

# Study Group on Competition Policy and Public Support for Revitalization

## Interim Report (Summary)

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December 2014

# Purpose and objectives of the study group on competition policy and public support for revitalization

## Purpose of the study group

The “Study Group on Competition Policy and Public Support for Revitalization”, which is made up of experts, has been held under the direction of the Minister of State for Special Missions, Cabinet Office (in accordance with the decision issued by the Minister of State for Special Missions, Cabinet Office on August 5, 2014) for the purpose of the necessary review in view of the competition policy, recognizing that it is important to minimize the effect of public support for revitalization on competition on the relevant markets, while also acknowledging that such support is provided to achieve various policy objectives in Japan.

## Public support for revitalization

Support for business revitalization provided by corporations, etc., which the national government finances, to help enterprises restore long-term viability that face financial difficulties despite possessing useful management resources. This support is provided for various policy objectives. (Note)

(Note) : Policy objectives include maintaining community health care, public transportation, and other infrastructures; securing employment, stimulating the local economy, and preventing chain-reaction bankruptcy.

## Main Issues

- Public support for revitalization is provided when a business needs to be revitalized for the benefit of society, but cannot be revitalized without this support.
- At the same time, it is pointed out that public support for the revitalization of enterprises that would otherwise be exited from the market makes effects on competition in the market.



The study group **prepared an interim report of the public support for revitalization in view of the competition policy** based on the feedback received from organizations providing public support for revitalization (supporting organizations), enterprises receiving this support (beneficiaries), competitors of these beneficiaries, and experts regarding the systems for and actual state of public support for revitalization in Japan and EU/USA.

## Members of the study group

Chairperson: Daitaro Kishii	Professor, Faculty of Law, HOSEI University
Yuka Aoyagi	Associate Professor, Faculty of International Social Sciences, YOKOHAMA National University
Tatsuo Uemura	Professor, Faculty of Law and School of Law, WASEDA University
Yasushi Oyama	Deputy director of news department, commentator, economic news editor, Fuji Television Network, Inc.
Shiro Kuniya	Managing Partner (attorney), OH-EBASHI LPC & PARTNERS
Tadashi Shiraishi	Professor, Graduate Schools for Law and Politics, the University of Tokyo
Kazuhiko Toyama	Representative Director and CEO, Industrial Growth Platform, Inc.
Toshihiro Matsumura	Professor, Institute of Social Science, the University of Tokyo

## Past deliberations

First meeting	: August 13, 2014	Purposes/objectives, etc. of the study group
Second meeting	: September 10, 2014	Presentation and interview(1) (supporting organizations)
Third meeting	: September 25, 2014	Presentation and interview(2) (beneficiaries, etc.)
Fourth meeting	: October 8, 2014	Presentation and interview(3) (experts of public support for revitalization in EU/USA)
Fifth meeting	: October 24, 2014	Free discussion (1)
Sixth meeting	: November 7, 2014	Free discussion (2)
Seventh meeting	: November 21, 2014	Discussion on the Interim report draft
Eighth meeting	: December 11, 2014	Compilation of the Interim report

## Effects of public support for revitalization on competition

### Distortion of competition

Public support for revitalization interferes with the market mechanism in which more efficient enterprises survive. This support distorts the market mechanism and competition much more than without such support.

### Effects of distortion of competition on the market

- (1) The survival of beneficiaries despite their inefficiency hinders the transfer of demand, etc. from inefficient enterprises to efficient incumbents or new entrants.
- (2) Expectation of relief when facing financial difficulty leads to lessen incentive to promote business efficiency (moral hazard).

## Basic understanding of public support for revitalization in view of the competition policy

In light of the possibility that public support for revitalization would **distort competition and cause various forms of inefficiency by interfering with the market mechanism, the support should be provided with careful prior consideration to its effects on competition.**

## Three principles to consider when providing public support for revitalization

### (1) Principle of subsidiarity

Public support for revitalization should be provided to complement the functions of the private sector only when the business cannot be revitalized smoothly through efforts of the private sector, and public support must be provided for business revitalization.

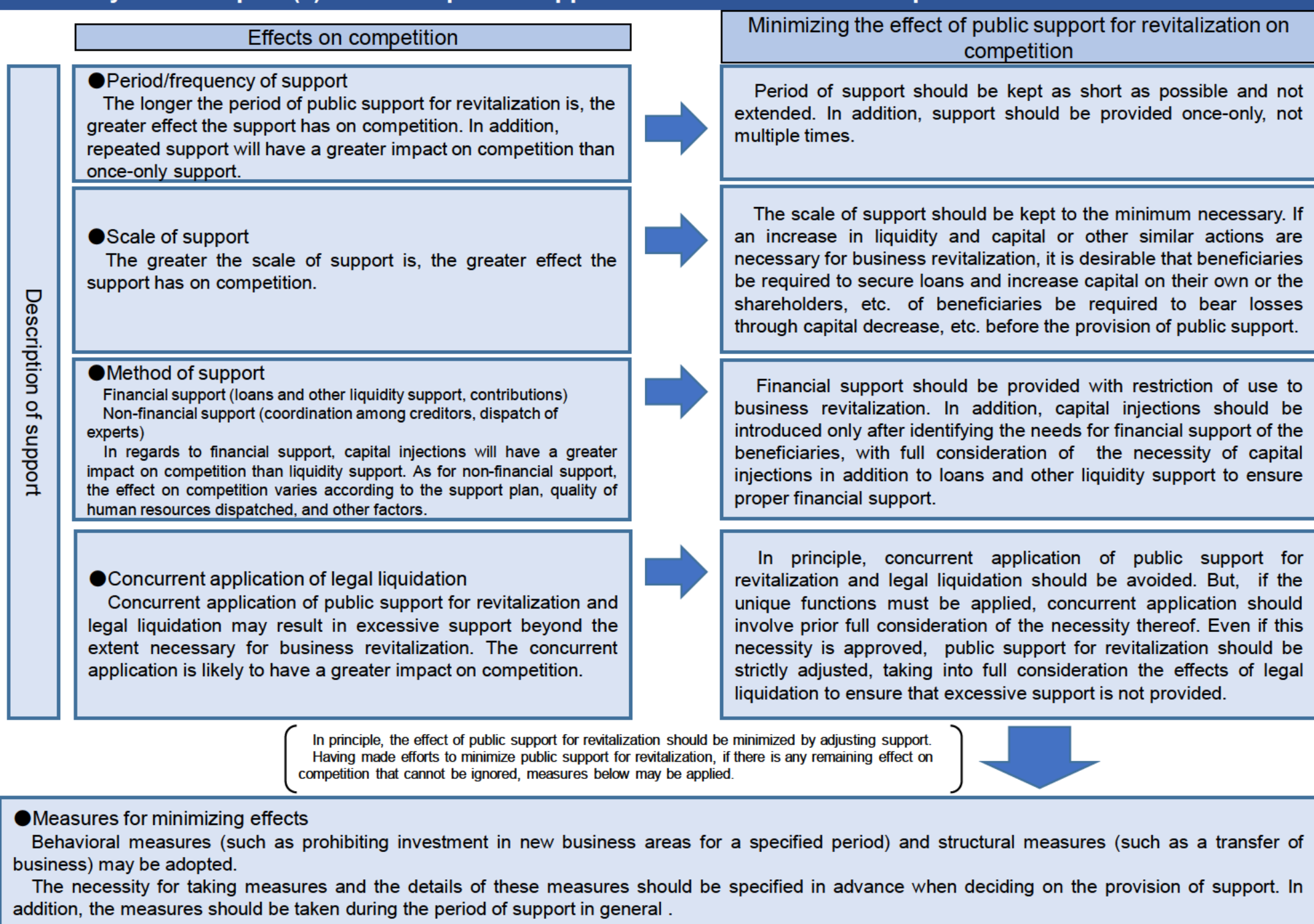
### (2) Principle of minimum necessity

Public support for revitalization should be provided within the minimum means/ways necessary to achieve various policy objectives only when these objectives cannot be achieved without the revitalization of enterprises in financial difficulty.

### (3) Principle of transparency

Information about individual cases, as well as information about general matters such as support standards or procedures, should be made as open as possible.

# Summary of the Report (2) effects of public support for revitalization on competition and action on these effects



### Division of roles between the Japan Fair Trade Commission and supporting organizations

Japan Fair Trade Commission => Preparation/publication of cross-industry guidelines including points that supporting organizations should keep in mind in view of the competition policy when providing public support for revitalization

Supporting organizations => Consideration/evaluation of effect on competition, based on the above guidelines, in cooperation with regulatory agencies as needed when determining specific support for each case.  
Supporting organizations are expected to consult with the Japan Fair Trade Commission as needed when evaluating the effect on competition for individual cases.

### Ex-post measures to restore competition

The adoption of an ex-post measures to restore competition (cessation of support, reduction in support, and financial disadvantage measures to beneficiaries) is considered to be inappropriate when beneficiaries obtain a greater competitive advantage than initially expected because it may impair the incentive of beneficiaries support to carry out business revitalization or the incentive for these beneficiaries' stakeholders (such as financial institutions providing loans to beneficiaries) to commit themselves to the relevant business revitalization. In addition, taking financial disadvantage measures to beneficiaries is considered to be difficult in light of the law system.

### Relevant business regulations, etc.

When beneficiaries and their competitors are subject to a public regulation system, the regulatory agencies may take measures concerning the granting of licenses, permits, etc. to correct distortion in competition and ensure a competitive environment.

In this case, the regulatory agencies should consider measures that promotes competition in the market from the view point of ensuring a competitive environment.

### Ensuring transparency

In principle, the supporting organizations should publicly announce the general standards for the examination of and the procedures for the provision of public support for revitalization to improve the predictability of beneficiaries, their competitors, and their stakeholders.

In addition, if the impact on competition is considered to be large, it is desirable that the details of the support plan and an assessment of the impact of public support for revitalization on competition for individual cases be made as publicly open as possible.

Moreover, when assessing the impact on competition, it is desirable that hearing of competitors, etc. be conducted as needed within a scope which does not affect business revitalization.