

Key Point of “Concept of Public Support for Revitalization in view of Competition Policy ” (1)

Background and purpose

- The “Study Group on Competition Policy and Public Support for Revitalization,” which was made up of experts, was held under the direction of the Minister of State for Special Missions, Cabinet Office and prepared a report in December 2014 on the concept of public support for revitalization in view of the competition policy.
- The report pointed out that the Japan Fair Trade Commission should prepare and publish cross-industry guidelines, including points that supporting organizations should keep in mind in view of the competition policy when providing public support for revitalization.

Public support for revitalization

Support for business revitalization provided by **corporations established in accordance with special laws and financed by the national government** to help **enterprises that face financial difficulties as a result of market competition** despite possessing useful management resources.

Effects of public support for revitalization on competition

Public support for revitalization **interferes with the market mechanism in which more efficient enterprises survive**, and may have the adverse effects listed below:

- (1) Survival of beneficiaries despite their inefficiency **hinders the transfer of demand to efficient incumbents or new entrants and fair allocation of human and physical resources.**
- (2) The expectation of public support for revitalization when facing financial difficulties **leads to less incentive to promote business efficiency** (moral hazard).

Three principles to consider when providing public support for revitalization

Supporting organizations should provide public support for revitalization based on the following principles **with the aim of minimizing effects on competition.**

(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 the efforts of the private sector.

(2) Principle of minimum necessity

When business revitalization is necessary to achieve various policy objectives, the public support should be provided with minimizing the scale, methods, etc. necessary to achieve the relevant business revitalization.

(3) Principle of transparency

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

Key Point of “Concept of Public Support for Revitalization in view of Competition Policy” (2)

Description of public support for revitalization

Effects on competition

- Scale of public support for revitalization
The greater the scale of public support for revitalization is, the greater the effect support has on competition.
- Period/frequency of public support for revitalization
 - The longer the period of public support for revitalization is, the greater the effect support has on competition.
 - Repeated public support for revitalization will have a greater impact on competition than once-only public support for revitalization.
- Method of public support for revitalization (in the case of financial support)
Capital injection will have a greater impact on competition than liquidity support.
- Concurrent application of public support for revitalization and legal liquidation
Concurrent application of public support for revitalization and legal liquidation may result in excessive support, and is likely to have a greater effect on competition than in the case of non-concurrent application.



Matters to consider to minimize the effect of support on competition

- Considering the pump-priming effect of public support for revitalization, it is appropriate that beneficiaries be required before the provision of public support to **secure loans or increase capital on their own, if possible**.
- In an effort to request creditors of beneficiaries to forgive substantial debts, it is desirable to ask shareholders to bear the losses of the beneficiaries through capital decrease, etc.
- The period of public support for revitalization **should be kept as short as possible**. (It should not be extended, in principle.)
- Public support for revitalization should be provided **once-only, in principle**, not multiple times.
- Financial support should be provided **with restriction of use to business revitalization**.
- **Methods and details of the financial support should be determined by taking into consideration** that public support for revitalization has **pump-priming effects**.
- The necessity of capital injection, if proposed, should be examined carefully.
- The necessity of concurrent application for legal liquidation should be examined carefully. (In principle, **if the unique functions of legal liquidity must be applied** for the purpose of business revitalization, the necessity thereof would be approved.)
- If legal liquidation will be concurrently applied, it is appropriate that **the details of public support for revitalization be strictly adjusted, taking into consideration the effects of legal liquidation**.



Measures for minimizing effects

In principle, the effect of public support for revitalization on competition should be minimized by adjusting the details of public support for revitalization. Having made efforts to minimize such effects, however, if there is any remaining effect on competition that cannot be ignored, it is appropriate to consider what measures (for minimizing effects) can be taken to eliminate such effects.

Measures for minimizing effects would include behavioral measures (such as prohibiting investment in new business areas for a specified time period) and structural measures (such as a transfer of business).

Ensuring transparency

- As a specific measure for securing transparency, it is appropriate, for example, to take the following actions:
- The supporting organizations should publicly announce the general standards and the procedures for the provision of public support for revitalization and proactively disclose the implementation process of the public support for revitalization.
 - If the impact on competition is considered to be large, the details of the support plan and an assessment of the impact of public support for revitalization on competition in individual cases should be made as publicly open as possible.
 - When assessing the impact on competition, hearings of competitors, etc. should be conducted as needed within a scope that does not affect business revitalization.