Major Business Combinations in FY 2008
<tentative translation>

June 9, 2009
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 2008 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.

Major Business Combination Cases in FY2008

(Note 1) The order of introduction for the cases is according to the order of the products dealt by the parties concerned in the Japan Standard Industrial Classification.

(Note 2) In each case, confidential information of the parties concerned and the names of their competitors are concealed by replacing them with alphabetic letters etc..

(Note 3) Market scale, market shares, HHI after transaction, HHI increment, and other figures are calculated on the basis of the materials submitted by the parties concerned. The data is given as approximate figures by the JFTC. In principle, market shares are expressed with a unit of 5%.

(Note 4) For Case 3, the reply was given to the parties concerned in FY2009, but most of the review was performed in FY2008. Therefore, this case is treated as one of the cases in FY2008 and included here.

Case 1 Capital Alliance between Kirin Group and Kyowa Hakko Group

<1> Outline of the Case

In this case, Kirin Holdings Co., Ltd., as a holding company of Kirin Group, engaged in alcohol beverages, pharmaceuticals, foods, and other businesses (hereinafter referred to as “Kirin HD”), acquired over 50% of the total shares of Kyowa Hakko Kogyo Co., Ltd., which engaged in similar businesses (hereinafter referred to as “Kyowa Hakko”). At the same time, Kirin Pharma Co., Ltd., which was a 100% subsidiary of Kirin HD and was engaged in pharmaceuticals business (hereinafter referred to as Kirin Pharma) became a 100% subsidiary of Kyowa Hakko. Further, Kirin HD led the merger of Kyowa Hakko and Kirin Pharma (After the merger, the new entity’s trade name was changed to Kyowa Hakko Kirin Co., Ltd. (hereinafter referred to as “Kyowa Hakko Kirin”). Because Kirin Group and Kyowa Hakko Group have many common fields of trade, in addition to the pharmaceutical business, they are planning to promote a gradual merger and collaboration of their businesses in the future.

Articles 10 and 15 under the Antimonopoly Act are the related articles in this regard.

<2> Competitive Fields

Out of many fields where the company groups concerned are competitive, the JFTC reviewed in detail the following four product fields that are considered to have a large impact on competition:

(1) Gene-recombined human granulocyte colony stimulating factor products (hereinafter referred to as “G-CSF”)

(2) Fermented alcohol

(3) Hon-mirin and fermented seasonings (for restaurants and industrial use)

(4) Umami seasonings (for restaurants and industrial use)

Competitive Product	Kirin Group	Kyowa Hakko Group
G-CSF	Kirin Pharma	Kyowa Hakko
	(Current Kyowa Hakko Kirin)	
Fermented	Mercian Corporation	Kyowa Hakko

alcohol		
Hon-mirin and fermented seasonings	Mercian Corporation Kirin Food-Tech Co., Ltd.	Kyowa Hakko Food Specialties Co., Ltd.
Umami seasonings	Kirin Food-Tech Co., Ltd. and other firms	Kyowa Hakko Food Specialties Co., Ltd., Ajinihon KK, etc.

<3> G-CSF

1. Particular Field of Trade

(1) Medical Drugs

The company groups concerned have two companies in the pharmaceuticals business: Kirin Pharma and Kyowa Hakko, which are engaged in the manufacturing and sale of medical drugs. The term “medical drugs” refers to those meant for use by doctors or dentists or those that are in accordance with their prescriptions or instructions and are sold to medical institutions and social insurance pharmacies through pharmaceuticals wholesalers. Among the pharmaceutical drugs manufactured and sold by the company groups concerned, one item (G-CSF) has the same type of medicinal effects (functions and effects) and is a competitive product.

The prices of the drugs that can be used for medical treatment covered by social insurance system are determined by the Minister of Health, Labour and Welfare in “Drug Price Standard,” which shows the standard prices of pharmaceuticals used by medical institutions for charging medical fees.

On the other hand, the prices of the drugs that are sold by pharmaceutical companies to pharmaceutical wholesalers and of those that are sold by pharmaceutical wholesalers to medical institutions (hereinafter referred to as the “actual market prices”) are not particularly restricted. In case of drugs facing severe competition wherein several products with the same potency and effects are sold by several entrepreneurs, the pharmaceutical companies actually compete by reducing the sale prices to the pharmaceutical wholesalers, and the actual market prices for such drugs tend to decrease.

The Ministry of Health, Labour and Welfare investigates the actual market prices and, on the basis of the investigation results, revises the standard drug prices once every two years in principle. Therefore, the standard drug prices basically reflect the competition among pharmaceuticals.

(2) Outline of Products

G-CSF is a drug having the effect of promoting differentiation and growth of neutrophils, which are a type of white blood cells. It is used against neutropenia caused by the administration of anticancer drugs and to promote the increase of neutrophils after hematopoietic stem cell transplantation.

Three G-CSF drugs are currently manufactured and sold in Japan: “Gran” (manufactured and sold by Kirin Pharma), “α” (by Company “A” and “Neu-up” (by Kyowa Hakko). These three drugs comprise three to four types of products in respectively different quantities.

【Outline of Three G-CSF Drugs】

Trade Name	Gran	α	Neu-up
Seller	Kirin Pharma	Company A	Kyowa Hakko
Start of Sale	December 1991	December 1991	May 1994
Type	Liquid (Solved) type	Freeze-dry type	Freeze-dry type
Drug form	Syringe and ample	Vial	Vial
Trade Name	Gran	α	Neu-up
Quantity	3 types (75 µg, 150 µg, 300 µg)	3 types (50 µg, 100 µg, 250 µg)	4 types (25 µg, 50 µg, 100 µg, 250 µg)
Drug Price in Typical Application	75µg injection liquid: About 12,000 yen	100µg injection liquid: About 12,000 yen	50 µg injection liquid: About 10,000 yen

(Note) “Drug Price in Typical Application” shows the drug price of one dose administered to one adult against neutropenia caused by chemotherapy for cancer (Non-blood cancers or malignant lymphoma). The price was rounded to the nearest 1,000 yen.

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

(3) Classification of Medical Drugs

For the classification of medical drugs, “ATC Classification” (Anatomical Therapeutic Chemical Classification System (Note 1)) is widely adopted. In this classification, medical drugs are classified with codes from Level 1 to 4, which are called ATC codes.

In past business combination cases for medical drugs, competitive products were specified according to the Level 3 classification of ATC and, if the functions and effects were not equivalent at Level 3, the range of goods was defined according to Level 4 and further detailed classification was conducted. A similar examination was provided in this case.

According to ATC classification, G-CSF is an "L03A Immunostimulator" at Level 3 and "L03AA Colony stimulating factor" at Level 4. At Level 3, the "L03AB Interferon" used for the treatment of hepatitis C and other tumors is included in the same classification in addition to G-CSF, but its potency and effects differ from those of G-CSF, and it is not used as a substitute. The classification "L03AA Colony stimulating factor" at Level 4 includes the granulocyte monocyte-colony stimulating factor drug (hereinafter referred to as GM-CSF) and macrophage-colony stimulating factor drug (hereinafter referred to as M-CSF) in addition to G-CSF. GM-CSF is not sold in Japan, but M-CSF is sold as "Leukoprol" by Kyowa Hakko. Some indications (Note 2) of M-CSF are the same as those of G-CSF, but the sales amount of M-CSF in the FY2007 is about 2% of the market scale of G-CSF. Because the effect of the neutrophil increase by M-CSF is remarkably smaller than that by G-CSF, these drugs are not widely used as substitutes.

Therefore, M-CSF is evaluated to be in a range of goods that is different from that of G-CSF.

(Note 1) ACT Classification has been established from 1974 by EphMRA (European Pharmaceutical Market Research Association) in order to establish a unified classification as the base of market research for pharmaceuticals. The major references of pharmaceuticals classification under this classification are anatomical regions involving the drug effects, indications, applications, scientific composition, and mechanism of action.

(Note 2) Indication refers to the diseases for which the effectiveness of the treatment by using the applicable drug has been verified and to which the administration of such a drug is permitted by the MHLW.

(4) Product Differentiation Situations

A. Difference in indications

The indications recognized for three G-CSF drugs are almost the same, but they are not redundant for some indications, as shown in the table below (for example, Neu-up is not used for acute myelogenous leukemia). They have different indications because the pharmaceutical companies conducted clinical trials according to various development policies and had different ranges of effectiveness, potencies, and effects approved by the Minister of Health, Labour and Welfare.

According to the company groups concerned, any of the three products (Gran, α and Neu-up) can be used for cases representing about 70% of the entire G-CSF market (based on the sales amount) among the indications of G-CSF

【Difference in Indications for Three G-CSF Drugs】

Indication	Detailed Classification			Gran	α	Neu-up
Neutropenia caused by cancer chemotherapy	Solid tumors (Breast cancer, lung cancer, colorectal cancer, etc.)			○	○	○
	Hematopoietic malignancy (Blood cancer)	Acute leukemia	Acute Lymphocytic	○	○	○
			Acute myelogenous	○	○	×
		Malignant Lymphoma (Blood solid cancer)		○	○	○
Increase in and promotion of the number of neutrophils upon transplantation of hematopoietic stem cells	Bone marrow transplantation			○	○	○
	Cord blood transplantation			○	○	×
	Peripheral blood stem cell transplantation			○	○	×
Hematopoietic stem cell mobilization into peripheral blood	Peripheral blood stem cell transplantation			○	○	×
Indication	Detailed Classification			Gran	α	Neu-up
Others (Diseases such as those involving	Aplastic anemia			○	○	△Children only
	Congenital and idiopatic neutropenia			○	○	○
	Myelodysplastic syndromes			△Adults only	○	×
	HIV			○	○	×

neutrophil decrease)	Neutropenia caused by immunosuppressive therapy upon renal transplantation	×	○	×
Range of indications where the drugs have potencies and effects on the entire G-CSF market (Note)		About 99%	100%	About 70%

(Note) The JFTC estimated the sales amount of G-CSF (on the basis of drug prices) for each indication on the basis of the estimation by the applicable companies. Further, for each drug, it totaled the sales amount for the indications for which that drug has potency and effects (marked with ○) so as to calculate the ratio in the total sales amount of G-CSF.

(Source: Calculated by the JFTC on the basis of the materials submitted by the parties concerned

B. Difference in sales policies of pharmaceuticals companies

Indications of G-CSF can be largely classified into surgical area and blood-related disease area. While α and Neu-up are generally prescribed in surgical cases, Gran and α are frequently prescribed for blood-related diseases. This is because Neu-up has a small range of indications and also because the three companies manufacturing and selling the products conduct sales activities for different important customers owing to their varying sales policies.

C. Recognition by users

On the basis of the results of the response from doctors, both surgeons and blood disease doctors consider the dosage form difference, extent of recognition, and order of indication in the electronic medical record while selecting the G-CSF to be used. Though there are some differences caused by the preference of doctors, there is no large difference in the potency and effects of the three G-CSF drugs. Thus, these drugs are considered equivalent within the range of indications.

D. Extent of product differentiation

There are some differences in the indications of the three G-CSF drugs, which result in a difference in the important customers of pharmaceutical companies and utilization situation at different departments. However, in the prescription for indications representing about 70% of the total sales amount of G-CSF, any of these drugs can be used indiscriminately. Moreover, doctors recognize that these drugs have the same potency and effects in the range of indications. Therefore, it is evaluated that the extent of differentiation is not very large.

(5) Definition of a Particular Field of Trade

A. Range of goods

For medical drugs, a range of goods is considered to be established for every group of drugs with equivalent functions and effect from the perspective of medical institutions as users. On the basis of the above examination, the JFTC decided to define a range of goods for G-CSF.

B. Geographical range

G-CSF is sold all over Japan and no particular factor for restraining sales by region is found. The JFTC decided to define the geographical range to be all over Japan.

2. Considering Influence of This Business Combination over Competition

(1) Market Scale

The market scale of G-CSF in FY2007 is about 37.2 billion yen.

(2) Market Share and HHI

This business combination causes the company groups concerned to have a total market share of about 60%, which is the highest in the market.

In addition, after this business combination, the HHI is about 5,200 as a result of an increment of around 1,200.

Rank	Company	Share
1	Kirin Pharma	About 45%
2	Company A	About 40%
3	Kyowa Hakko	About 15%
(1)	The total of company groups concerned	About 60%
	Total	100%

(Note) Results of FY2007

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

(3) Import

In order to import medical drugs developed overseas and sell them in Japan, it is necessary to obtain manufacture and sale approval from the Minister of Health, Labour and Welfare for each item. Such approval for drugs is granted after an examination of the designation, ingredients and quantity, structure, dosage and administration, potency and effects, side effects, etc. In order to obtain such approval, clinical trials in Japan are required in addition to the clinical trial data collected overseas. Since it can be substantially considered as introduction of new products into Japanese market, the JFTC examined the pressure toward import in this case in (4) Market Entry below.

(4) Market Entry

A. Facility of market entry with a new compound

In order to manufacture and sell drugs, it is necessary to make an application for approval to the Pharmaceuticals and Medical Devices Agency (hereinafter referred to as the Pharmaceuticals Agency). After the examination by the Pharmaceuticals Agency and the MHLW, one should obtain the approval of the Minister of Health, Labour and Welfare. Usually, the process from the start of the search for new compounds to the birth of a pharmaceutical item takes around 9 to 17 years. The development cost per ingredient is said to amount to about 50 billion yen. Therefore, it is evaluated that there is a high barrier against new entry to the G-CSF market for a new compound.

B. Generic drugs

After the review period (Note) for a new drug (brand drug) ends and its patent period expires, other companies can manufacture and sell drugs with the effective ingredients, administration route, dose, dosage and administration as well as potency and effects that are identical to those of the brand drug. Drugs developed by this method are called generic drugs. Because of smaller research and development cost and shorter development period than those required for brand drugs, the approval for such drugs is usually obtained in one to two years after application. The preparation period of a generic drug until it is launched in the market (when the manufacture and sale of the drug is approved and the drug is actually ready for sale. This definition also applies hereafter.) is said to be two to three years.

(Note) Review period for a new drug: The manufacturer or seller of a new drug is obliged to investigate the utilization results of the drug for a certain period (four to ten years; six years in principle) after obtaining approval for its manufacture and sale. On the basis of the results of such investigation, the effectiveness and safety are reexamined in the review period. During the review period of a brand drug, any generic drug cannot be sold.

C Biomedicines and biosimilars

G-CSF is one of the pharmaceuticals having biotechnology applications (hereinafter referred to as biomedicines) (Note 1). Unlike the usual chemically-synthesized drugs consisting of low-molecular compounds, biomedicines are characterized by their complex chemical structure and the instability of effective components. Moreover, it is impossible to develop generic drugs with exactly the same effective components. Generic drugs of biomedicines that have the same potency and effect but do not have exactly the same effective components are called as "Biosimilars" (Note 2). They are distinguished from generic drugs that include the usual chemically-synthesized drugs.

The Ministry of Health, Labour and Welfare is preparing an approval standard for biosimilars. It published "Policy to Assure the Quality, Safety and Effectiveness of Biosimilars (Draft)" in September 2008 and closed the request for public comments in the middle of October (Note 3). According to this draft, (1) analysis of quality characteristics, (2) non-clinical study, and (3) clinical trials are basically required for development of biosimilars.

(Note 1) It refers to drugs having polypeptide or protein manufactured by gene engineering concepts such as gene recombination technology and cell culture technology as effective components.

(Note 2) It refers to pharmaceuticals having equivalent or the same type of quality, safety, and effectiveness when compared to biotechnology application pharmaceuticals that have already been approved in Japan as those containing new effective components that are developed by different manufacturers and sellers.

(Note 3) After completion of this examination, the Director of Evaluation and Licensing Division, Pharmaceutical and Food Safety Bureau published a notice titled "Policy to Assure the Quality, Safety and Effectiveness of Biosimilars"(PF-E issuance No. 034007) dated March 4, 2009.

D. Facility of entry with biosimilars

The review period for three G-CSF drugs has finished. Related patents are currently valid, but will expire in several years.

Entry to G-CSF market with biosimilars after the expiration of patent requires clinical trials as described above and the know-how of such trials. Further, it requires financing to bear the high development investment for a long period and high-level biotechnology for the development and manufacture of biomedicines, etc. Considering these factors, there are not many entrepreneurs that can develop such biosimilars. Even if some entrepreneurs develop G-CSF biosimilars in the future, it takes a long time until such biosimilars are approved by the Minister of Health, Labour and Welfare. It is difficult to expect market entry soon.

Therefore, it is evaluated that there is only a small pressure by entry with biosimilars into the G-CSF market.

(5) Competitive Pressure from Adjacent Market

While G-CSF has an effect to prevent and cure infectious diseases owing to the decrease in neutrophils by promoting differentiation and growth of neutrophils, antibiotics (anti-bacterial drugs, antifungal drugs, etc.) have similar effects. There are two pharmaceuticals used for the same infectious disease: G-CSF and antibiotics. However, the following aspects should be considered:

1) G-CSF is administrated mainly in accordance with the administration recommendation standard called "Guidelines on Use of Pharmaceutical Formulation Using Hematopoietic Factor" (American Society of Clinical Oncology). Moreover, individual doctors select neither G-CSF, nor antibiotics, considering the drug prices.
2) G-CSF is administrated in two ways: for the prevention of infectious diseases that could be caused by neutropenia, and for the treatment of any

infectious disease resulting from neutropenia. Antibiotics are not used for prevention in principle, but both G-CSF and antibiotics are supposed to be administrated for treatment.

3) When considering treatment and drugs to be administrated, doctors select the optimum treatment and drug in light of the medical purpose in principle. They do not change drugs depending on the price.

In such situations, G-CSF and antibiotics are used complementarily, and not substitutively, depending on the drug price.

Therefore, antibiotics are not evaluated to be sufficiently effective against the increase of G-CSF prices.

(6) Competitive Pressure from Customers

G-CSF is sold by pharmaceutical companies to pharmaceutical wholesalers, and by pharmaceutical wholesalers to large-scale medical institutions. Pharmaceutical companies provide information about the quality, effectiveness, and safety of their drugs to medical institutions through their staff called “MR,”who are in charge of pharmaceutical information, and who, at the same time, pressurize medical institutions to adopt their products.

Though the end users of drugs are patients, doctors have the right to prescribe medical drugs like G-CSF. It is difficult for patients to change the drugs they use depending on the drug prices. In such situations, competitive pressure from patients hardly works on pharmaceutical companies. On the other hand, while doctors have the right to prescribe medical drugs, the cost of the drugs are borne by patients. A strong incentive to select reasonable drugs is hardly given to doctors and there is only a low possibility that they will change the dosage or brand corresponding to the price.

In addition, sections in charge of purchase at medical institutions procure drugs used there from drug wholesalers by means such as bidding. In case of medical drugs like G-CSF, the brands of drugs to be ordered are specified in advance and these brands cannot be changed according to the bid price. The competitive pressure is unlikely to be exerted on the pharmaceutical companies.

Further, pharmaceuticals wholesalers usually handle drugs from several pharmaceutical companies and, if brands are not specified by medical institutions, it is possible to change certain drugs to those with the same potency and effects from different pharmaceutical companies. In case of medical drugs like G-CSF, however, medical institutions often place orders for specified brands, and thus, there is no room for wholesalers to select different pharmaceutical companies as suppliers.

Therefore, it is evaluated that the competitive pressure from customers against the increase of G-CSF prices is low.

(7) Competition Situations So Far among Company groups concerned

Neu-up was introduced into the G-CSF market two-and-a-half years after Gran and α were launched. Its actual price has been lower than other two drugs, and it was reduced by a larger amount than that for other two drugs when drug prices were revised. Furthermore, its market share is growing. In and after 1996, Neu-up has the lowest drug price among the three G-CSF drugs. After the entry of Neu-up in the market, the drug price reduction has become somewhat larger for other two drugs.

The actual prices of medical drugs, when delivered to medical institutions, tend to become lower as time elapses after the revision of drug prices. In and after October 2007, when the report of the business combination of Kirin Group and Kyowa Hakko Group was published, there has been a tendency to stop the decline of the actual price of Neu-up.

Since drug prices are fixed for medical drugs, the company groups concerned are not in a position to raise the drug prices freely. However, drug prices are revised on the basis of the investigation of the actual prices of drugs. The actual prices are decided according to the shipping prices set by pharmaceutical companies and the competition among pharmaceutical companies. Accordingly, competition among drugs is indirectly reflected.

Since it can be considered that Neu-up has led the competition among three G-CSF drugs to a certain extent, the loss of competitive pressure from Neu-up caused by this business combination will possibly stop the declining tendency of the actual G-CSF price. It is evaluated that there is a concern that the drug price would be kept high.

(8) Potential Competition

Kirin Pharma is developing new-generation G-CSF called KRN125. It is said that KRN125 works for a longer time than Gran by one administration. Its sales amount reached a substantial level in European countries and in the

U.S., where it has already been developed and sold. Further, in Japan, it is expected that it will represent a certain market share.

In particular, because the outpatients undergoing cancer chemotherapy benefit from the usefulness of KRN125, it is anticipated that it will be a direct competitor of Neu-up with merits in the surgical field after KRN125 is put into the market. Because its entry into the market is predicted with a high certainty, there is a high possibility that Gran, Neu-up, and KRN125 will be competitive in the future.

Therefore, considering such potential competition among the company groups concerned, it is evaluated that the action in this case will possibly make the share of the company groups concerned higher in the future.

3. Evaluation under the Antimonopoly Act

(1) Considering Substantial Restraint of Competition by Unilateral conduct

This business combination causes the market share of the company groups concerned to be about 60%, which is the highest in the market. HHI after the action will be about 5,200. G-CSF will be manufactured and sold only by the company groups concerned and company A. Further, considering its potential competition with KRN125 under development by the company groups concerned, it is highly possible that the share of the company groups concerned will grow higher in the future.

In addition, Neu-up has led competition in the G-CSF market to some extent, but the action in this case would cause Neu-up to lose competitive pressure, which would halt the decline of the drug price.

Further, the development of G-CSF biosimilars is not easy as compared to the development of generic drugs for ordinary chemically-synthesized drugs. There is no pressure of entry into the market and no competitive pressure from the adjacent market. Moreover, the competitive pressure from customers hardly works.

Therefore, there is a concern that an unilateral conduct of the company groups concerned may substantially restrain competition in a particular field of trade.

(2) Considering Substantial Restraint of Competition by Coordinated Conduct

This business combination decreases the number of competitors from three companies to two companies in addition to the factors described in 3 (1) above. Accordingly, there is a concern that coordinated conduct by the company groups concerned and their competitors would substantially restrain competition in a particular field of trade.

<4> Fermented Alcohol

1. Particular field of Trade

(1) Outline of Products

Alcohol products are largely classified into “Fermented alcohol” and “Synthesized alcohol” by preparation formula. Fermented alcohol can be further classified into “Alcohol for liquor material” and “Industrial fermented alcohol” by the restriction category (Note).

Alcohol for liquor material is “Alcohol for material” under the Liquor Tax Act and is defined as “distilled substance containing alcohol with alcohol content over 45%.” Alcohol for liquor material is manufactured by a manufacturer who holds a license to manufacture alcohol for material under the Liquor Tax Act and is used as materials for sake, white distilled liquor (Group KO shochu), or other liquors.

Industrial fermented alcohol is alcohol distributed under restriction in accordance with the Alcohol Business Act and is used for foods and chemical applications. Industrial fermented alcohol may be used for liquors if a permit from the Minister of Economy, Trade and Industry is obtained, but is rarely used for liquors at present.

(Note) Alcohol for liquor material currently distributed is always 95% alcohol (with water content). In addition, about 90% of industrial fermented alcohol contains 95% of alcohol (with water content). Industrial fermented alcohol (95%) and alcohol for liquor material are the same substance.

(2) Restriction Related to Alcohol Manufacturing

To manufacture liquor material alcohol, a license to manufacture alcohol for material under Article 7 of the Liquor Tax Act is required for each manufacturing site. According to the circular notice for construction of the Liquor Tax Act and the laws and ordinances related to liquor administration, a new license for the manufacture of alcohol for material is not newly granted in principle.

In case of industrial fermented alcohol, after the abolishing of the Alcohol Monopoly Law and the establishment of the Alcohol Business Act in 2001, anyone can manufacture, import, sell, and use alcohol freely under certain conditions just by obtaining a permit from the Minister of Economy, Trade and Industry (Note 1). Corresponding to this change, liquor material alcohol manufacturers obtained the license for manufacturing industrial fermented alcohol and entered the industrial fermented alcohol market (Note 2).

In the company groups concerned, both Kyowa Hakko and Mercian Corporation (Kirin HD's ratio of voting: 50.12%; hereinafter referred to as "Mercian") have the license to manufacture material alcohol under the Liquor Tax Act and to manufacture alcohol under the Alcohol Business Act. They manufacture and sell both liquor material alcohol and industrial fermented alcohol.

(Note 1) Conventionally, the sale of alcohol was monopolized by the government under the Alcohol Monopoly Law. After the transfer of the national plant to NEDO (New Energy and Industrial Technology Development Organization at present) in 1982, NEDO monopolized the manufacture, import, and sale of industrial fermented alcohol until 2001.

(Note 2) During the transitional period for five years from 2001, NEDO collectively purchased and sold industrial fermented alcohol manufactured by private manufacturers. The alcohol manufacture division of NEDO was formed into a corporation called Japan Alcohol Corporation in 2006 when the transitional period ended. The collective purchase and sale system by NEDO was abolished then, and manufacturers and importers of industrial fermented alcohol were enabled to directly sell their goods to entrepreneurs who sell or use them.

(3) Definition of a Particular field of Trade

A. Range of goods

From the customer's perspective, industrial fermented alcohol can only be used for food application and chemical application. Industrial fermented alcohol does not substitute for liquor material alcohol. It is acceptable to use industrial fermented alcohol for liquor manufacture application, but owing to the difficulty in procedures to change the liquor material alcohol to industrial fermented alcohol when such alcohol is to be used in liquor manufacturing, it cannot be said that it is completely substitutional.

For the substitution of supply, considering the facts that some manufacturers of industrial fermented alcohol do not have a license to manufacture material alcohol under the Liquor Tax Act and that they are obliged to control liquor material alcohol and industrial fermented alcohol as different articles though they are manufactured with the same manufacturing facilities, sufficient substitution cannot be made between industrial fermented alcohol and liquor material alcohol.

On the basis of the situations described above, the JFTC decided to define the liquor material alcohol market and the industrial fermented alcohol market as those having respectively different ranges of goods.

From the production amount of liquor material alcohol, about two-thirds are consumed by the liquor material alcohol manufacturers themselves for their manufacture of liquors. The remaining one-third of alcohol is sold to other liquor manufacturers. Considering that the liquor material alcohol manufacturers do not procure the alcohol they consume from outside, that they do not increase or decrease the quantity they use by themselves to adjust the amount sold outside corresponding to the sale price for outside customers, and that other liquor manufacturers do not manufacture liquor material alcohol and entirely rely on procurement from outside (Note), sufficient substitution is not found between the liquor material alcohol consumed by the manufacturers themselves and the alcohol sold outside. The JFTC set the field of trade only on the basis of the liquor material alcohol sold outside.

(Note) Some user companies manufactured liquor material alcohol by themselves earlier, but stopped manufacturing and changed to procure alcohol from outside. However, once stopped, it is fairly impossible to re-operate the equipment to manufacture liquor material alcohol. Even if the cost of procurement from outside rises sharply, there is no possibility that they can restart the manufacture of alcohol by themselves.

B. Geographical range

All alcohol manufacturers are in business across Japan and there is no particular regional restriction. The JFTC decided to define the geographical range to be all over Japan.

2. Considering Influence of This Business Combination over Competition

(1) Industrial Fermented Alcohol

In case of industrial fermented alcohol, safe harbor rules for horizontal business combination apply. The JFTC judges that this business combination would not substantially restrain competition in the applicable field of trade.

(2) Alcohol for Liquor Material

A. Market scale

It is estimated that the market scale of alcohol for liquor material in FY2006 is about 7.7 billion yen.

B. Market share and HHI

This business combination causes the total market share of the company groups concerned to be about 65%, which is the highest in the market.

In addition, HHI after this business combination is about 4,800, with an increment of about 2,200.

Rank	Company Name	Share
1	Kyowa Hakko	About 35%
2	Mercian	About 35%
3	Company B	About 15%
4	Company C	About 10%
5	Company D	About 5%
	Others	About 5%
(1)	Total of the company groups concerned	About 65%
	Total	100%

(Note) Results of FY2006

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

C. Existence of competitors

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

D. Reserved supply capacity

At present, the operating ratios of the company groups concerned and competitors are high. However, an effective competitor is building new plant facilities. Once such facilities start operation, sufficient reserved supply capacity would be expected.

E. Import

Considering barriers against import such as a high tariff imposed and the necessity of a dedicated tanker for contamination prevention, a low amount of product alcohol to be used as liquor for material has been imported so far.

However, the tariff for product alcohol has been reduced step-by-step from FY2006, and there are some entrepreneurs who import product alcohol at present. It is evaluated that more companies will possibility import product alcohol corresponding to further decline of tariff in the future.

F. Market entry

A license to manufacture alcohol for material under the Liquor Tax Act is required for manufacture of liquor material alcohol. As described in 1 (2) above, however, it is assumed that a new license for manufacturing of alcohol for material will not be delivered. It is evaluated that there is no possibility of new entry in the market.

G. Competitive pressure from adjacent market

Though it is possible to use industrial fermented alcohol instead of liquor material alcohol in liquor manufacturing applications as described in 1 (3) above, liquor manufacturers as users of liquor material alcohol tend to attach importance to long-continued trade, and there is no large difference between the prices of liquor material alcohol and industrial fermented alcohol. Therefore, industrial fermented alcohol is not used often for liquor manufacture application at present.

However, it is found that some sake manufacturers are considering the joint purchase of industrial fermented alcohol. It can be evaluated that industrial fermented alcohol is a containing force for the future against the higher price of liquor material alcohol.

H. Competitive pressure from customers

Most customers are medium- to small-scale sake manufacturers and they tend to attach importance to long-continued trade with suppliers. It is evaluated that the competitive pressure from customers is small.

3. Evaluation under the Antimonopoly Act

(1) Considering Substantial Restraint of Competition by Unilateral Conduct

This business combination causes the share of the company groups concerned in the market of liquor material alcohol to amount to about 65%. Because the majority of customers are medium- to small-scale sake manufacturers and they tend to attach importance to long-continued trade with suppliers, there is only a little pressure for competition caused by customers.

However, there are several effective competitors and such competitors are found to have a certain reserved supply capacity, which is expected to become larger. In addition, there is a possibility that the industrial fermented alcohol would be widely used in manufacturing of liquors in the future, and the import of product alcohol would possibly increase under lower tariffs in the future. Considering these situations, the JFTC has judged that any unilateral conduct by the company groups concerned would not substantially restrain competition in a particular field of trade.

(2) Considering Substantial Restraint of Competition by Coordinated conduct

In addition to the factors listed in 3 (1) above, there is a competitor planning to construct a new plant and an industrial fermented alcohol manufacturer having a large reserved supply capacity, and they do not have a common interest. The JFTC has judged that any coordinated conduct by the company groups concerned and their competitors would not substantially restrain competition in a particular field of trade.

<5> Hon-mirin and Fermented Seasonings

1. Particular field of Trade

(1) Outline of Products

A. Hon-mirin

Mirin is defined as a “strained mixture of rice, rice malt, distilled spirit or alcohol, and other substances specified by governmental ordinance” under the Liquor Tax Act. It is a kind of liquor on which a liquor tax of 20 yen per liter is imposed. Mirin (hereinafter referred to as “Hon-mirin”so as to distinguish it from other similar seasonings) has an effect of sweetening and glazing food, erasing fishy smell, preventing food from breaking into pieces, and improving the penetration of seasoning tastes while cooking because of its sugar content, alcohol content, and peculiar flavor arising from glutinous rice and rice malt.

Hon-mirin is a kind of liquor, and the manufacturer needs to have a license to manufacture mirin under the Liquor Tax Act. Further, a retailer needs to have a license to sell such liquor.

Conventionally, it was difficult to newly obtain the license to sell liquors. However, restrictions have been gradually removed and many supermarkets and convenience stores hold the general license for alcoholic beverages at present so that they can sell all types of liquors, including hon-mirin.

B. Fermented seasonings

Fermented seasoning is a liquid seasoning also known as cooking sake, which is manufactured by fermenting and aging rice, starch, or saccharides, and adding some salt to make it undrinkable (Note) under the Liquor Tax Act.

Fermented seasonings have a high alcohol content and they retain the effect of hon-mirin or sake, but are not classified as liquors because of the measure to make it undrinkable, and hence, the liquor tax is not imposed.

A license to manufacture unrefined sake under the Liquor Tax Act is required to manufacture fermented seasonings, but the dealer license under the Liquor Tax Act is not required for selling the fermented seasonings.

There are various types of fermented seasonings. Typical fermented seasonings are sake-type, mirin-type, and wine-type fermented seasonings.

Sake-type fermented seasoning is used as a substitute for sake in order to give flavor in cooking. On the other hand, mirin-type fermented seasoning has a higher sugar content and is used as a substitute for hon-mirin in order to diminish the fishy smell of marine and related products, add a bright touch to grilled fish, improve the body and flavor of dishes, or add sweetness and flavor to dips and sauces. Wine-type fermented seasoning is used as a substitute of wine in order to add flavor to Western dishes.

(Note) "Measure to make it undrinkable" refers to taking a measure to make yeast mash or unrefined sake undrinkable as liquors by the addition of salt in accordance with Article 44, Paragraphs 2 and 3 under the Liquor Tax Act.

C. Mirin-taste seasoning

Mirin-taste seasoning mainly consists of sugar and contains alcohol below 1% (not subject to the liquor tax), which has a flavor similar to that of hon-mirin.

When compared with hon-mirin or fermented seasonings, mirin-taste seasoning does not have an effect of eliminating the fishy smell owing to its low alcohol content, but has some cooking effects, including sweetening, glazing and glossing, improving taste penetration, and prevention from breaking into pieces, which are similar to those of hon-mirin.

Mirin-taste seasoning is manufactured by blending fermented seasonings made from rice. If an entrepreneur procures fermented seasonings from other companies and blends them with sugars at its plant to manufacture the mirin-taste seasoning, such an entrepreneur does not need to have a license to manufacture unrefined sake. In addition, while selling the mirin-taste seasoning, it is not necessary to have a dealer license under the Liquor Tax Act as in the case of fermented seasonings.

D. Users

Hon-mirin, fermented seasonings, and mirin-taste seasonings are sold for home use, restaurant use (for meals and delicatessen manufacturers), and industrial use (for processed food manufacturers).

Home-use seasonings and restaurant- and industrial-use seasonings are packaged and distributed differently, and the companies who manufacture and sell home-use seasonings do not always manufacture and sell seasonings for restaurant- and industrial-use. Since it is necessary to develop and manufacture packages and prepare a distribution and sale network, it is not easy for a manufacturer of restaurant- or industrial-use seasonings to enter the market of home-use seasonings.

(2) Definition of a Particular field of Trade

Kirin Group sells hon-mirin, mirin-taste seasonings, and fermented seasonings (sake-type, mirin-type, and wine-type) through Mercian and Kirin Food-Tech Company (voting ratio of Kirin HD: 100%; hereinafter referred to as Kirin Food-Tech). On the other hand, Kyowa Hakko Group sells hon-mirin and fermented seasonings (sake-type, mirin-type, and wine-type) through Kyowa Hakko Food Specialties Co., Ltd. (voting ratio of Kyowa Hakko: 100%, hereinafter referred to as Kyowa Hakko Foods). Since they are not competitors for mirin-taste seasonings, the JFTC has not reviewed the products.

Both of the company groups concerned supply hon-mirin and fermented seasonings for restaurant and industrial use, but not for home use. Manufacture and sale for restaurant and industrial use and those for home use are different in terms of the required manufacturing processes and advertisement activities, and in distribution routes and sale network. Substitutive nature is not found sufficiently for supply or demand. The JFTC decided to define different fields of trade for restaurant- and industrial-use products and for home-use products.

A. Range of goods

Sake-type fermented seasoning, mirin-type fermented seasoning, and wine-type fermented seasoning are used as substitutes for sake or synthesized sake, hon-mirin, and wine, respectively. Since prices are different among liquors and these seasonings owing to liquor tax, and they sometimes need to be stored differently and they have different cooking effects, users recognize them as different products. The substitution of demands among liquors and applicable seasonings is limited. Further, sake-type fermented seasonings, mirin-type fermented seasonings, and wine-type fermented seasonings are used for different cooking purposes, respectively, and they do not mutually substitute for others.

For supply, since hon-mirin and fermented seasonings are manufactured by different processes and different licenses under the Liquor Tax Act are required for their manufacturing, the supply of either of them does not adequately substitute for that of the other. In case of sake-type fermented seasonings and mirin-type fermented seasonings, however, their materials and manufacturing processes are almost the same and they are manufactured using the same facilities. Substitution level for supply is found to be high among them. On the other hand, wine-type fermented seasonings require materials and manufacture processes that are different from those for sake- and mirin-type fermented seasonings and substitution level for supply is not found to be high.

Therefore, from the viewpoint of substitution for demand and supply, the JFTC decided to define the range of goods for (1) hon-mirin, (2) sake-type and mirin-type fermented seasonings, and (3) wine-type fermented seasonings, respectively.

B. Geographical range

There is no constraint in terms of physical distribution for any of the goods involved in this case, and they are sold all over Japan. The JFTC decided to define the geographical range to be across Japan.

2. Considering Influence of This Business Combination over Competition

(1) Hon-mirin

Safe harbor rules for horizontal business combination apply for hon-mirin (for restaurant use and industrial use). The JFTC has judged that this business combination would not substantially restrain competition in a particular field of trade.

(2) Sake-type and Mirin-type Fermented Seasonings

A. Market scale

The market scale of sake-type and mirin-type fermented seasonings for restaurant use and industrial use in FY2006 is about 10 billion yen.

B. Market share and HHI

This business combination causes the company groups concerned to have a total market share of about 45%, which is the highest in the market.

In addition, HHI after this business combination is about 2,100, with an increment in HHI of about 900.

Rank	Company	Share

1	Kyowa Hakko Foods	About 25%
2	Mercian	About 15%
Rank	Company	Share
3	Company E	About 15%
4	Company F	About 5%
5	Company G	About 5%
6	Company H	About 5%
7	Company I	About 5%
8	Kirin Food-Tech	About 5%
	Others	About 25%
(1)	Total of company groups concerned	About 45%
	Total	100%

(Note) Results of FY2006

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

C. Existence of competitors

There are 20 or more competitors, including a strong one with a market share of 10% or more.

D. Reserved supply capacity held by competitors

As many competitors have recently withdrawn from the market one after another, the operation ratios of the companies seem to be growing. The reserved supply capacity is not sufficient.

E. Import

There is no barrier system against the import of seasonings. There is a low possibility for import of mirin-type fermented seasonings owing to the geographical cost factor related to their materials, while the import of sake-type fermented seasonings is possibly expected.

F. Market entry

In order to enter the market of fermented seasonings, manufacturing facilities, know-how, and license to manufacture unrefined sake are required. In case of sake manufacturers and vinegar manufacturers, since they have manufacturing facilities and know-how common to fermented seasonings and since it may be possible to obtain license to manufacture unrefined sake, a high barrier against entry to the fermented seasoning market does not exist. Further, there are some new cases of entry to sales market, for example, competitors who had only produced fermented seasonings and entrusted their sale to other companies so far, and who recently started sales of fermented seasonings by themselves.

G. Competitive pressure from adjacent market

As the liquor tax is imposed on sake, synthesized sake, and hon-mirin, their prices are different from those of fermented seasonings. However, competition between these liquors and fermented seasonings has recently become severe, and their price differences tend to be smaller.

Therefore, sake, synthesized sake, and hon-mirin can be evaluated as a certain containing force against the rise of the prices of sake-type fermented seasonings and mirin-type fermented seasonings.

Further, as mirin-taste seasonings are sold at prices almost in the same zone as mirin-type fermented seasonings, they can be evaluated as a certain containing force against the rise of prices of sake-type fermented seasonings and mirin-type fermented seasonings.

H. Competitive pressure from customers

When fermented seasonings are used for processed foods, once a fermented seasoning is included in the recipe, it takes labor and cost to change it to a fermented seasoning from a different manufacturer. However, processed food manufacturers develop many products from time to time and tend to compare and study fermented seasonings from several manufacturers. Further, their dealings are not fixed because they have experience of use for particular products. Restaurants generally purchase seasonings via wholesalers handling complex seasonings from several manufacturers, who are regarded to be very skilled in negotiations with manufacturers. It is evaluated that they exert a certain level of competitive pressure on fermented seasonings manufacturers.

(3) Wine-type Fermented Seasonings

A. Market scale

The market scale of wine-type fermented seasonings for restaurant use and industrial use in FY2006 is about one billion yen.

B. Market share and HHI

This business combination causes the company groups concerned to have a total market share of about 55%, which is the highest in the market.

In addition, HHI after this business combination is about 3,900, with an increment of about 600.

Rank	Company Name	Share
1	Mercian	About 45%
Rank	Company Name	Share
2	Company J	About 30%
3	Kyowa Hakko Foods	About 5%
4	Company K	About 5%
5	Company L	About 5%
	Others	About 10%
(1)	Total of company groups concerned	About 55%
	Total	100%

（Note） Results of FY2006

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

C. Existence of competitors

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

D. Import

It is possible to import wine with salt added, which is not deemed as liquor, from overseas. Salted wine is rarely imported at present owing to the small market scale, but it is possible that the import of salted wine may increase if the prices of wine-type fermented seasonings become higher.

E. Market entry

Because the wine-type fermented seasoning market is small at present, the possibility of new entry is not high. However, sake-type fermented seasoning manufacturers and wine manufacturers have the manufacturing facilities and know-how common to those used for wine-type fermented seasonings by the applicable companies, and hence, it is relatively easy for them to enter this market.

F. Competitive pressure from adjacent market

Wine-type fermented seasonings are competitive with reasonable wine. There is a tendency that the price of reasonable wine serves as the upper limit of the wine-type fermented seasoning prices. Therefore, it is considered that reasonable wine exerts a certain competitive pressure on wine-type fermented seasonings.

G. Competitive pressure from customers

Same as described in 2 (2) H above.

3. Evaluation under the Antimonopoly Act

(1) Sake-type and Mirin-type Fermented Seasonings

A. Considering Substantial Restraint of Competition by Unilateral conduct

This business combination causes the company groups concerned to have a market share of about 45%, which is the highest in the market. However, there are effective competitors with a share of 10% or more and there is a possibility of import of sake-type fermented seasonings. Further, a sake-manufacturer or vinegar manufacturer can relatively easily enter the market by taking advantage of their existing facilities and know-how. Moreover, sake, synthesized sake, hon-mirin, and mirin-taste seasonings are in adjacent markets, and the processed food manufacturers and restaurant industry have a certain pressure as users. Considering the above aspects, the JFTC judged that any unilateral conduct by the company groups concerned would not result in substantial restraint of competition in a particular field of trade.

B. Considering Substantial Restraint of Competition by Coordinated conduct

This business combination causes the accumulated market share of the top three entities, including the company groups concerned to be about 60% and the concentration increases. However, in addition to the situation described in 3 (1) A above, various companies manufacture several tens of types of fermented seasoning products from various materials with different compositions, processes, and flavors. They further prepare custom-made products for customers. And, the products manufactured by the manufacturers do not have the same nature and the prices are decided through face-to-face negotiations with users using them for restaurant or industrial use. Moreover, the information about the dealing conditions of competitors cannot be obtained easily. In light of this, the JFTC has judged that any coordinated conduct of the company groups concerned and their competitors would not substantially restrain competition in a particular field of trade.

(2) Wine-type Fermented Seasonings

A. Considering substantial restraint of competition by unilateral conduct

This business combination causes the market share of the company groups concerned to increase to about 55%, which is the highest in the market. However, there is an effective competitor with a market share of about 30%, which is relatively easy for wine manufacturers or sake manufacturers to newly obtain the license for unrefined sake manufacturing and enter the market (though a new entry is not planned by any entrepreneur at present). Further, reasonably priced wine used at restaurants and for industrial use serves as the containing force against rise of prices of wine-type fermented seasonings. Moreover, processed food manufacturers and restaurants as users have a certain competitive pressure. Consequently, the JFTC has judged that any unilateral conduct by the company groups concerned would not substantially restrain competition in a particular field of trade.

B. Considering substantial restraint of competition by coordinated conduct

This business combination causes the accumulated market share of the top two companies to rise to about 85% by increasing the concentration. However, in addition to the situation described in 3 (2) A above, various companies manufacture several types of fermented seasoning products from various materials with different composition, processes, and flavors, and they further prepare custom-made products for customers. However, the products manufactured by the manufacturers do not have the same quality and the prices are decided through face-to-face negotiations with users using such products for restaurants or industrial use. Furthermore, the information about dealing conditions of competitors cannot be obtained easily. Therefore, the JFTC has judged that any coordinated conduct of the applicable company group and their competitors would not substantially restrain competition in a particular field of trade.

<6> Umami Seasonings

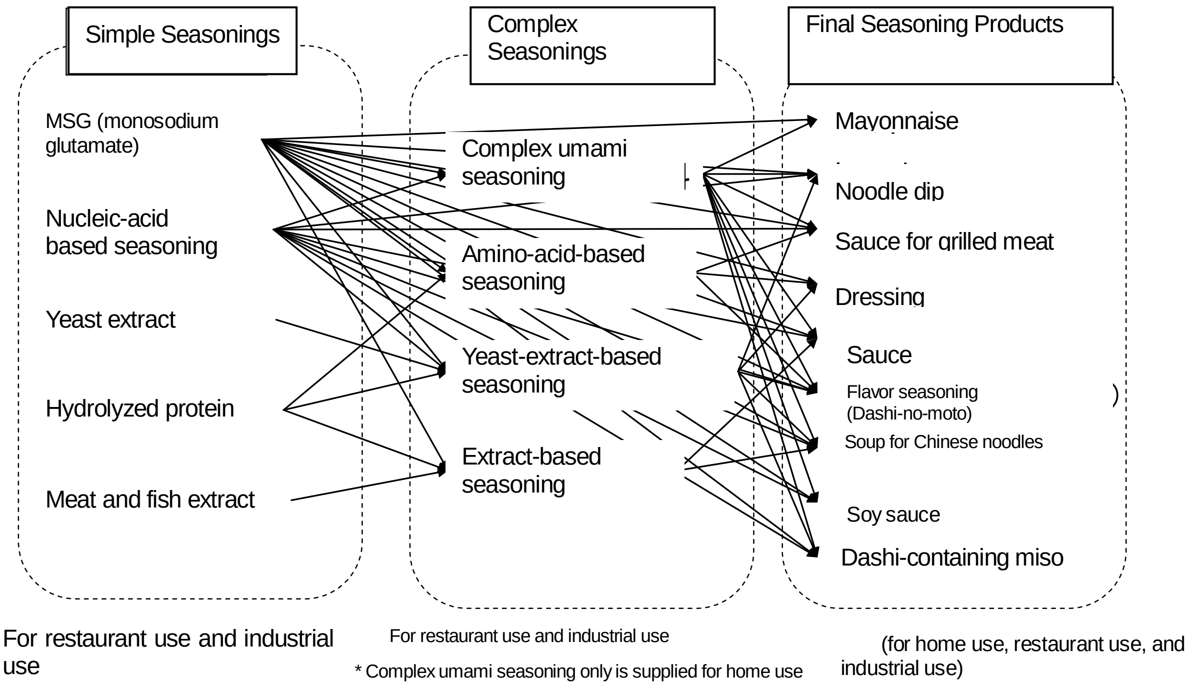
1. Particular field of Trade

(1) Outline of Products

A. Various seasonings

The material of umami seasonings is manufactured by fermentation and acid digestion of umami content in “Dashi” (Japanese soup stock) or various extracts. These umami contents and extracts are used as simple seasonings and, at the same time, used for complex seasonings mixing several contents. Further, these simple seasonings and complex seasonings are used for manufacturing of final seasoning products such as mayonnaise, sauce, and dressing.

The figure below shows the relation among simple seasonings, complex seasonings, and final seasoning products.



(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

B. Simple seasonings

Simple seasonings used as materials of various seasonings include monosodium glutamate (hereinafter referred to as MSG), sodium ribonucleotide, yeast extract, hydrolyzed protein, and meat and fish extracts. While MSG is umami content of kelp, sodium ribonucleotide is a mixture comprising equal amounts of “Sodium inosinate,” which is umami content of niboshi (small dried sardines), dried bonito, or similar products, and “sodium guanylate,” which is umami content of shiitake mushrooms (sodium ribonucleotide, sodium inosinate, and sodium guanylate are hereinafter collectively called the “nucleic-acid-based seasonings”).

Since MSG is characterized by its remarkably enhanced umami when combined with nucleic-acid-based seasonings, “complex umami seasonings” obtained by mixing them are widely sold for home use, restaurant use, and industrial use. For restaurants and for industrial use, however, MSG or nucleic-acid-based seasonings may be supplied without any mixture.

Further, enhanced body or deeper taste will be achieved when yeast extract, hydrolyzed protein, or meat or fish extract is added to MSG and nucleic-acid-based seasonings.

Simple seasonings are sold for restaurants and for industrial use (particularly for industrial use).

C. Complex seasonings

A composition of several simple seasonings such as MSG, nucleic-acid-based seasonings, yeast extract, and hydrolyzed protein is called a complex seasoning. Complex umami seasoning with about 90% of MSG and 10% of nucleic-acid-based seasoning is widely sold for home use, restaurant use and industrial use.

Other complex seasonings are generally called natural complex seasonings (Note). These complex seasonings are considered as intermediary materials of final seasoning products.

Complex seasonings, except for complex umami seasonings, are sold for restaurant use and for industrial use, while complex umami seasonings are sold for home use. Complex seasonings, except for complex umami seasonings, are extensively sold to restaurants in particular.

(Note) Natural complex seasonings can be classified into three categories: amino-acid-based seasonings, yeast-extract-based seasonings, and extract-based seasonings. They are obtained by composing various simple seasonings (amino-acid-based seasonings mainly comprise hydrolyzed protein; yeast-extract-based seasonings mainly consist of yeast extract; and extract-based seasonings mainly comprise meat or fish extract).

D. Final seasoning products

Final seasoning products such as noodle dip, flavor seasoning (Note), soup for Chinese noodles, soy sauce, dashi-containing miso, dressing, and mayonnaise involve a composition of simple and complex seasonings as the material.

Final seasoning products are sold for restaurant use, industrial use, and home use.

(Note) It refers to the seasoning for obtaining a flavor similar to natural dashi (Japanese soup stock) easily in a short time, while omitting the labor of dashi cooking.

(2) Competitive Products of the Company groups concerned

The company groups concerned have competitive simple seasonings, complex seasonings, and final seasoning products as shown below.

Category	Product	For restaurant use and industrial use		For home use	
		Kirin Group	Kyowa Hakko Group	Kirin Group	Kyowa Hakko Group
Simple seasoning	MSG	○	○	×	×
	Nucleic-acid-based seasonings (sodium ribonucleotide, sodium inosinate, and sodium guanylate)	○	○	×	×
	Yeast extract	○	○	×	×
	Hydrolized protein	○	○	×	×
	Meat extract	×	○	×	×

Category	Product	For restaurant use and industrial use		For home use	
		Kirin Group	Kyowa Hakko Group	Kirin Group	Kyowa Hakko Group
	Fish extract	×	○	×	×
Complex seasoning	Umami seasoning	○	○	○	×
	Yeast-extract-based seasoning	○	○	×	×
	Amino-acid-based seasoning	○	○	×	×
	Extract-based seasoning	○	○	×	×
Final seasoning product	Flavor seasoning	○	○	○	×
	Soup for Chinese noodles	×	○	×	×
	Noodle dip	×	○	×	×

(Note) In this table, ○ indicates that there is competition among the company groups concerned and × shows that there is no competition.

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

(3) Definition of a Particular field of Trade

A. Range of goods

(a) Simple seasonings

Simple seasonings, including MSG, nucleic-acid-based seasonings, yeast extracts, and meat and fish extracts have different umami contents and are not used to substitute for others. They are used complementarily. In addition, different manufacturing facilities and manufacturing know-how are required for these simple seasonings and different corporations are actually engaged in their manufacture and sale.

Therefore, from the viewpoint of demand substitution and supply substitution, the JFTC decided to define different ranges of goods for MSG, nucleic-acid-based seasonings, yeast extracts as well as meat and fish extracts.

Note that, however, hydrolyzed protein is rarely dealt as a simple seasoning. In most cases, it is mixed with other simple seasonings and supplied as amino-acid-based seasoning to the processed foods manufacturers as users. Users do not distinguish whether a seasoning is a simple seasoning (hydrolyzed protein) or a complex seasoning (amino-acid-based seasoning). In addition, hydrolyzed protein is manufactured by the amino-acid-based seasoning manufacturers themselves, and the manufacture of hydrolyzed protein can be deemed as a part of manufacturing processes for amino-acid-type seasonings.

Considering the situations above, it is difficult to think that the hydrolyzed protein forms a field of trade as an independent simple seasoning. The JFTC decided to include hydrolyzed protein in the same range of goods as that of amino-acid-based seasonings.

(b) Complex seasonings

Among complex seasonings, complex umami seasoning is an indispensable basic seasoning that is used as the taste base of cooking in almost all cases. It cannot be substituted by other complex seasonings in the aspect of demand. In addition, different companies manufacture complex umami seasonings and natural complex seasonings, and neither of them substitute for the other from the viewpoint of supply.

On the other hand, amino-acid-based seasonings, yeast-extract-based seasonings, and extract-based seasonings, which are referred to as natural complex seasonings, have compositions with almost common simple seasonings for different mixture ratios. In addition, users of natural complex seasonings utilize various natural complex seasonings without distinguishing them. When sufficient umami is not obtained solely from the complex umami seasoning, users add one of the natural complex seasonings to enhance the body or to enrich the taste, and further add another natural complex seasoning if the body is still inadequate.

Therefore, demand substitution to a certain extent is observed among these natural complex seasonings. Further, because these natural complex seasonings are manufactured in almost the same manufacturing facilities, they can be substituted for others from the viewpoint of supply.

Considering these situations above, the JFTC decided to set ranges of goods for the complex umami seasonings and natural complex seasonings respectively.

(c) Final seasoning products

Noodle dip, flavor seasoning, soup for Chinese noodles, soy sauce, dashi-containing miso, dressing, mayonnaise, etc. as final seasoning products have largely different flavors and are used for different applications. It is found that each of them cannot substitute for another from the viewpoint of demand. In addition, since these final seasoning products are manufactured with different manufacturing processes and are manufactured and sold by different corporations, it is found that they cannot substitute for another from the viewpoint of supply.

Therefore, the JFTC decided to define different ranges of goods for these final seasoning products.

B. Geographical range

For both simple seasonings and final seasonings, there is no constraint in terms of physical distribution, and they are sold all over Japan. The JFTC decided to define the geographical range to be across Japan.

2. Considering the Influence of This Business Combination over Competition

Safe harbor rules for horizontal business combination are applicable to competitive products between both of the company groups concerned, except for MSG and complex umami seasonings for restaurant use and industrial use among particular fields of trade defined in <6>-1 above. Accordingly, the JFTC studied the aspects of MSG and complex umami seasonings for restaurant use and industrial use.

(1) MSG for Restaurant Use and Industrial Use

A. Market scale

The external customer market of MSG for restaurant use and for industrial use has a scale of about 12.5 billion yen (FY2006).

B. Market share and HHI

This business combination causes the total share of the company groups concerned to be 35%, which is the highest in the market.

In addition, HHI after this business combination is about 2,900, with an increment of about 700.

Rank	Company Name	Share
1	Company M	About 30%
2	Company N	About 25%
3	Kyowa Hakko Foods	About 20%
4	Kirin Food-Tech	About 20%
5	Company O	About 10%
6	Company P	About 5%
7	Ajinihon	0~5%
	Others	0~5%
(1)	Total of company groups concerned	About 35%
	Total	100%

(Note) Results of 2006

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

C. Business style of the company groups concerned

None of the company groups concerned produce MSG by itself. They entrust overseas corporations with manufacturing and sell the MSG manufactured by such overseas corporations using their brands in Japan.

Therefore, if the company groups concerned intend to restrict the sales amount in order to raise the price, it is possible that the overseas corporations entrusted with MSG manufacturing would directly enter the Japanese market. Therefore, the company groups concerned are evaluated as facing difficulty in adopting such an action.

D. Effective competitors

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

E. Import

For MSG, about 80% of the production is from overseas, including overseas production by domestic manufacturers. It is evaluated that a great barrier against import does not exist.

Imports from some countries are decreasing at present as the supply capacity of some overseas manufacturers has decreased. However, imports from other countries are increasing so as to cover the reduction in imports when imports from some countries decrease. Considering that imports can be increased when the domestic price rises, import can be evaluated to be a containing force against the rise of prices.

F. Competitive pressure from customers

MSG users are mainly processed food manufacturers. Processed food manufacturers usually purchase materials from several companies and they can easily change the supplier. Further, as the processed food manufacturers demand a severe reduction of prices to MSG entrepreneurs by using import price information about MSG published by Trade Statistics, the sale price rises only slightly even though the import price is increasing. It is evaluated that competitive pressure from customers works to a certain extent.

(2) Complex Umami Seasonings for Restaurant Use and Industrial Use

A. Market scale

The market scale of complex umami seasonings for restaurant use and industrial use in FY2006 is about 5.4 billion yen.

B. Market share and HHI

This business combination causes the total share of the company groups concerned to be 30%, which is ranked second in the market.

In addition, HHI after this business combination is about 3,700, with an increment of about 300.

Rank	Company Name	Share
1	Company M	About 50%
2	Kirin Food-Tech	About 25%
3	Company Q	About 10%
4	Company R	About 10%

5	Kyowa Hakko Foods	About 10%
(2)	Total of company groups concerned	About 30%
	Total	100%

(Note) Results of FY2006

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned

C. Effective competitors

There are several effective competitors with a share of 10% or more. Company M, with a market share of about 50%, is ranked the highest and its brand is highly recognized by users.

D. Import

Overseas manufactures sell MSG and nucleic-acid-based seasonings as simple seasonings in Japan, but they do not sell complex umami seasonings. Because of different users and distribution channels between simple seasonings and complex umami seasonings, it may be difficult for overseas manufactures to enter the market. Furthermore, it is evaluated that entry by overseas manufacturers into the Japanese market of complex umami seasonings would be difficult in the future.

E. Market entry

It is relatively easy for flavor seasoning manufacturers already purchasing MSG and nucleic-acid-based seasonings to start the manufacture and sale of complex umami seasonings and enter the market as they face only a few barriers against procurement and have common customers.

F. Competitive pressure from adjacent market

When the price of complex umami seasonings rises, some users may possibly procure MSG and nucleic-acid-based seasoning directly. MSG and nucleic-acid-based seasonings as simple seasonings are evaluated to be a containing power against the rise of the price of complex seasonings to a certain extent.

G. Competitive pressure from customers

The main users of umami seasonings for restaurant use and industrial use are in the restaurant business and their dealings are generally made through wholesalers. The wholesalers handle complex seasonings from several manufacturers and are evaluated to have high skills in negotiations with manufacturers.

3. Evaluation under the Antimonopoly Act

(1) MSG for Restaurant Use and for Industrial Use

A. Considering substantial restraint of competition by unilateral conduct

This business combination causes the total market share of the company groups concerned to be about 35%, which is the highest in the market. However, there are several effective competitors having a market share of 10% or more. In addition, direct import from overseas manufacturers is increasing and it is possible that it will further increase easily, depending on the trend of prices in the Japanese market. Further, processed food manufactures as users have high skills in price negotiations. Considering these situations above, the JFTC has judged that any unilateral conduct by the company groups concerned would not substantially restrain competition in a particular field of trade.

B. Considering substantial restraint of competition by coordinated conduct

In addition to the matters described in 3 (1) A above, the company groups concerned do not produce MSG by themselves and entrust overseas manufacturers with production, while the effective competitor manufactures MSG by itself. Since the competition conditions about cost conditions or the like are different from those of the company groups concerned, the JFTC has judged that any coordinated conduct would not substantially restrain the competition in a particular field of trade.

(2) Complex Umami Seasonings for Restaurant Use and for Industrial Use

A. Considering substantial restraint of competition by unilateral conduct

This business combination causes the total market share to be about 30%, which is ranked second in the market. However, considering that there is an effective competitor with a market share of 10% or more, that the adjacent market has a certain competitive pressure because MSG and nucleic-acid-based seasonings as simple seasonings will be procured if the price of complex umami seasonings rises, and that the users have high skills for price negotiations, the JFTC has judged that any unilateral conduct by the company groups concerned would not substantially restrain competition in a particular field of trade.

B. Considering substantial restraint of competition by coordinated conduct

In addition to the matters described in 3 (2) A above, the ratios of the in-house production and procurement from outside are different between the competitor and the company groups concerned. Since the cost conditions and other competition condition are different, the JFTC has judged that any coordinated conduct of the company groups concerned and their competitors after this business combination would not substantially restrain the competition in a particular field of trade.

<7> Evaluation of This Business Combination under the Antimonopoly Act

As described above, the JFTC judges that this business combination would not substantially restrain the competition in the fields of trade other than that of G-CSF. In case of G-CSF, however, this business combination is expected to substantially restrain the competition.

<8> Remedies Proposed by the Company groups concerned and Evaluation of the Remedies

1 Remedies Proposed by the Company groups concerned

When the JFTC pointed out the competitive concerns in the field of G-CSF trade in relation to this capital alliance, the company groups concerned offered to take the following action in order to solve the problem:

"For Neu-up that is manufactured and sold by Kyowa Hakko Kirin, research and development peculiar to Neu-up and the rights related to the manufacture and sale of Neu-up (including the status as the party that has obtained approval for manufacture and sale under the Pharmaceutical Affairs Act) shall be assigned and licensed to a third party pharmaceutical company as soon as possible (hereinafter referred to as the "Assignment") (Agreement for the Assignment shall be executed by the end of September 2009 and the Assignment shall be enforced by the end of March 2010).

Until the Assignment is put into practice, Kyowa Hakko Kirin continues its business activities as it has done before in relation to the research and development peculiar to Neu-up and the manufacture and sale of Neu-up, and makes efforts to maintain the value of the business.”

2. Evaluation under the Antimonopoly Act Based on the Remedies

The measure to solve the problem offered by the company groups concerned assures that the status as the party who obtained the approval for manufacture and sale under the Pharmaceutical Affairs Act is succeeded. Neu-up will be able to be manufactured and sold only by the assignee of the research and development peculiar to Neu-up and the rights related to manufacture and sale of Neu-up as described above. In addition, it is necessary for the assignee to choose whether to manufacture Neu-up by itself or to entrust the manufacture to other companies. Further, the manufacture can be entrusted to the company groups concerned if the assignee desires to do so.

Therefore, the assignee will be able to succeed the business of Neu-up securely by implementing measures to solve the problem and conduct business independently as a new competitor in the trade field of G-CSF. It is evaluated that the competition situation before the business combination can be mostly restored.

<9> Conclusion

Considering the situations above, the JFTC has judged that, if the remedies proposed by the company groups concerned is securely enforced, the action in this case will not substantially restrain the competition in a particular field of trade.

Case 2 Integration of Nuclear Fuel Business between Mitsubishi Group and AREVA NP

<1> Outline of the Case

This case is about a plan that involves the consolidation of the nuclear fuel businesses in Japan of the Mitsubishi group (Mitsubishi Heavy Industries, Ltd. (hereinafter referred to as MHI), Mitsubishi Nuclear Fuel Co., Ltd. (hereinafter referred to as MNF), and Mitsubishi Materials Corporation (hereinafter referred to as Mitsubishi Materials)) and AREVA NP (hereinafter referred to as AREVA). Mitsubishi group has planned to reorganize its nuclear fuel business, that is, MHI, MNF, and Mitsubishi Materials have planned to consolidate nuclear fuel businesses (MHI is engaged in the design, development, and sale of nuclear fuel; MNF, in the manufacture of the fuel; and Mitsubishi Material, in the manufacture of clad tubes and related components for the fuel respectively), so that MNF will be engaged in them, and Mitsubishi Corporation has planned to newly invest in MNF. It is further planned that, AREVA NP (hereinafter referred to as AREVA), with its principal office in France and engaged in nuclear power plant construction as well as the design, development, manufacture, and sale of nuclear fuel all over the world, will consolidate its nuclear fuel business in Japan to MNF and further make investments in the same company. The above is the outline of the consolidation plan concerning nuclear fuel businesses in Japan.

This case is subject to Article 10, Article 15-2, and Article 16 of the Antimonopoly Act.

<2> Particular Field of Trade

1. Outline of Business

The nuclear fuel businesses studied in this case include supply of nuclear fuel to nuclear power plants and supply of base tubes and clad tubes.

(1) Nuclear Fuel Supply Business

A. Overview

Nuclear power generation uses the heat caused by the nuclear fission reaction of uranium in the nuclear fuel inside of the reactor to change the coolant to vapor, which rotates the turbine to generate the power. Most nuclear power generation facilities in the world are of the light water reactor type, where light water is used as the coolant to cool down the nuclear reactor. There are two varieties of light water reactors depending on the mechanism of vapor generation: pressurized water reactor and boiling water reactor. Pressurized water reactor fuel or boiling water reactor fuel is used for each type of reactors.

The nuclear fuel manufacturing processes are conducted as follows: (1) uranium powder is sintered at a high temperature so that it is transferred to solid uranium pellet; (2) uranium pellets are inserted into fuel clad tubes to accommodate them so as to manufacture fuel rods; and (3) several fuel rods are bundled to manufacture fuel assembly. Between the pressurized water reactor fuel and the boiling water reactor fuel, there is a large difference in basic design and technical specifications such as uranium pellet size, fuel rod shape, shape and material of clad tube, and number of fuel rods incorporated in a fuel assembly, and they are manufactured exclusively for pressurized reactors and boiling water reactors respectively.

Among the parties concerned, Mitsubishi group is in the nuclear fuel supply business for pressurized water reactors. AREVA is supplying nuclear fuel for boiling water reactors in addition to supplying nuclear fuel for pressurized water reactors. In the field of nuclear fuel for pressurized water reactors, which is supplied by both of the parties concerned, there is a competitor in Japan at present as shown in Case 3: Nuclear Fuel Industries, Ltd. (hereinafter referred to as NFI).

B. Regulations related to the introduction of imported nuclear fuel

When a domestic user introduces nuclear fuel manufactured by overseas manufacturers, it is necessary to make an application for change of nuclear reactor installment permission in accordance with the Act on the Regulation of Nuclear Source Material, Nuclear Fuel Material and Reactors (Nuclear Reactor Regulation Act), for approval of the construction plan, and for procedures of imported fuel assembly inspection in accordance with the Electricity Business Act at the Nuclear and Industrial Safety Agency, Ministry of Economy, Trade and Industry for every reactor, as required for difference in specifications from those of the already approved nuclear fuel. In addition, whether or not an application for nuclear reactor installment permission and construction plan approval is made, it is necessary to make an application for imported fuel assembly inspection to the above Agency for every import. It takes about four to seven years for these procedures.

(2) Base tube and fuel clad tube supply business

The clad tube is a major component used for nuclear fuel. It refers to the tube used to cover the uranium pellet stuffed with uranium to prevent the leakage of nuclear fission products inside of reactor. It is manufactured with an alloy made mainly from zirconium (hereinafter referred to as Zircaloy).

The basic manufacturing process of clad tubes is as follows: Firstly, Zircaloy is cast or otherwise processed to form a hollow cylinder-shaped tube called the base tube. By rolling (to enlarge the tube), heat-treating, and surface polishing the base tube, a clad tube is obtained.

Base tubes and clad tubes are manufactured dedicatedly to the specifications for pressurized water reactor fuel and boiling water reactor fuel respectively. These products have different designs and specifications including the type of Zircaloy used as material, structure, and manufacture facilities (clad tubes used as components of pressurized water reactor nuclear fuel are hereinafter referred to as “PWR clad tubes”; base tubes used as materials of PWR clad tubes, as “PWR base tubes”; clad tubes used as components of boiling water reactor nuclear fuel, as “BWR clad tubes”; and base tube used as materials of BWR clad tubes as, “BWR base tubes”).

Suppliers of PWR base tubes include CEZUS, which is a subsidiary of AREVA, as well as Company A and Company B. Suppliers of PWR clad tubes are Mitsubishi Materials and Company C.

2. Definition of Particular Fields of Trade

(1) Nuclear Fuel Supply Business

PWR nuclear fuel and BWR nuclear fuel used in reactors of nuclear power plants are largely different in their basic design and specifications, and electric power companies in Japan, which are customers, choose to adopt either PWR type or BWR type of reactors, except for one company. Further, PWR nuclear fuel and BWR nuclear fuel have different production processes. Accordingly, PWR fuel and BWR fuel cannot be substituted for each other in both aspects of demand and supply. Therefore, the JFTC defined a product range in the field of the manufacture and sale of PWR nuclear fuel, which is dealt by Mitsubishi group and AREVA.

In addition, the fuel manufacturers including the parties concerned cover all of Japan as their trading areas and fuel manufacturers selectable by customers do not differ depending on the geographical conditions. Therefore, the JFTC defined the geographic range to be all of Japan.

(2) Base Tube and Clad Tube Supply Business

The material contents, structures, and manufacturing facilities of base tubes and clad tubes differ between the PWR type and BWR type. For both aspects of demand and supply, substitutability is not found between the PWR type and BWR type. The JFTC defined the product ranges in the field of the manufacture and sale of PWR base tubes and that for PWR clad tubes respectively.

The geographic range is set to be all of Japan, as described in 2. (1) above.

<3> Influence of This Business Combination over Competition

1. PWR Nuclear Fuel

(1) Market Scale

The market scale of PWR nuclear fuel in Japan in FY2007 is about 23 billion yen.

(2) Market Share and HHI

This business combination causes the total market share of the applicable company groups to be about 60%, which is ranked the highest in the market.

In addition, HHI after this business combination is about 5,300, with an increment of about 170.

Rank	Company Name	Share
1	Mitsubishi group	About 60%
2	Nuclear Fuel Industries	About 40%
3	AREVA	0 to 5 %
(1)	Total of applicable company groups	About 60%
	Total	100%

(Note) Average results from FY2003 to 2007

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

After this business combination, the total share of the companied concerned is as large as about 60%. However, AREVA has only a small share and the increment of share after business combination is small. Nuclear fuel from overseas manufacturers including AREVA is imported for reactors of some electric power companies only. At present, the sales amount of AREVA is quite limited.

To enable AREVA to be a strong competitor in the Japanese market in the future, electric power companies need to newly obtain permissions and approvals for each reactor, as described in <2>-1 (1) B above, and it takes a long time to obtain such permission and approval.

(3) Competition among the Parties Concerned

Some electric power companies purchase nuclear materials from overseas manufacturers including AREVA. Since electric power companies as users divide the amount for domestic manufacturers and that for overseas manufacturers when ordering nuclear fuel, active competition is observed mainly between Mitsubishi group and NFI. Mitsubishi group and AREVA are directly competitive only in quite limited situations.

(4) Existence of Competitor

There is a strong competitor called NFI with a share of about 40%, which is ranked second in the market.

(5) Reserved Supply Capacity of Competitor

NFI as a competitor has a sufficient reserved supply capacity.

(6) Competitive Pressure from Customers

Since nuclear fuel is designed and manufactured corresponding to the data and specifications of the reactor where it is loaded, the nuclear fuel products manufactured by the fuel manufacturers used in the applicable reactor have few differences in terms of their performance and other quality standards. Therefore, it is easy to change the supplier. Because the electric power companies as users can easily increase and decrease the ratio of orders for fuel manufacturers depending on the price and other trade conditions presented, the fuel manufacturers cannot request for higher prices, and the prices are steadily decreasing recently. The competitive pressure from customers can be evaluated as containing force to a certain extent against the raising of prices.

2. **Vertical Combination of PWR Base Tube Manufacturing Business and PWR Clad Tube Manufacturing Business**

Mitsubishi Materials purchases PWR base tubes from CEZUS and manufactures PWR clad tubes. Therefore, the JFTC examined the following points:

(1) Possibility of CEZUS' refusal to supply PWR base tubes to Company C, which is a competitor of Mitsubishi Materials

(2) Possibility of Mitsubishi Materials' refusal to purchase PWR base tubes from Company A, which is a competitor of CEZUS

Note that the shares in the field of the manufacture and sale of PWR base tubes and PWR clad tubes are as shown below:

【Field of Manufacture and Sale of PWR Base Tubes】

Rank	Company Name	Share
1	Company A	About 50%
2	CEZUS	About 30%
3	Company B	About 20%
	Total	100%

(Note) Results of FY2007

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

【Field of Manufacture and Sale of PWR Clad Tubes】

Rank	Company Name	Share
1	Mitsubishi Materials	About 60%
2	Company C	About 40%
	Total	100%

(Note) Results of FY2007

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

(1) Considering that Company C can procure base tubes from Company A and

Company B in addition to CEZUS, that a majority of the base tube supply in Japan by CEZUS is that for Company C at present and that only a small amount is supplied to Mitsubishi Materials, it is considered that there is no incentive to refuse supply to Company C, which is the major customer of CEZUS. Accordingly, it is evaluated that there is no concern about Company C's loss of supplier of PWR base tubes.

(2) Considering that Company C can, in addition to Mitsubishi Materials, be a supplier for Company A, and that Mitsubishi Materials purchases base tubes from several suppliers to ensure stable supply of clad tubes, it is considered that there is no incentive to refuse the procurement of base tubes from Company A, with which Mitsubishi Materials has dealings at present. It is evaluated that there is no concern about Company A's loss of customer for PWR base tubes.

3. Vertical Combination of PWR Clad Tube Supply Business and PWR Nuclear Fuel Supply Business

While MNF manufactures PWR nuclear fuel using PWR clad tubes supplied by Mitsubishi Materials, AREVA manufactures PWR nuclear fuel using PWR clad tubes from CEZUS. The JFTC examined the following points:

(1) Possibility of refusal by Mitsubishi Materials or CEZUS to supply PWR clad tubes to NFI, which is the competitor of MNF and AREVA

(2) Possibility of refusal by MNF or AREVA to procure PWR clad tubes from Company C, which is a competitor of Mitsubishi Materials

(1) Considering that all PWR clad tubes manufactured by Mitsubishi Materials are supplied to MNF and that CEZUS does not have any supply results of PWR clad tubes in Japan recently, it is evaluated that a situation where NFI cannot purchase PWR clad tubes from Mitsubishi Materials or CEZUS and loses a supplier of PWR clad tubes would not occur.

(2) MNF procures PWR clad tubes from Company C in addition to Mitsubishi Materials. Company C depends on MNF only a little for the supply of PWR clad tubes. Since there is another nuclear fuel manufacturer, which represents the most part of Company C's sales amount and is a major supplier, it is evaluated that there is no concern that Company C would lose a

customer for PWR clad tubes. Note that AREVA procures all PWR clad tubes for electric power companies in Japan from CEZUS.

<4> Evaluation under the Antimonopoly Act

1. PWR Nuclear Fuel

(1) Examining Substantial Restraint of Competition by Unilateral Conduct

Considering that the increment of share is small, active competition is mainly observed between Mitsubishi group and NFI because electric power companies as users divide their nuclear fuel orders into those for domestic manufacturers and those for overseas manufactures so that Mitsubishi group and AREVA would be directly competitive in quite limited situations, that there is a strong competitor with a sufficient reserved supply capacity, and that competitive pressure from electric power companies as users is observed to a certain extent, the JFTC judges that any unilateral conduct would not substantially restrain competition in a particular field of trade.

(2) Examining Substantial Restraint of Competition by Coordinated Conduct

Considering that active competition is mainly observed between Mitsubishi group and NFI because electric power companies as users divide their nuclear fuel orders into those for domestic manufacturers and those for overseas manufactures so that Mitsubishi group and AREVA would be directly competitive in quite limited situations, that competitors have a sufficient reserved supply capacity, and that competitive pressure from electric power companies as users is observed to a certain extent, the JFTC judges that a coordinated conduct by the parties concerned and their competitors would not substantially restrain competition in a particular field of trade.

2. Vertical Combination of PWR Base Tube Manufacturing Business and PWR Clad Tube Manufacturing Business

As described in <3>-2 above, the JFTC judges that there would not be any problem of closures or exclusion of trade and this transaction would not substantially restrain competition in a particular field of trade.

3. Vertical Combination of PWR Clad Tube Supply Business and PWR Nuclear Fuel Supply Business

As described in <3>-3 above, the JFTC judges that there would not be any problem of closures or exclusion of trade and this transaction would not substantially restrain competition in a particular field of trade.

<5> Conclusion

On the basis of the situations outlined above, the JFTC judges that this transaction would not substantially restrain competition in any particular field of trade.

Case 3　Acquisition of Shares of Nuclear Fuel Industries by Westinghouse Electric UK

<1>　Outline of the Case

Westinghouse Electric UK (hereinafter referred to as Toshiba), an entrepreneur engaged in the design, construction, and maintenance of electric power generation facilities and manufacture and sale of nuclear fuel, which is a subsidiary of Toshiba Corporation and has a principal office in the U.K. (hereinafter referred to as WH) plans to acquire shares of Nuclear Fuel Industries, Ltd. (hereinafter referred to as NFI) in the business of the manufacture and sale of nuclear fuel.

The concerned law provision is Article 10 under the Antimonopoly Act.

<2> Particular Field of Trade

1.　Outline of Products

(1) Nuclear Fuel Supply Business

As described in <2>-1.(1) A of Case 2, there are two types of nuclear power generation facilities: Pressurized water reactor (PWR) and Boiling water reactor (BWR).　PWR nuclear fuel and BWR nuclear fuel are used for the applicable types of reactors respectively.　Among the companies concerned, NFI is in the business of supplying nuclear fuel used in the PWR and BWR of electric power companies in Japan.　On the other hand, WH and its affiliates (hereinafter referred to as WH group) have not delivered any products in Japan for these several years though they have been continuously engaged in the fuel supply business overseas for PWR nuclear fuel and BWR nuclear fuel.

Other domestic manufacturers include, as described in Case 2, Mitsubishi Nuclear Fuel Co., Ltd. (hereinafter referred to as MNF) for PWR nuclear fuel and Global Nuclear Fuel Japan (hereinafter referred to as GNF-J), which is a subsidiary of Global Nuclear Fuel Holding (hereinafter referred to as GNF-H) established by Toshiba (parent company of WH) together with Hitachi, Ltd. and General Electric Company having a principal office in the U.S. for BWR nuclear fuel.

In addition, fuel from overseas manufactures including AREVA and Global Nuclear Fuel Americas (hereinafter referred to as GNF-A; a subsidiary of GNF-H) is imported (GNF-H, GNF-J, GNF-A, and Global Nuclear Fuel (GNF) to be described later are hereinafter collectively referred to as GNF group).

(2) First Load Fuel and Replacing Fuel

There are two types of nuclear fuel supply businesses. Supply of first load fuel for new reactors and supply of replacing fuel loaded by replacing the existing fuel. Replacing fuel is delivered to replace the fuel after first load, and they are basically the same products.

First load fuel is usually supplied by the plant manufacturer that has manufactured the applicable reactor or another fuel manufacturer in the same group as such a plant manufacturer. This is because the first load fuel is closely related to the safety and performance assurance of the reactor. The plant manufacturer that accepts the order for reactor construction is requested by the electric power company to take responsibility from reactor construction to fuel performance.

On the other hand, the replacing fuel is directly ordered by electric power companies from fuel manufacturers without the intermediation of the plant manufacturer that has constructed the applicable reactor. The supplier is not limited to the plant manufacturer that has constructed the applicable reactor or a fuel manufacturer belonging to such a manufacturer's group.

(3) Regulations Related to the Introduction of Imported Nuclear Fuel

When a domestic user introduces nuclear fuel manufactured by overseas manufacturers, it is necessary to make an application for change of nuclear reactor installment permission in accordance with the Act on the Regulation of Nuclear Source Material, Nuclear Fuel Material and Reactors (Nuclear Reactor Regulation Act), for approval of construction plan and for procedures of imported fuel assembly inspection in accordance with the Electricity Business Act at the Nuclear and Industrial Safety Agency, Ministry of Economy, Trade and Industry for every reactor, as required for difference in specifications from those of the already approved nuclear fuel. In addition, whether or not an application for nuclear reactor installment permission and construction plan approval is made, it is necessary to make an application for imported fuel assembly inspection to the above Agency for every import. It takes about four to seven years for these procedures. (Same text as in Case 2, <2> 2-1 (1))B repeated).

2. Definition of a Particular Field of Trade

As shown in Case 2, PWR fuel and BWR fuel cannot be substituted for each other in both aspects of demand and supply. Therefore, the JFTC defined a product ranges in the field of the manufacture and sale of PWR nuclear fuel and the field of manufacture and sale of BWR nuclear fuel respectively.

Similarly, the geographic range is set to be all of Japan.

<3> Examining the Influence of This Business Combination over Competition

1. PWR Nuclear Fuel

The market scale of PWR nuclear fuel in FY2007 is about 23 billion yen.

Recently, no PWR has been started and replacing fuel only is supplied.

WH group has not supplied any products recently in Japan. Even after this transaction, its share will not be increased.

2. BWR Nuclear Fuel

(1) Market Scale

The market scale of BWR nuclear fuel in FY2007 is about 15 billion yen.

For BWR, two nuclear power plants in FY2005 and 1 nuclear power plant in FY2006 have started operation. First load fuel was supplied to the applicable plants in FY2003 and FY2004.

(2) Market Share

The market shares of BWR are as shown below:

Rank	Company Name	Share
1	GNF-J	About 65%
2	Nuclear Fuel Industries	About 30%
3	GNF-A	0–5%
4	AREVA	0–5%
	Total	100%

(Note) Average results from FY2003 to FY2007

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

(3) Market Entry

As described in Case 2, AREVA, which is a strong overseas supplier of

BWR nuclear fuel, will consolidate its nuclear fuel business in Japan to that of MNF, a Japanese PWR nuclear fuel manufacturer. Though AREVA's delivery results of BWR nuclear fuel in the Japanese market have been limited so far, there is a possibility that MNF would enter the BWR nuclear fuel market and the group of MNF and ARAVA would increase its share in the Japanese market of BWR nuclear fuel.

However, permission and approval are required for each reactor at electric power companies in order to sell BWR nuclear fuel in Japan, and it takes substantial time to obtain such permission and approval. Considering such circumstances, it will take a pretty long time until the group of MNF and AREVA can be evaluated as a strong competitor in the market of BWR nuclear fuel. It is evaluated that the group's market entry pressure to the Japanese BWR nuclear fuel market is only limited at present.

<4> Evaluation under the Antimonopoly Act

1. PWR Nuclear Fuel Supply Business

For the PWR nuclear fuel supply business in which NFI is engaged in Japan, WH has no delivery results in recent years. It is not doing substantial business in Japan. Therefore, its share would not be increased after this acquisition of shares.

However, WH group continues to be in the business of PWR nuclear fuel supply in the overseas market. It is at a position of a potential competitor in the field of the manufacture and sale of PWR nuclear fuel in Japan, but it is necessary to take the following situations into consideration:

(1) In order for stable fuel supply and quickness of action in the event of any trouble, electric power companies as users place priority on procurement from domestic manufacturers and the amount that can be supplied by overseas manufacturers is limited.

(2) It is necessary for an overseas manufacturer to obtain permission and approval in order for market entry. It takes four to seven years to obtain such permission and approval, which can be considered to be a barrier against entry.

On the basis of these situations, competitive pressure from WH group as a potential competitor is considered to be quite low.

Therefore, the JFTC judges that this acquisition of shares would not substantially restrain competition in the field of PWR nuclear fuel supply business.

2. BWR Nuclear Fuel Supply Business

(1) Concerns

WH group has no delivery results of BWR nuclear fuel and has not done any substantial business in Japan, and it is only a potential competitor of NFI. However, Toshiba, the parent company of WH group, indirectly holds 22% of shares of GNF-H, which is the parent company of GNF-J and is engaged in this business.

Therefore, if a joint relationship is established between Toshiba-WH group and GNF group, WH group's holding of NFI's shares in this case causes a joint relationship to be established between NFI and GNF group, which compete each other. As a result, the total market share of these companies will be about 95%, which is ranked the highest in the market, and HHI will be extremely high: 9,050. Further, new entry pressure is not observed. Accordingly, there is a concern that unilateral or coordinated conduct would substantially restrain competition in a particular field of trade.

(2) Agreement with European Commission

When acquiring shares of WH group in 2006, Toshiba agreed on the following conditions with the European Commission:

1) Toshiba (including subsidiaries; this applies hereafter) shall withdraw all officers including directors from GNF group and shall not dispatch anyone in the future.
2) Toshiba shall waive all rights in obtaining closed information such as sales information related to the fuel supply business in GNF group, except for some approved items.
3) Toshiba shall waive the veto in relation to the management of Global Nuclear Fuel (a company entrusted with the management of GNF-H; hereinafter referred to as GNF) granted under the joint venture agreement with GNF.

Under the condition that Toshiba would execute an agreement containing the above three points and continuously effective as far as Toshiba holds the shares of GNF and GNF-H, Toshiba's consolidation was approved by the European Commission.

On the basis of the above circumstances, three investors of GNF group including Toshiba agreed that Toshiba shall waive the vote to the GNF group, shall waive the rights in the closed information of GNF group, shall not dispatch any officer to GNF group, and so on.

(3) Evaluation of Joint Relationship

Though there are circumstances described in 2 (2) above, in spite of the trade practices where the first load fuel is supplied by the fuel manufacturer in the same group as the plant manufacturer that has manufactured the applicable reactor, the first load fuel for the reactor constructed by Toshiba is always supplied by GNF-J. Considering that Toshiba's investment ratio in GNF-H amounts to 22%, together with this fact, Toshiba is judged to have a strong concern in the results of both WH and GNF group even if Toshiba cannot exercise its control over decision making by GNF group. It is not evaluated that any joint relationship is not established among Toshiba, WH group, and GNF group.

<5> Measure to Solve the Problem Offered by the Parties Concerned

When the JFTC pointed out the above concern about competition caused by this transaction in the field of BWR nuclear fuel, Toshiba offered to take the following measure.

"At present, Toshiba invests in GNF-H with 22% of shares. However, Toshiba will reduce the ratio of economic interest it can obtain from GNF-H to below 15% within two years.

Further, Toshiba will observe three conditions agreed with the European Commission as far as Toshiba holds shares of GNF group directly or indirectly."

<6> Evaluation under the Antimonopoly Act based on The Measure to Solve the Problem

With the circumstances described in <4>-2(2) above, if the measure offered by Toshiba in <5> above is put into practice, Toshiba's concern in GNF group will become much lower. Then, it is not considered that any joint relationship is established between Toshiba and GNF group, and GNF group and NFI are evaluated as independent competitors in the BWR nuclear fuel market. Therefore, it is evaluated that this acquisition of shares would not substantially restrain competition in the BWR fuel supply business.

<7> Conclusion

From the above situations, the JFTC judges that, if the measure offered by Toshiba is securely put into practice, this transaction would not substantially restrain competition in a particular field of trade.

Case 4　Acquisition of Shares of Fuji Heavy Industries Ltd. by Toyota Motor Corporation

<1> Outline of the Case

1.　Outline of the Case

Toyota Motor Corporation engaged in the manufacture and sale of automobiles (hereinafter referred to as Toyota) plans to acquire shares of Fuji Heavy Industries Ltd., which is engaged in the same business (hereinafter referred to as FHI).

The concerned law provision is Article 10 under the Antimonopoly Act.

2.　Outline of Share Acquisition

Toyota will subscribe for allocation of treasury shares held by FHI and thereby increase its voting ratio to FHI from 9.50% to 16.61%.

After such acquisition of shares, FHI will develop small automobiles jointly with Toyota, will be entrusted with production of that automobile, and will separately have small automobiles supplied from Toyota as OEM products. Further, business alliance where small automobiles and light vehicles (keijidosha) will be supplied as OEM products by Daihatsu Motor Co., Ltd. (hereinafter referred to as Daihatsu), a subsidiary of Toyota, is also planned.

<2> Outline of the Subject Business

Automobiles are classified as shown below under the Road Transport Vehicle Act corresponding to their basic application, vehicle dimensions, and total displacement.　Certain categories are established for prices according to the classification below.

Category		Vehicle Dimensions (Length * Width * Height)	Total Displacement
Regular	Passenger	Over 4.7 m * Over 1.7 m * Over 2 m	Over 2,000 cc
	Cargo		
Small	Passenger	4.7 m or less * 1.7 m or less * 2 m or less	2,000 cc or less
	Cargo		
Light	Passenger	3.4 m or less * 1.48 m or less * 2 m or less	660 cc or less
	Cargo		

The parties concerned have competition in the fields of regular passenger vehicles, small passenger vehicles, light passenger vehicles, and light cargo vehicles among the fields shown above (Toyota does not manufacture light passenger vehicles or light cargo vehicles, but Daihatsu manufactures light passenger vehicles and light cargo vehicles).

<3> Examining Whether This Case Is Subject to a Business Combination Review

Because Toyota will increase its ratio of voting for FHI from 9.50% to 16.61% by this acquisition of shares, whether a joint relationship is comprised and become subject to review of business combination is studied.

Toyota has been conventionally the single top shareholder of FHI. If this acquisition of shares is put into practice, the difference in the voting ratio between Toyota and the second shareholder will be 10% or more. In addition, FHI plans to develop small vehicles jointly with Toyota, to be entrusted with the production of such vehicles, and to have light vehicles supplied by OEM from Daihatsu.

However, even after this acquisition of shares,

(1) The parties concerned will be doing business independently based on their own management strategies and will maintain their brands and sales networks as they were before.

(2) There is no interlocking directorates between FHI and Toyota as well as between FHI and Daihatsu or Hino Motors, Ltd., both of which are in a joint relationship with Toyota.

Considering these situations and on the basis of the explanation from the parties concerned, it is considered that FHI will continue to compete with Toyota mainly with regular passenger automobiles as its major products even after the increase of Toyota’s voting ratio for FHI to 16.61%. Therefore, the JFTC judges that this acquisition of shares would not establish a joint relationship between the parties concerned and they would not be subject to a business combination review.

Case 5: Acquisition of Used-Car Information Provision Service Business from MG Corporation by Recruit Co., Ltd.

<1> Outline of the Case

Recruit Co., Ltd. (hereinafter referred to as Recruit), which is in the business to provide information about shops and vehicles for sale of used-car dealers (hereinafter referred to as “Used-car Information”) to the general public, plans to have the used-car information provision service business in Hokkaido from MG Corporation (hereinafter referred to as MG), which is in the same business.

The concerned law provision is Article 16 under the Antimonopoly Act.

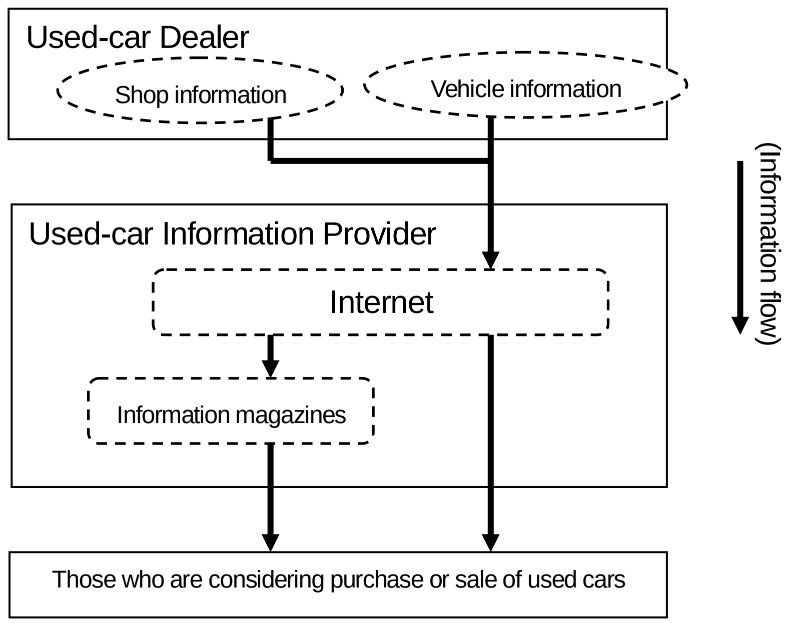
<2> Particular Field of Trade

1. Outline of the Used-Car Information Provision Service

To promote its sales, a used-car dealer induces consumers by displaying vehicles at its site or a joint exhibition site, distributing advertisement with newspapers, distributing leaflets, catalogues, or other information media, improving its website, and ordering posting of its used-car information to entrepreneurs, which provide used-car information to consumers (hereinafter referred to as the “Used-car Information Provider”).

Used-car information provision service is a service to provide, upon request from a used-car dealer, used-car information held by used-car dealers to those who intend to purchase or sell used-cars via the Internet or information magazines.

【Outline of the Service】



Note that Recruit accepts orders for the posting of used-car information from used-car dealers in Hokkaido, Kanto, Kitakanto, Tokai, Kansai, Chugoku, Shikoku, and Kyushu regions, and MG handles such information in Hokkaido and Tohoku regions.

Major sales of used-car information provision service business are obtained by posting fees from used-car dealers. The posting fee is respectively fixed between the applicable used-car dealer and the provider depending on the number of vehicles and posting period etc..

2. Used-car Information Provision Method

(1) Internet

Information is provided via the Internet so that users can browse data by manufacturer, model, and area (for each prefecture).

The Internet service is characterized by that the information can be updated every day and that several clear and large photos per vehicle can be presented. According to the parties concerned, about 60% of used-car purchasers collect information via the Internet.

(2) Information magazines

Some used-car information providers edit the used-car information posted on their websites once or twice a month and publish it in an information magazine. The sale price of the magazine is about 200 to 300 yen.

In addition, some other providers announce the information as classified ads in newspapers or show it in the advertisement space of special issues (tabloid newspaper) as well as on their Internet website.

3. Definition of a Particular Field of Trade

(1) Service Range

The parties concerned are competing each other in the business to collect used-car information from used-car dealers in various areas and to post it on Internet websites and information magazines so as to obtain posting fees. The JFTC judged the "Used-car information provision service” to be a particular field of trade.

(2) Geographic Range

Due to the properties that consumers purchase used-cars near the place they live in, and that the used-car information providers set a business area for each prefecture corresponding to the purchase behavior of consumers, the geographic range is defined to be each prefecture. In this case, the JFTC defined the geographic range to be Hokkaido, where the business is acquired.

<3> Examining the Influence of This Business Combination over Competition

1. Market Scale

The market scale of used-car information provision service in Hokkaido is estimated to be about 2 billion yen.

2. Market Share and HHI

This business combination causes the total share of the parties concerned to be about 40%, which is ranked the highest in the market.

Further, HHI after this business combination is about 2,700, with an increment of about 700.

Rank	Company Name	Share
1	Company A	About 30%
2	Company B	About 20%
3	Recruit	About 20%
4	MG	About 20%
5	Company C	About 10%
6	Company D	About 1%
7	Company E	About 1%
8	Company F	About 1%
(1)	Total of Parties concerned	About 40%
	Total	100%

(Note) Results in March 2008

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

3. Existence of Competitors

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

4. Market Entry

Since there is no particular statutory restriction and much investment is not required, it is extremely easy to enter the market as a new entrant.

In particular, consumers recently use the Internet the most to collect information, and many of the successful agreements at used-car dealers have started from Internet information. Several entrepreneurs have entered the market of used-car information provision service using the Internet in Hokkaido. Entrepreneurs providing used-car information via Internet only positively set low prices and are actively competing among them in prices.

5. Competitive Pressure from Customers

Used-car dealers suggest a possible change of the service provider in price negotiations, and they actually change the used-car information provider quite often.

In addition, because Internet users have been increasing recently, used-car dealers tend to enhance their own websites. Further, in the Hokkaido area, large-scale used-car sale events sponsored by ad agencies are held for about 50 times a year in domed sports facilities. Some dealers participate in such events by themselves to promote sales without using any used-car information provision service.

Therefore, competitive pressure from customers can be evaluated as a containing force to a certain extent against the raising of prices by the parties concerned.

<4> Evaluation under the Antimonopoly Act

1. Examining Substantial Restraint of Competition by Unilateral Conduct

Considering that there are several strong competitors, that it is easy to newly enter the market, and that a certain competitive pressure is observed from used-car dealers as users, the JFTC judges that any unilateral conduct by the parties concerned would not substantially restrain competition in a particular field of trade.

2. Examinig Substantial Restraint of Competition by Coordinated Conduct

Considering that it is easy to newly enter the market and that a certain competitive pressure is observed from used-car dealers as users, the JFTC judges that any coordinated conduct by the parties concerned and other competitors would not substantially restrain competition in a particular field of trade.

<5> Conclusion

Based on the situations described above, the JFTC judges that this business combination would not substantially restrain competition in a particular field of trade.

Case 6: Acquisition of Preference Shares of The Gifu Bank, Ltd. by The Juroku Bank, Ltd.

<1> Outline of the Case

The Juroku Bank, Ltd. (hereinafter referred to as Juroku Bank) plans to acquire preference shares from the Gifu Bank, Ltd. (hereinafter referred to as Gifu Bank) as a part of their capital and business alliance.

Since this is an acquisition of preference shares without voting rights, a shareholding report in accordance with Article 10, Paragraph2 under the Antimonopoly Act is not submitted. However, there is a provision that these preference shares can be transferred to common shares in and after October 2009. Considering that, if they are transferred to common shares, Juroku Bank will have over 50% of voting rights at most, the JFTC decides to review the acquisition (Note that the Juroku bank has not decided transfer to common shares).

At present, the top shareholder of Gifu Bank is the Bank of Tokyo-Mitsubishi UFJ, Ltd. (hereinafter referred to as Tokyo-Mitsubishi UFJ, having a voting ratio of 21.1%) with a large difference from the second shareholder (voting ratio: 4.8%). Because it is considered that a joint relationship is established between Tokyo-Mitsubishi UFJ and Gifu Bank, Tokyo-Mitsubishi UFJ is also subject to the review in this case.

The concerned law provision is Article 10 under the Antimonopoly Act.

<2> Particular Field of Trade

1. Outline of the Services

The parties concerned are entrepreneurs in the banking business and provide services related to lending, deposits, etc.

2. Definition of Particular Fields of Trade

(1) Service Range

The JFTC judged that particular fields of trade would be defined for each of lending service and depositing service.

(2) Geographic range

Since Juroku Bank and Gifu Bank conduct business mainly in Gifu Prefecture, the JFTC judged that a particular field of trade would be defined in the whole prefecture of Gifu, where three banks are competing.

In addition, considering the actual situations of the local economy, the JFTC judged that particular fields of trade would also be defined for respective areas in Gifu Prefecture.

<3> Examining Influence of This Business Combination over Competition

1. Lending Service

(1) Market in Gifu Prefecture as a whole

The market of Gifu Prefecture as a whole falls within safe harbor of horizontal business combination and the JFTC judges that this transaction does not substantially restrain competition in a particular field of trade.

(2) Local markets in Gifu Prefecture

For the lending service, lessees generally tend to lend money from financial institutions having branches in their economic activity range. A particular field of trade would be defined for such a range of economic zone.

The economic zones other than following two zones fall within safe harbor of horizontal business combination; an economic zone with six cities and three towns, including Kakamigahara-shi and Hashima-shi, with Gifu-shi at the center (hereinafter referred to as the Central Gifu Economic Zone), and another economic zone with five cities, including Nakatsugawa-shi and Toki-shi, with Tajimi-shi at the center (hereinafter referred to as the Tono Economic Zone). Therefore, the JFTC focused its review on the Central Gifu Economic Zone and the Tono Economic Zone.

A. Central Gifu Economic Zone

(A) Market scale

Outstanding loans in the Central Gifu Economic Zone as of March 2008 are about 3.1 trillion yen.

(B) Market share and HHI

This business combination causes the total share of these banks to be about 40%, which is ranked the highest in the market.

In addition, HHI after this business combination is about 2,400, with an increment of about 500.

Rank	Company Name	Share
1	Juroku Bank	About 30%
2	Company A	About 25%
3	Company B	About 15%
4	Company C	About 10%
5	Gifu Bank	About 5%
6	Tokyo-Mitsubishi UFJ	0 to 5 %
7	Company D	0 to 5 %
	Others	About 10%
(1)	Total of Applicable Banks	About 40%
	Total	100%

(Note 1) As of March 2008

(Note 2) "Company" includes shinkin banks, agricultural cooperatives, and other cooperative organization-type financial institutions. This also applies hereafter.

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

(C) Existence of competitors

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

(D) Competition situations

There are many competitors competing actively. For lending to individuals, housing loans, education loans, and other various services are provided. For corporations, they arrange services so that a corporation can have conditions presented by several financial institutions and select the most preferable one, and financial institutions offer new dealings and new loan proposals to corporations.

(E) Competitive pressure from adjacent markets

Financial institutions from other prefectures establish branches in this region or those without any branch in this region induce customers to have dealings with them. It is evaluated that competitive pressure from financial institutions of geographically adjacent areas works to a certain extent.

B. Tono Economic Zone

(A) Market scale

Outstanding loans in the Tono Economic Zone as of March 2008 are about 800 billion yen.

(B) Market share and HHI

This business combination causes the total share of these banks to be about 35%, which is ranked the highest in the market.

In addition, HHI after this business combination is about 2,100, with an increment of about 600.

Rank	Company Name	Share
1	Company E	About 20%
2	Juroku Bank	About 20%
3	Company C	About 15%
4	Company A	About 10%
5	Company B	About 10%
6	Tokyo-Mitsubishi UFJ	About 10%
7	Gifu Bank	About 5%
	Others	About 10%
(1)	Total of Parties Concerned	About 35%
	Total	100%

(Note) As of March 2008

(Source: Prepared by the JFTC based on the materials submitted by the parties concerned)

(C) Existence of competitors, competition situations, and competitive pressure from adjacent market

Same as in 1 (2) A (C) to (E) above.

2. Deposit Service

(1) Market in Gifu Prefecture as a whole

The market of Gifu Prefecture as a whole falls within safe harbor of horizontal business combination and the JFTC judges that this acquisition does not substantially restrain competition in a particular field of trade.

(2) Local markets in Gifu Prefecture

For the depositing service, users generally tend to use financial institutions having branches in their economic activity range. A particular field of trade would be defined for such a range of economic zone.

Since the economic zones other than the Central Gifu Economic Zone and the Tono Economic Zone fall within safe harbor of horizontal business combination, the JFTC focused its review on the Central Gifu Economic Zone and the Tono Economic Zone.

A. Central Gifu Economic Zone

(A) Market scale

Deposit balance in the Central Gifu Economic Zone as of March 2008 is about 5.6 trillion yen.

(B) Market share and HHI

This business combination causes the total share of these banks to be about 35%, which is ranked the highest in the market.

In addition, HHI after this business combination is about 2,100, with an increment of about 400.

Rank	Company Name	Share
1	Juroku Bank	About 25%
2	Company A	About 20%
3	Company C	About 20%
4	Company B	About 15%
5	Gifu Bank	About 5%
6	Company D	0 to 5%
7	Tokyo-Mitsubishi UFJ	0 to 5%
	Others	About 10%
(1)	Total of Applicable Banks	About 35%
	Total	100%

(Note) As of March 2008

(Source: Prepared by the JFTC on the basis of the materials submitted by the Parties concerned)

(C) Existence of competitors

There are several strong manufacturers with a share of 10% or more.

(D) Competition situations

There are many competitors and they are competing by means of service details such as increased interest during sales promotion period, installation of ATM at supermarkets or other places out of branches, preference fees for use of ATM at convenience stores, and other measures to improve customers' convenience.

(E) Competitive pressure from adjacent markets

Investment trusts, pension insurance, etc. serve as alternative financial services of deposit in some aspects. It is evaluated that securities companies and insurance companies providing such services work as competitive pressure to some extent.

B. Tono Economic Zone

(A) Market scale

Deposit balance in the Tono Economic Zone as of March 2008 is about 1.7 trillion yen.

(B) Market share and HHI

This business combination causes the total share of these banks to be about 35%, which is ranked the highest in the market.

In addition, HHI after this business combination is about 2,400, with an increment of about 600.

Rank	Company Name	Share
1	Company C	About 25%
2	Juroku Bank	About 20%
3	Company E	About 20%

4	Tokyo-Mitsubishi UFJ	About 10%
5	Company A	About 10%
6	Company B	About 5%
7	Gifu Bank	About 5%
	Others	About 5%
(1)	Total of Parties Concerned	About 35%
	Total	100%

(Note) As of March 2008

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

(C) Existence of competitors, competition situations, and competitive pressure from adjacent market

Same as in 2. (2) A (C) to (E).

<4> Evaluation under the Antimonopoly Act

1. Lending Market

(1) Examining Substantial Restraint of Competition by Unilateral Conduct

For both of the Central Gifu and Tono Economic Zones, there are strong competitors, and many entrepreneurs are actively competing to provide various loans to individuals and to take loans for corporations. Further, there is competitive pressure to a certain extent from adjacent markets. Considering these factors, the JFTC judges that any unilateral conduct by the parties concerned would not substantially restrain competition in particular fields of trade.

(2) Examinig Substantial Restraint of Competition by Coordinated Conduct

For both of the Central Gifu and Tono Economic Zones, many entrepreneurs are actively competing to provide various loans for individuals and to take loans for corporations. Further, there is competitive pressure to a certain extent from adjacent markets. Considering these factors, the JFTC judges that coordinated conduct by the parties concerned and other competitors would not substantially restrain competition in particular fields of trade.

2. Deposit Market

(1) Examinig Substantial Restraint of Competition by Unilateral Conduct

For both of the Central Gifu and Tono Economic Zones, there are strong competitors, and many entrepreneurs are competing by means of service contents and improvement of convenience for customers. Further, there is competitive pressure to a certain extent from adjacent markets. Considering these factors, the JFTC judges that any unilateral conduct by the parties concerned would not substantially restrain competition in particular fields of trade.

(2) Examining Substantial Restraint of Competition by Coordinated Conduct

For both of the Central Gifu and Tono Economic Zones, many entrepreneurs are competing by means of service contents and improvement of convenience for customers. Further, there is competitive pressure to a certain extent from adjacent markets. Considering these factors, the JFTC judges that a coordinated conduct by the parties concerned and other competitors would not substantially restrain competition in particular fields of trade.

<5> Conclusion

Considering the above situations, the JFTC judges that this business combination would not substantially restrain competition in any particular field of trade.

Case 7: Integration of New Markets by Osaka Securities Exchange Company, Ltd. and Jasdaq Securities Exchange, Inc.

<1> Outline of the Case

Osaka Securities Exchange Company, Ltd. (hereinafter referred to as Daisho) plans to acquire all of the issued shares of Jasdaq Securities Exchange, Inc. (hereinafter referred to as Jasdaq) and merge the new markets (Note) opened by them.

The concerned law provision is Article 10 of the Antimonopoly Act.

(Note) "New market" refers to a market opened in order to foster venture businesses so that companies immediately after their establishment can raise funds for their growth.

<2> Outline of the Subject Business

1. Stock Exchange

The stock exchange has a license from the Prime Minister and opens markets to trade stocks (hereinafter referred to as the Stock Market).

The services of the stock market are classified into the following: (1) to monitor daily trading among investors, have trading established, and adjust the trading amounts (hereinafter referred to as the "Distribution-related Services") and (2) to examine the investment eligibility (Note 1) of companies which apply for listing, and to maintain and administrate the eligibility of the stocks which satisfy certain standards (hereinafter referred to as the Examination Standards) and are approved to be listed (hereinafter referred to as the Listed Stocks) (Note 2) (hereinafter referred to as the "Listing-related Services").

The stock exchange receives fees from the securities companies corresponding to the trade amount and the times of trade during a certain period in consideration for the services (1) and receives the listing examination fee at listing application, listing fee at the time of listing and annual charges to cover the running cost after listing from the companies to be listed in consideration for the services (2).

(Note 1) In investment eligibility examination, a venture business which aims at public offering of stocks (hereinafter referred to as IPO) is examined in the new market about its future and expectation for growth after listing. On the other hand, in the stock markets other than new ones, listed stocks are at first screened by aspects such as the amount of net assets, and then their business continuance, management forecast, fair and faithful business performance possibility etc. are examined.

(Note 2) If any listed stock remarkably loses eligibility for investment, its listing is stopped. Further, the market for stock listing may be changed from the second section to the first section or from the first section to the second section (hereinafter referred to as the Section Change) corresponding to the extent of investment eligibility of the applicable listed stock in case of the securities market having two sections, as described later.

There are six securities exchanges. Daisho is a securities exchange that represents Japan with the first and second sections, and many large companies are listed on the first section.

Jasdaq was originally a trading market (system) for unlisted over-the-counter stocks managed by Japan Securities Dealers Association. It was changed to a stock company with obtaining a license as a stock exchange in 2004. It is a stock exchange specialized in the management of new markets.

Further, the stock exchange corporation A (hereinafter referred to as “A”) has the first and second sections as in the case of Daisho. Many large companies are listed on the first section of A, which has a high brand power. Many companies consider listing on the first section of A as the final target. However, very few corporations can directly have an initial public offering there. A corporation is generally listed on the second section of A first, and then transferred to the first section, or listed on the new market, and then changed to be listed on the first section of A (hereinafter referred to as ”Listing Market Change”). Note that most of the corporations listed on the first section of Daisho are also listed on the first section of A.

On other stock exchanges (three stock exchanges other than Daisho, Jasdaq, and A; hereinafter referred to as “Other Three Exchanges”), local corporations of the region where the applicable stock exchange is located are listed, but the trading amount is largely decreasing at such exchanges.

2. New Market Opening Situations

In accordance with the Securities and Exchange Act as amended in 1998, a stock exchange may open several stock markets. Stock exchanges other than Jasdaq also have opened new markets.

Daisho, one of the parties concerned, opened a market called “Hercules" by taking over “Nasdaq Japan,” which was opened for venture businesses in 2002 by Nasdaq, a new market of the U.S., when Nasdaq Japan withdrew from business.

In 1999, “A” opened a market called α for venture businesses to raise funds for their growth.

Other Three Exchanges also have new markets in which local venture businesses in the regions where the applicable exchange is located are listed, but only a small amount of stocks are listed in these markets and the sales amount is small.

3. User Situations

(1) Distribution-related Services

Securities companies, which are users of the distribution-related services, are entrusted by investors to place orders for stocks. Substantial users can be considered to be investors. Investors make trading decisions with focusing on the contents of the listed stocks, not the contents of distribution-related services.

Many of the large corporations representing Japan are listed on the first section of A and the first section of Daisho. Among the investors as substantial users, institutional investors represent a very large ratio in the entire sales amount. In other markets, the ratio of trading by institutional investors is relatively small. In new markets, in particular, trading is mainly made by individual investors.

(2) Listing-related Services

A. IPO (Initial public offering)

Listing of a stock on a market has merits; it enables the raising of business funds stably for a long time at a low cost, and it enhances the credit to customers and financial institutions, for example, by the improvement of publicity. In addition, increased market capitalization will contribute to the procurement of funds, technology, human resources, etc. required for business growth for a long time.

For this purpose, venture business companies tend to be oriented toward listing on the first section of A, which would highly draw attention from investors and involve a high brand power. However, because the listing examination standards for the first section of A are quite severe, they tend to place priority on public offering and select a new market as the market for listing. When selecting a new market for their listing, they are oriented to a market which would draw more attention from investors.

B. Listing Market Change

Many corporations already listed in new markets are often oriented toward the change of listing to other stock markets where more investors are trading in order to further increase their market capitalization and stably raise funds. Since A has a high brand power, in particular, many entrepreneurs change their market of listing to the first or second section of A when they satisfy the examination standards.

<3> Particular Field of Trade

1. Distribution-related Services

The JFTC defined a service range for the distribution-related services, for which institutional investors and individual investors are substantial users.

In addition, since investors all over Japan are trading through securities companies in stock markets opened by A, Daisho and Jasdaq, the JFTC defined the geographic range to be all over Japan. Note that the JFTC decided to exclude the stock markets opened by Other Three Exchanges from the same field of trade because they mainly handle trading by local investors in the region where they are located.

2. Listing-related Services

The market that a corporation selects as its market of listing will be different between (1) IPO and (2) listing market change. Therefore, as for particular fields of trade related to listing-related services, the JFTC defined (1) services provided in new markets and (2) services provided in the first and second sections of A and the first and second sections of Daisho.

Among these services, Daisho and Jasdaq are competitive about (1), and the JFTC reviewed the situations related to (1).

For these stock markets, since corporations all over Japan select them as the market of listing, the JFTC defined the geographic range to be all over Japan. In case of stock markets opened by Other Three Exchanges, however, local corporations in the region where they are located mainly select them, and the JFTC decided to exclude them from the above field of trade, as described in <3>-1 above.

<4> Examinig Influence of This Business Combination over Competition

1. Distribution-related Services

Since this falls under safe harbor of horizontal business combination, the JFTC judges that this business combination would not substantially restrain competition in a particular field of trade.

Note that market share can be calculated by two methods: on the basis of the sales amount or trading fees. However, it is technically difficult to calculate the share on the basis of the trading fees, and hence, a calculation based on the sales amount is used here.

2. Listing-related Services

(1) Market share and HHI

This business combination causes the total share of the parties concerned to be about 55%, which is ranked the highest in the market.

In addition, HHI becomes 5,050, with an increment of 1,400.

Note that the market share can be calculated by two methods: on the basis of the sales amount or the number of listed companies. Since the former is considered to better represent the actual competition situation where stock exchanges compete for excellent corporations to be listed, a calculation based on the sales amount is used here.

Rank	Stock Exchange (Stock Market)	Share
1	A (α)	About 45%
2	Jasdaq (Jasdaq)	About 35%
3	Daisho (Hercules)	About 20%
(1)	Total of Parties concerned	About 55%
	Total	100%

(Note) Results in 2007

(Source: Prepared by the JFTC on the basis of the materials submitted by the parties concerned)

(2) Existence of Competitors

New market α opened by A attracts many investors and stock trading is particularly active there. From the viewpoint of a corporation planning listing, it will be very beneficial to be listed there.

In addition, considering that the examination standards for the listing market change to the first section of A is less severe for corporations listed on α than for corporations listed on other new markets, corporations which plan public offering have a stronger incentive for listing on α. It is evaluated that the competitive position of α is higher than the figure shown as the market share.

(3) Management Situation of Jasdaq

Unlike other stock exchanges, Jasdaq is specialized in the management of new markets, where trading largely depends on specific stocks. Its management situations are greatly affected by the recent dull run of the stock market.

A majority of the management costs for a securities exchange are related to the trading system. It is important to have a system which rapidly and safely processes many trading orders. In severe balance situations, it becomes difficult for an independent entity to develop and invest in such a system. Since Jasdaq finds it difficult to manage its markets independently and stably, it is evaluated that a integration with Daisho, which has the first and the second sections, would generate a rival for α among new markets and possibly activate competition.

<5> Evaluation under the Antimonopoly Act

Considering that there is a strong competitor, and that this integration is evaluated to possibly enhance the containing force against such a strong competitor, the JFTC judges that this business combination would not substantially restrain competition from the viewpoint of unilateral conduct or from the viewpoint of coordinated conduct.

<6> Conclusion

Considering the situations above, the JFTC judges that this transaction would not substantially restrain competition in any particular field of trade.

Reference 1

Number of Accepted Notifications of Mergers, Demergers, and Acquisitions of Businesses as well as the Number of Submitted Shareholding Reports in FY2008

The total number of accepted notifications etc. in FY2008 is 1,008 (decreased by 21.5% from the previous fiscal year). They contain 69 notifications on mergers, 21 notifications on demergers, 89 notifications on acquisitions of businesses, and 829 reports related to shareholding. Among them, notifications and reports from overseas include five cases of acquisitions of businesses and 46 cases of shareholding (The table below shows the change in the past three years).

(Note) Companies over a certain scale are obliged to submit the notification of a merger, demerger, or acquisition of businesses as well as a shareholding report when they take such actions (in case of a merger of domestic companies, for example, a notification is required if the parties concerned include a corporation having total assets over 10 billion yen and a corporation having total assets over 1 billion yen).

The Number of Accepted Notifications of Mergers, Demergers, and Acquisitions of Businesses as well as the Number of Submitted Shareholding Reports

	FY2006	FY2007	FY2008
Number of merger notifications	74 cases (100)	76 cases (103)	69 cases (93)
Number of demerger notifications	19 cases (100)	33 cases (174)	21 cases (111)
Number of acquisition of businesses notifications	136 cases (100)	123 cases (90)	89 cases (65)
Number of submitted shareholding reports	960 cases (100)	1,052 cases (110)	829 cases (86)
Total	1,189 cases (100)	1,284 cases (108)	1,008 cases (85)

(Note) Figures in ( ) show the ratio of case numbers taking the number in FY2006 to be 100

* For details, refer to the JFTC website（http://www.jftc.go.jp/ma/4syo.html）.

Reference 2

Results of Business Combination Review in FY2008

For the examples published as major business combination cases in FY2008 and all other cases where the JFTC sent replies to the parties concerned in FY2008 in accordance with “Policies Dealing with Prior Consultation Regarding Business Combination Plans,” the fields of trade defined as the subject of review and those for which any remedies were taken are shown below with levels of HHI after business combination of the parties concerned and HHI increment (ΔHHI).

(Note 1) HHI and other figures resulting from business combination of the parties concerned are calculated within the range understood from materials. The cases for which these figures cannot be calculated are not included here.

(Note 2) In this table, HHI shows the HHI after business combination of the parties concerned and ΔHHI shows the increment of HHI resulting from business combination of the parties concerned.

<HHI・ΔHHI> (Unit: Field)

HHI / ΔHHI	1,500 or less		Over 1,500, but not more than 2,500		Over 2,500		Total	
	Number of All Fields	Number of Fields with Remedies Taken	Number of All Fields	Number of Fields with Remedies Taken	Number of All Fields	Number of Fields with Remedies Taken	Number of All Fields	Number of Fields with Remedies Taken
150 or less	8	0	2	0	4	0	14	0
Over 150, but not more than 250	0	0	0	0	2	0	2	0
Over 250	0	0	8	0	28	2	36	2
Total	8	0	10	0	34	2	52	2

(Note) No field of trade was subject to a phase 2 review (examination for 90 days made by the JFTC, along with publishing the case in addition to a review for 30 days after the parties concerned present the materials describing specific contents of the business combination (phase 1 review) in a prior consultation.