

The Proposed Acquisition of Shares of Varian, Inc. by Agilent Technologies, Inc.
(tentative translation)

June 9, 2010
Japan Fair Trade Commission

The Japan Fair Trade Commission (hereinafter "JFTC") accepted a notification from Agilent Technologies, Inc. (based in the United States; hereinafter "Agilent") with regard to the acquisition of shares of Varian, Inc. (based in the United States; hereinafter "Varian") by Agilent on January 22, 2010. The JFTC requested Agilent to submit necessary reports, information or materials pursuant to the provisions of Paragraph 9, Article 10 of the Antimonopoly Act, in order to investigate further the effect of the transaction on competition in Japanese analytical instruments markets. As a result of the investigation, the JFTC decided that there would be no violation of the Antimonopoly Act, on condition that the business transfers of certain products had been implemented by the parties. Accordingly, the JFTC quitted the investigation.

In addition to the JFTC, this case has also been examined by foreign competition authorities such as the U.S. Federal Trade Commission (hereinafter "US-FTC") and the European Commission (hereinafter "EC"), and the JFTC has been conducting the investigation exchanging information with the US-FTC.

Just as other types of business combinations such as merger, pre-notification system for acquisition of shares was introduced by the amendment of the Antimonopoly Act in 2009 (put into force in January 1, 2010). This is the first case that the JFTC has requested to submit necessary reports etc. pursuant to the provisions of the Antimonopoly Act and has investigated in detail.

1 Outline of the case

Agilent, which manufactures and distributes analytical instruments etc., plans to acquire all of the shares of Varian, which also manufactures and distributes analytical instruments etc., thereby to make Varian a wholly owned subsidiary.

The parties distribute analytical instruments all over the world, and they also distribute their products in Japan through their Japanese affiliates etc..

2 Evaluation under the Antimonopoly Act

(1) Relevant markets

There are various types of analytical instruments, and the following 3 products

which both parties produce are considered to have serious competitive effects. Since the users in Japan, in selecting products, put the emphasis on quality of products and level of after-the-sale services, they usually purchase products which are produced by the manufacturers whose headquarter, agents or dealers are located in Japan. In light of the situations above, the JFTC defined the following 3 products markets in Japan as relevant markets, respectively.

Relevant Markets	Outline
Micro/ portable GC	GC that is portable
Triple quadrupole GC-MS	GC-MS that has 3 sets of four rods (quadrupole), which enables highly accurate measurement
ICP-MS	Analytical instrument which enables highly sensitive measurement by ionizing elements through ICP

(2) Competitive effects of the proposed transaction

a Market share etc.

Market shares of the Parties and other relevant indexes are as follows.

Relevant Markets	Agilent	Varian	HHI	Increment of HHI
Micro/ portable GC	About 30% 2 nd position	About 50% 1 st position	About 6800	About 3000
Triple quadrupole GC-MS	About 10% 4 th position	About 50% 1 st position	About 4000	About 700
ICP-MS	About 55% 1 st position	About 5% 5 th position	About 4300	About 700

b Proposal of remedial measures by the Parties

Since the US-FTC and the EC pointed out to the Parties in their investigation processes that the proposed transaction might bring serious adverse effects on competition in some relevant markets including those of 3 products mentioned above, the Parties proposed to sell Micro/ portable GC business owned by Agilent to INFICON Holding AG (based in Switzerland; hereinafter "INFICON") as well as to sell Triple quadrupole GC-MS business and ICP-MS business owned by Varian to Bruker Corporation (based in the United States; hereinafter "Bruker"). The US-FTC and the EC reached a conclusion that the proposed transaction would not violate competition laws subject to the proposed remedial measures.

Agilent offered to the JFTC to take the same remedial measures mentioned

above. The business transfers with regard to the said remedial measures have already been completed by May 20, 2010.

Therefore, with regard to 3 products mentioned above, there would be no increment of market shares caused by the transaction.

Both INFICON and Bruker distribute analytical instruments etc. all over the world. Since both companies have been distributing their products in Japan through their Japanese affiliates over a certain period, they have acquired management know-how and have developed distribution channel in Japan.

Consequently it is considered reasonable that INFICON and Bruker, through their Japanese affiliates, continue and develop each business transferred from the parties to become strong competitors in Japanese markets.

3 Conclusion

In view of the above circumstances, the JFTC has considered that the proposed transaction may not substantially restrain competition in any relevant markets of Micro/ portable GC, Triple quadrupole GC-MS, and ICP-MS, on condition of the reports etc. submitted by the parties and the fact that the remedial measures proposed by the parties have already been completed.

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