	N/A	First Approx. 55%	Second: Approx. 20% (D)
Kochi	First Approx. 80% Approx. 6,300 Approx. 3,100	N/A	First Approx. 50%	Second: Approx. 20% (D)

(Note 1) The figures represent actual values for fiscal 2004.

(Note 2) The calculation is based on the assumption that the business combination between the groups of the companies concerned and Company Y is formed.

After the calculation, Company Y's wholly owned subsidiary handed over its OTC pharmaceutical product wholesale business in Ehime and Tokushima Prefectures to another company operating the same business on January 1, 2008. The table above does not take this event into account.

(Note 3) The (D) symbol represents a direct sales manufacturer.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# Part V Conclusion

In the light of the circumstances mentioned above, the JFTC has judged that the transaction in question does not substantially restrain the competition in the particular fields of trade in all the regions except the Chugoku region and in all prefectures excluding Tottori, Shimane, Okayama and Hiroshima Prefectures.

In the Chugoku region and in the four prefectures specified above, the JFTC has judged that the transaction in question will substantially restrain competition in no particular fields of trade provided that the remedies proposed by the companies concerned are carried out without fail.

Moreover, with regard to the Shikoku region and in Tokushima, Ehime and Kochi Prefectures, the JFTC has asked the companies concerned to make prior report to the JFTC, for example, of any increase in the ratio of their voting rights regarding Company Y or the appointment of any persons as officers on both sides.

#### Case 11 Business Integration between Company A and Company B

#### Part I Summary of the Integration

This case concerns a plan in which two companies operating the business of manufacturing and selling medical machinery and appliances, Company A and Company B, integrate their business of manufacturing and selling Device X (Note). This case is subject to Articles 10 and 15-2 of the Antimonopoly Act.

(Note) Company A and Company B additionally planned to integrate their businesses other than the manufacture and sale of Device X. This integration was deemed to constitute no substantial restraint of competition in the particular field of trade and the integration was carried out as planned. This business integration plan is not further mentioned herein.

### **Part II Particular Fields of Trade**

### 1. Product Summary

Device X varies in material and in shape depending on the functions required and is classified into ten different models. The companies concerned compete with each other with the six models of Device X.

There are certain pharmaceutical drugs that have the same efficacy as provided by Device X. If any such drug is newly developed, the sales volume of Device X slides massively.

# 2. Restrictions on Manufacture and Sale of Medical Equipment under the Pharmaceutical Affairs Act

Pursuant to the provisions of the Pharmaceutical Affairs Act, no one is allowed to manufacture or sell Device X without obtaining the permission of the Minister of Health, Labour and Welfare. Individual models to be manufactured and sold must be separately approved by the Minister of Health, Labour and Welfare. A clinical trial for Device X lasts long. It takes three or four years until the approval is finally obtained.

# 3. Definition of the Particular Fields of Trade

Device X has many different types and they are used to treat different symptoms. It takes three or four years to gain approval for individual models before manufacturing and selling Device X. No supply substitutability is found among different types of Device X. Product ranges have been defined for separate types of Device X.

In light of the points mentioned above, the six models of Device X in which the companies compete with each other, defined as X-1 to X-6, have been determined as the fields subject to review.

The geographic range is defined as nationwide, since manufacturers of Device X sells their products all over the country.

# Part III Review of the Impact of the Business Combination on Competition

# 1. Market Scale

Device X is effective against certain illnesses newly covered by health insurance. On the other hand, if any new drug is created, demand will shift from Device X to the new drug. Basically, the market scale is either flat or in decline.

The six models of Device X, in which the companies concerned compete with each other, each have a market size ranging from several hundred million yen to around 2 billion yen.

# 2. Market Share and Level of Concentration

The following describes the total market share of the companies concerned in six models in which the companies concerned compete with each other.

(1) Device X-1

The HHI after the business combination under review is around 5,300, with an approximate increase of 1,600.

Rank	Company	Market Share	
1	Company A	Approx $40\%$	
1	(company concerned)	Appi0x. 40%	
2	Company C	Approx. 40%	
2	Company B	Amerox 200/	
3	(company concerned)	Approx. 20%	
(1)	Combination of the	Ammroy 600/	
(1)	companies concerned	Approx. 60%	
	Total	100%	

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (2) Device X-2

The HHI after the business combination is 10,000, with an approximate increase of 4,600.

Rank	Company	Market Share	
1	Company B (company concerned)	Approx. 65%	
2	Company A	Approx. 35%	

	(company concerned)	
(1)	Combination of the	100%
(1)	companies concerned	100%
	Total	100%

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (3) Device X-3

The HHI after the business combination is 10,000, with an approximate increase of 3,900.

Rank	Company	Market Share	
1	Company B	A	
1	(company concerned)	Approx. 70%	
2	Company A	Amman 200/	
2	(company concerned)	Approx. 50%	
(1)	Combination of the	1000/	
(1)	companies concerned	100%	
	Total	100%	

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (4) Device X-4

The HHI after the business combination is 10,000, with an approximate increase of 4,800.

Rank Company		Market Share	
1	Company B	$\Lambda$ margy $600/$	
1	(company concerned)	Appi0x. 00%	
2	Company A	Ammrox 400/	
2	(company concerned)	Appi0x. 40%	
(1)	Combination of the	1009/	
(1)	companies concerned	10076	
Total		100%	

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (5) Device X-5

Rank	Company	Market Share	
1	Company A	Approx. 70%	
	(company concerned)		
2	Company B	Approx 30%	
2	(company concerned)	пррюх. 5070	
(1)	Combination of the	100%	
(1)	companies concerned	100%	
	Total	100%	

The HHI after the business combination is 10,000, with an approximate increase of 4,100.

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# (6) Device X-6

The HHI after the business combination is about 4,900, with an approximate increase of 1,200.

Rank	Company	Market Share	
1	Company A	<b>A</b>	
1	(company concerned)	Approx. 55%	
2	Company D	Approx. 30%	
2	Company B	Ammroy 100/	
3	(company concerned)	Approx. $10\%$	
4	Company E	Approx. 5%	
5	Company F	0%-5%	
(1)	Combination of the	Ammon (50/	
(1)	companies concerned	Approx. 03%	
	Total	100%	

(Note) The figures represent actual values for fiscal 2005.

(Source: created by the JFTC based on materials submitted by the companies concerned)

# 3. Price Trend

National health insurance reimbursement prices are set for individual types of Device X. The actual selling prices are determined through discussions between manufacturers or their agents and users within the limit of the reimbursement prices, which remain almost unchanged for different models of Device X.

# 4. Excess Supply Capacity

The companies concerned have around 30% excess supply capacity for different models of Device X. It is unknown what excess supply capacity their competitors have, but production is possible with small production facilities and it is considered easy to upgrade the facilities.

## 5. Pressure from Imported Products and Market Entrants

Anyone can import Device X or enter the Device X market if it meets statutory requirements including approval for manufacturing and sale pursuant to the Pharmaceutical Affairs Act. However, given that the market is expected to shrink rapidly if a new drug is invented, that the market is essentially small and that it takes time and money to obtain approval, imports or market entries are unlikely to increase.

# 6. Status of Competitors

Apart from the companies concerned, Companies D, E and F supply Device X-6. Companies E and F have a very small market share. While Company F deals with imported products, users regard after-sales care as important and preferentially trade with Japanese makers. It is therefore difficult to rate them as powerful competitors.

As a result, if the integration takes place, the market of Device X-6 has only one leading competitor aside from the companies concerned.

## Part IV Assessment on the Basis of the Antimonopoly Act

All the markets for the six Device X models are expected to be monopolized or duopolized after the integration in question. No pressure from imports or market entrants can be recognized. In view of these factors, it is believed that an unilateral conduct of the companies concerned or a coordinated conduct between the companies concerned and other competitors may substantially restrain the competition in the particular fields of trade.

# Part V Conclusion

As the JFTC indicated that the integration would pose a problem in terms of competition in the Device X business, the companies concerned responded that they would call off the integration of the Device X business.

Numbers of Notifications of Mergers, Divisions, Business Acquisitions and Others and of Reports on Stockholding Submitted in Fiscal 2007

In fiscal 2007, the JFTC received a total of 1,284 notifications and reports. This figure rose 8.0% from the preceding fiscal year. Of them, 76 notifications were relating to mergers, 33 relating to divisions, 123 relating to business acquisitions and others and 1,052 reports on stockholdings. There were two notifications of business acquisitions and others and 87 reports on stockholdings from foreign companies. (The table below shows the trend in the past three years.)

- (Note 1) Any business with its scale exceeding the applicable predetermined level is obliged to make notification of its planned merger, division, business acquisitions and others or to deliver a report on stockholding. For example, in the case of a merger between domestic companies, the notification is required provided that either of the companies has a total gross asset value of more than 10 billion yen and that another has a total gross asset value of more than 1 billion yen.
- (Note 2) Coming into force on May 1, 2006, the amended Antimonopoly Act following the enforcement of the Corporate Code adopts the term of "business" in place of "operations," as in "business acquisition" in place of "acquisition of operations." This report conforms to the use of terms in the amended Antimonopoly Act.

	Fiscal 2005	Fiscal 2006	Fiscal 2007	
Notifications of mergers	88 (100)	74 ( 84)	76 ( 86)	
Notifications of divisions	17 (100)	19 (112)	33 (194)	
Notifications of business	141 (100)	136 ( 96)	123 ( 87)	
transfers and others				
Reports on stockholding	825 (100)	960 (116)	1,052 (128)	
Total	1,071 (100)	1,189 (111)	1,284 (120)	

Numbers of notifications of mergers, divisions, business acquisitions and others and of reports on stockholdings submitted

(Note) The figures in parentheses represent index values. An index value of 100 corresponds to the number of notifications or reports in fiscal 2005.

\* For further details, please visit the JFTC website at http://www.jftc.go.jp/ma/4syo.html.

# Results of the Reviews of Business Combinations in Fiscal 2007

The table below shows how many of the fields of trade defined as subject to review and how many of the fields in which remedies have been taken fall under different levels of the HHI value and the HHI increment (hereinafter referred to as " $\Delta$ HHI") resulting from the business combination of the groups of companies concerned. It covers the cases made public as principal cases of business combinations in fiscal 2007 and all other cases in which, based on the "Policies dealing with prior consultation regarding business combination plans", the JFTC offered its replies to the companies concerned during fiscal 2007.

- (Note 1) HHI and other values after business combination between the groups of companies concerned are mere results of calculation from data available from materials and other sources. The table does not take into account any case for which such values cannot be calculated.
- (Note 2) In the table, HHI refers to the HHI level after business combination of the groups of companies concerned and  $\Delta$ HHI to the increase in the HHI level after the business combination of the groups of companies concerned.

ННІ	1,500	or less	Over 1,500 or	and 2,500 and 2,500	Over	2,500	Tc	otal
ΔΗΗΙ	Total	Fields with remedies	Total	Fields with remedies	Total	Fields with remedies	Total	Fields with remedies
150 or less	9	0	6	0	9	0	24	0
Over 150 and 250 or less	3	0	5	0	2	0	10	0
Over 250	3	0	10	0	41	11	54	11
Total	15	0	21	0	52	11	88	11

Number of fields of trade by HHI and  $\Delta$ HHI

(Note 1) The 11 fields of trade in which remedies were carried out are concerned with five cases.

(Note 2) One field of trade was conducted on the Phase II review of prior consultation. The Phase II review refers to a ninety-day-long review conducted after announcement by the JFTC in addition to the thirty-day-long Phase I review that takes place after the companies concerned submit materials detailing their planned business combination.