

Japan Fair Trade Commission

Remarks of Commissioner AOKI Reiko

The seventh Meeting of High-level Representatives of Asia-Pacific Competition Authorities November 30, 2022

Thank you, chair, for organizing this event. I will be sharing with you the experience of the JFTC on competition enforcement cooperation, focusing on the Asia-Pacific region.

The JFTC has conducted investigations of both merger and non-merger cases in cooperation with overseas competition authorities, including those in the Asia-Pacific region.

In merger cases, such cooperation is usually conducted after obtaining a waiver from the merging companies. Cooperation generally includes exchange of information or opinions regarding market definition, the effect of merger on competition, how to analyze the effect, the necessity of a remedy, and, if necessary, what remedies are appropriate. Although the specific details of cooperation in individual cases cannot be disclosed, in recent years, the JFTC exchanged information with the ACCC and the USDOJ in the Salesforce/Slack case, with the Competition and Consumer Commission of Singapore and the USFTC in the GlobalWafers/Siltronic case, with the State Administration for Market Regulation of China and the USFTC in the Fujifilm/Hitachi case, for example.

In non-merger cases, we coordinate the timing of dawn-raid with foreign authorities when necessary. Other types of cooperation include the exchange of information or opinions such as on progress of the investigation, market definition, effects of the suspected conduct on competition, and the details of remedies. For example, the JFTC cooperated foreign authorities including the USDOJ in investigating the capacitor cartels, although the specific details of the cooperation cannot be disclosed. Also, in investigation of cases after the capacitor cartels, the JFTC has cooperated with foreign authorities including those in the Asia-Pacific region, when necessary.

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As a future issue for international cooperation on individual cases, especially with regard to merger reviews, we are considering that international cooperation at the stage of information gathering is important in order to identify important non-notifiable transactions including killer acquisitions.

The Government of Japan has concluded Anti-monopoly Cooperation Agreements with the United States, Canada, and the European Communities that stipulate enforcement cooperation, information exchange, etc. among competition authorities. In addition, 18 economic partnership agreements that Japan has concluded, including regional economic partnership agreements such as the TPP and economic partnership agreements with countries such as Australia, contain provisions on cooperation among competition authorities. In addition, the JFTC has signed memorandums on cooperation or arrangements for cooperation among competition authorities with 11 authorities including the Korea Fair Trade Commission.

Such agreements and the like have the effect of facilitating prompt and smooth international cooperation in investigation of individual cases by clarifying in advance that the agreement participants can cooperate and the scope of possible cooperation.

Having bilateral and multilateral meetings with foreign competition authorities to exchange views and information on a wide range of enforcement issues will promote mutual trust and understanding of each other's legislation, thereby building and strengthening the foundation for international cooperation. Also, regular exchange of information on the status of law enforcement between two authorities or among multiple authorities, as well as the exchange of opinions and discussions on cutting-edge issues related to competition law enforcement, such as responses to digital markets, will deepen and converge ideas and enforcement policies. This will also lead to speeding up and facilitation of international cooperation in individual cases.

The JFTC has held regular or irregular top-level bilateral meetings with overseas authorities, including those in the Asia-Pacific region. It has also actively participated in and contributed to multilateral frameworks such as the East Asia Top Level Officials' Meeting on Competition Policy, OECD, ICN,

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UNCTAD, APEC, and G7.

To conclude, the key to effective international cooperation in competition enforcement is building trust among authorities, which requires person-to-person interaction of enforcers. The JFTC will continue to strengthen relationships at a personal level among authorities in the Asia-Pacific region through exchanges at international fora, including the OECD, and bilateral exchanges, to further promote international enforcement cooperation.