

JFTC's effort to utilize economic analysis for the better implementation of competition law & policy including capacity building of its staff with regard to economic analysis

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Toshiyuki NAMBU

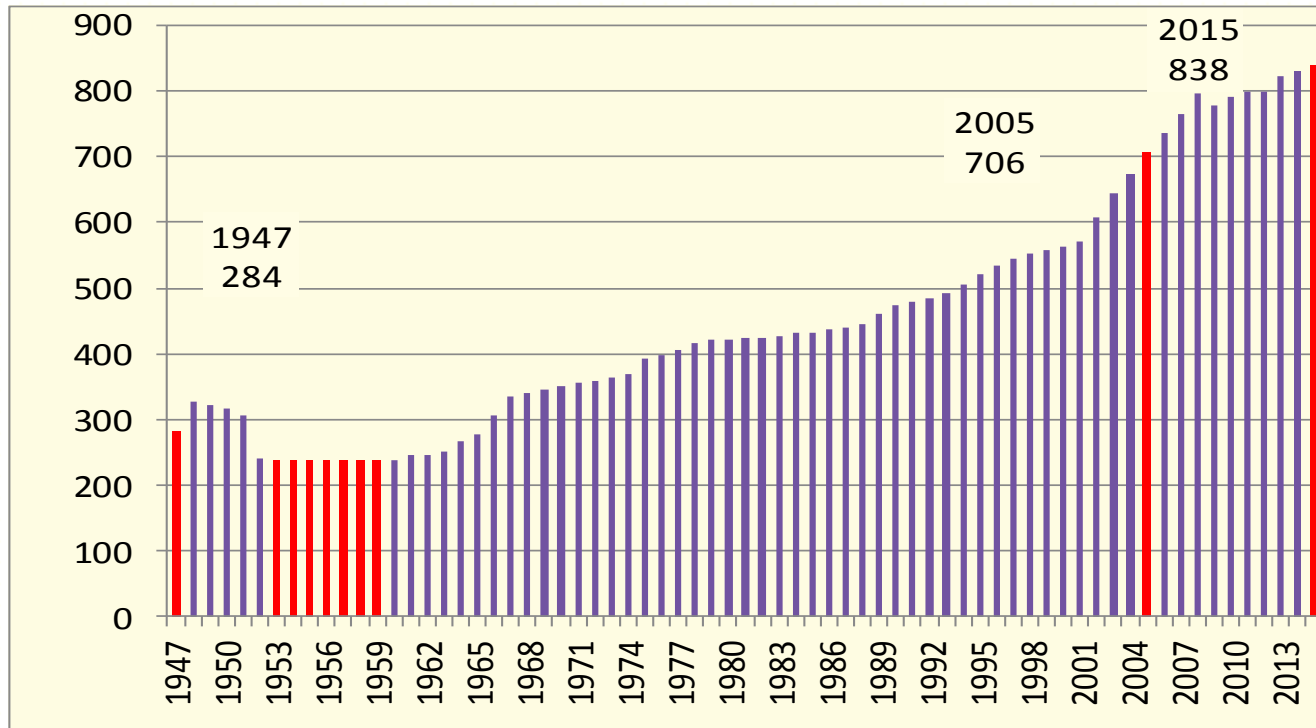
Kazuhira NAKASATO

Japan Fair Trade Commission

Disclaimer: the views expressed in this presentation are solely those of the speakers and do not necessarily reflect those of the JFTC. All errors in this presentation are ours.

- 1 Capacity building and the institutional setting with regard to the economic analysis within the JFTC
 - a) Number of economists in the JFTC
 - b) Capacity building activity for the JFTC staff with regard to economic analysis
 - c) Competition Policy Research Center (CPRC)
 - d) Economic Analysis Team
- 2 Research activities and survey results of economic analysis of the CPRC
- 3 The application of economic analysis in a real cartel case

The Change of Number of Staffs in the JFTC



Number of economists in the JFTC ;

-6 economists

(4 ; Limited-term staffs 2 ; Permanent staffs)

Capacity building activity for the JFTC staff with regard to economic analysis



- Basic Training Course

Outline	Participants	Lecturer	Duration
Basic knowledge of Economics and Theory of industrial organization	Junior staff	Academic	4 days × 2 times (summer and autumn)

- Advanced Training Course

Outline	Participants	Lecturer	Duration
Improve staff's ability to utilize economic analysis for enforcement of the competition law and planning of competition policy	Recommended Staff	Academic	2 hours

- Founded in 2003 as an internal research center of the JFTC
- Features of research in CPRC

Medium-and
Long-term
point of view

Strengthening
of theoretical
Basis

Cooperation
with external
researchers

Staff of CPRC

- 1 Director (an economics professor) and Chief Researchers (2 economics professors and 2 law professors) are part-time (basically one day a week)
- 2 The secretariat office: 13 full-time researchers/administrators including 2 economists

- Established in April, 2016
- Constituted by staff who acquired a master or higher degree on economics, economists who are limited-term officials, etc.
- The Team was organized for the purpose of providing assistance based on economic knowledge in response to a request from each department of the JFTC.

Expected support by the Economic Analysis Team

- Practical support on quantitative economic analysis
- Theoretical support against economical counterargument from the company under investigation
- An advice from the economic point of view at the time of enactment and revision of the guidelines
- Quantitative economic analysis on the impact of regulation

"Tripartite Collaboration"

- *staff members of the JFTC, economists and jurists*
- **Collaborative research report (4 or 5 themes every year)**
(<http://www.jftc.go.jp/en/cprc/reports.html>)
 - Trends in the Electronic Book Market(2013.06.26)
 - Competition Policy in Network Industries – Comparative Legal Studies across Japan, USA and EU and Economic Analysis -(2012.10.11)
 - Ex-post Evaluation of the Effect of the Concentration of Patented Technologies by Business Combination(2012.02.27)
 - Utilization of Economic Analysis in Cartel Regulation - CPRC Handbook Series No.2 – (2012.02.06)
 - Ex-post Evaluation of Business Combination – Application of Economic Analysis on Competition Policy (2011.11.17)
 - Anticompetitive and Pro competitive with respect to Exclusive dealing contract (2011.07.15)
 - An Analysis of Anti-competitive Effects on Business Conduct in a Successive Oligopoly Market (2011.04.28)

Collaborative research concerning bid rigging

- Research on screening method as a tool to detect anticompetitive violation (2016)
- Research on low price bidding (2012)
- Research and analysis on bid-rigging mechanism (2010)
- Economic analysis on bid-rigging (2005)

• **Discussion papers**

(<http://www.jftc.go.jp/en/cprc/discussionpapers/index.html>)

- "Competition and International Competitiveness: Evidence from Japanese Industries" (2014.2)
- "Durable Goods Price Cycles: Theory and Evidence from the Textbook Market" (2011.10)
- "Competition Policy in Japan: An Economic and Legal Introduction with Illustrative Cases"
- "The Impact of Mergers on Profits, Share Value, Innovation, and Product Prices in Japan in the 2000s"
- "Ex-post Examination of Business Combination: Impacts on Retail Prices" (2011.5)
- "The Effects of Non-assertion of Patents Provisions -R&D Incentives in Vertical Relationships-" (2011.4)

1 Closed event

- **Workshop (about 5 times a year, 143 times so far)**
- **Informal Workshop**
- **CPRC Seminar**
- **BBL (Brown Bag Lunch Meeting)**
- **Staff training**

2 Open event

- **International Symposium**
(Once a year basis, 13 times so far)
- **Open Seminars**
(3-4 times a year, 41 times so far)

Date to be noted	Simultaneous dawn raids on February 12,2003, JFTC recommendation on December 11,2003, Public hearing initiated on February 2 nd ,2004, Decision order on November 9 th , 2009, Decision of the Tokyo High Court on December 10, 2010
Violators	3 manufactures of modifier; KANEKA, MITSUBISHI and KUREHA
Products: modifier	Chemical materials added to polyvinyl chloride products for improving the resistance of the finished products
Agreement on 1999	KANEKA, MITSUBISHI and KUREHA <u>consented</u> that they offered to their customers the markups of 20 yen or 25 yen per kilogram from the lading of November 21, 1999.
Agreement on 2000	KUREHA expressed to KANEKA and MITSUBISHI that it would <u>raise the sale price in advance</u> and on <u>November 8th 2000</u> , <u>made a unilateral press release</u> about price-hike. Before or after that, KUREHA <u>requested</u> KANEKA and MITSUBISHI to <u>follow the KUREHA's action</u> . On <u>November 14th</u> ,MITSUBISHI made a press release about raising the sales price. On <u>November 21st</u> , KANEKA made a press release about raising the sales price.

◆ *Discussion on the hearing*

Communications of intent did not exist among three defendant companies ⇒ No tacit agreement. Only a conscious parallelism

➤ **Submit an economic evidence to impeach the finding of the investigators;**

- Correlations between the activity of negotiations and the actual price is not tangibly recognized in this case, which shows the fact that the activity of negotiations could not have substantially restricted competition.
- According to the economic analysis, the price of modifiers were decided mainly by the price of the materials, price of finished products using modifiers, the demand on the substitute products of finished products using modifiers and so on.
- The quality of products is the main target of competition in modifier and without the restriction of the quality of products, competition in modifier markets could not be substantially restrained.
- According to the economic analysis of the price change of modifier, there is no tendency of restriction of competition and the price change of modifier could be explained by the outside factors other than cartel.

◆ *Judgement of the hearing decision*

- Sales price could not hike without the negotiations with the customers to raise the sales price and the defendants cooperated in those negotiations and realized a certain level of increase of actual price.
- The fact that actual sales price was not coincident with the cartel price or the fact that actual price hike of all grades of cartel products did not realize do not deny the finding of substantial restraint of competition.
- Price is the important method of competition and the assertion of the economic evidence that without the restriction of the quality of products, competition in modifier markets could not be substantially restrained is not adopted.

◆ *Judgement of the Tokyo High Court decision*

- In order to recognize the substantial restraint of competition, there is no need to consider the correlations between the activity of negotiations and the actual price as asserted by the economic evidence.
- The decision of the JFTC that the agreement among the parties resulted in substantial restraint of competition is to be upheld even if the price-hike of materials, etc. was the reason of the price-hike of modifiers as was asserted in the economic evidence.

**Thank you very much for
your attention!**



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<http://www.jftc.go.jp/en/index.html>