

## JFTC's Approach to Merger Assessment

### Identification of Merger Subject to Review

- Stockholdings, interlocking directorates, mergers, divestitures, acquisitions are relevant.

#### Merger Subject to Review

(Example)

- Mergers, divestitures, or acquisitions (See the right column)
- Stockholding such that the voting right ratio exceeds 50%
- Interlocking directorates such that the officers or employees of one company comprise a majority of the total number of officers of another company, etc.

#### Irrelevant Merger Situations

(Example)

- Mergers, divestitures, or acquisitions between a parent firm and its subsidiary, etc.
- Stockholdings not exceeding 10% of the total voting right without interlocking directorates

No further investigation

### Determination of Relevant Markets

- Demand substitution is the key to determine the boundary of a relevant market.
- Product Market + Geographical Market => Relevant Market
- Price discrimination and supply substitution are considered.

### Assessment of the Effects of a Merger on Competition (Horizontal Merger Case)

- Since horizontal, vertical, and conglomerate mergers differently affect market competition, they must be separately assessed.
- One of horizontal, vertical, and conglomerate mergers, or some of them may be involved in a relevant merger situation.

#### Common Safe Harbor

A merging parties combined market share is 10% or less, or 25% or less with the HHI being below 1000.

Pass

Not Pass (Both assessments are required)

#### Non-coordinated Effects

- Analysis of various types of non-collusive oligopolies
- Safe harbor => Comprehensive examination

#### Safe Harbor

- A merging parties' combined market share is 25% or less, at least one rival's market share is 10% or more, and the HHI is below 1800.
- A merging parties' combined market share is 35% or less, at least two rivals' market shares are 10% or more, and the HHI is below 1800.
- An increment in HHI is below 100, and at least one rival's market is 10% or more.

Pass

Not Pass

#### Comprehensive Examination

- Merging parties' market shares, market share ranks, pre-merger rivalries.
- Non-merging firms' market shares, differences in market share from a merged firm, excess capacity for supply, degree of product differentiation.
- Import and entry, the presence of adjacent product and geographic markets, competitiveness in vertically related markets.
- Efficiency and viability of merging parties.

Not Pass

Substantially to Restrain Competition

Remedial Actions

Not Pass

Prohibition of the relevant merger

#### Coordinated Effects

- Analysis of collusive oligopolies
- Comprehensive examination

#### Comprehensive Examination

- The number of participants, similarity in product and cost structure, pre-merger rivalries among the merging parties, excess capacity for supply.
- Transparency in business transactions, frequency and size of orders, stability and maturity in demand, the speed of technological development, pre-merger competitiveness.
- Import and entry, the presence of adjacent product or geographic markets, competitiveness in vertically related markets.
- Efficiency and viability of merging parties

Not Pass

Substantially to Restrain Competition

Remedial Actions

Not Pass

Prohibition of the relevant merger

NOT Substantially to Restrain Competition