

A Recommendation to Producers of Modifiers
that Conducted Price-hike Cartel Activity

Fair Trade Commission
December 11, 2003

Today, the Japan Fair Trade Commission (the JFTC) issued the recommendation to 2 (two) manufacturers, KANEKA CORPORATION (KANEKA) and MITSUBISHI RAYON CO., LTD. (MITSUBISHI), after the JFTC found that these two companies, on around October 1999 and November 2000, jointly with KUREHA CHEMICAL INDUSTRY CO., LTD.,^(*1) agreed to raise the sales price of modifiers (MBS modifiers, acrylic modifiers, and processing aids)^(*2) used for polyvinyl chloride product (PVC). The JFTC concluded that the agreement constituted unreasonable restraint of trade, violation of the Antimonopoly Act, in the modifier market.

(*1) As of January 1, 2003, KUREHA CHEMICAL INDUSTRY CO., LTD. (KUREHA) transferred the related goodwill for the market in Japan to Rohm and Haas Company (R&H), after which KUREHA provided R&H with the products.

(*2) MBS modifiers and acrylic modifiers are materials added to plastic products for improving the resistance of the finished product to stress and weather. Processing aids are also a kind of modifiers, used as plastic additives for improving the processing characteristics of the product.

This case is a part of world-wide crackdown against modifier producers, commenced by simultaneous inspections dated February 12, 2003 by four of the world major competition authorities; the JFTC, the United States Department of Justice, the Canadian Competition Bureau, and the European Commission.

Due date for the acceptance of the recommendation is December 22, 2003. If the recommendation is accepted, the JFTC will issue a decision, a legally binding order with the same elimination measures as those in the recommendation. Otherwise, the JFTC will initiate hearing procedures.

<Contact>

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〈Summary of the Recommendation〉

○ Companies to which Recommendation is Issued

Name	Location of Headquarter	President
KANEKA CORPORATION	3-2-4, Nakanoshima, Kita-ku Osaka 530-8288, Japan	Masatoshi Takeda
MITSUBISHI RAYON CO., LTD.	1-6-41, Konan, Minato-Ku, Tokyo 108-8506, Japan	Yoshiyuki Sumeragi

○ Elimination Measures the JFTC recommends to do

- (1) Make certain that the agreement of jointly raising sales price ceased to exist on and after January 1, 2003
- (2) Notify the customers of the followings:
 - Measures taken in conformity with above (1)
 - Will not jointly agree of the sales price, but independently reach the pricing decision in the future(As to how to make the notification, the JFTC's prior approval is mandatory)
- (3) Shall not, jointly with other modifier producers, determine the sales price in the future
- (4) Shall not exchange information with other modifier producers as to a markup of sales price of the modifiers
- (5) Undertake measures necessary to carry out periodical internal legal auditing, trainings for sales representatives on Antimonopoly Act, etc., and make it known to the officers and the staff such measures (As to how to carry out the measures, the JFTC's prior approval is mandatory)

○ Outline of the Fact upon which the Recommendation is based

- 1 KANEKA, MITSUBISHI and KUREHA had been holding managerial class meetings, at which they exchanged sales information of modifiers used for polyvinyl chloride.
- 2 While the material costs of the modifiers rose on and after the 3rd quarter of 1999, KANEKA, MITSUBISHI and KUREHA, between around October and November of 1999, talked about how to deal with the cost climbing and agreed to lift the sales price. They consented that they offered to their customers the markups of 20 yen or 25 yen per kilogram from

the lading of November 21, 1999. Besides, in order to settle their negotiations with customers within the year even in case the negotiations would go difficult, they set target markups: at least 10 yen to 15 yen per kilogram for MBS and acrylic modifiers, at least 15 yen to 20 yen per kilogram for processing aids.

3 As the material costs continued to rise in the fiscal 2000 year, KANEKA, MITSUBISHI and KUREHA, between around October and early November of 2000, talked about how to deal with the cost climbing, agreed to lift the sales price and exchanged their views of how to make it. KUREHA expressed to KANEKA and MITSUBISHI that it would raise the sale price in advance of KANEKA and MITSUBISHI and on November 8, 2000, KUREHA made a press release about price-hike of 20 yen or 25 yen per kilogram from the shipping of November 21, 2000. Before or after that, KUREHA requested KANEKA and MITSUBISHI to follow the KUREHA's decision. After that, KANEKA and MITSUBISHI agreed to raise the sales price in cooperation with KUREHA. On November 14, 2000, MITSUBICHI made a press release about raising the sales price of 20 yen per kilogram from the shipment of December 1, 2000. On November 21, 2000, KANEKA made a press release about increasing the sales price of 20 yen or 25 yen per kilogram from the lading of December 21, 2000.

4 KANEKA, MITSUBISHI and KUREHA, along the way of advancing the negotiations with their customers, held managerial class meetings where they exchanged information about their progress of the negotiations with their customers, how much to raise the price, etc., in order to ensure the price increase.

5 Through the conducts mentioned above, KANEKA, MITSUBISHI and KUREHA in effect raised the sales price of the modifiers on the whole.

6 On January 1, 2003, KUREHA transferred the related goodwill to Rohm and Haas Company for the market of Japan, and Rohm and Haas Company anew entered into the market, on and after which the agreement of jointly raising the sales price ceased to exist.

This document is provisional translation to be used primarily for reference. The authentic one is only in Japanese text, which is available from the JFTC's Web site at <http://www.jftc.go.jp/>.