



EU cartel law – basic concepts, impact on Japan and recent highlights

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Outline

Basics of EU cartel policy

EU cartel policy and Japan

Some highlights of 2015



Cartel enforcement is a priority

"Fighting cartels is a very high priority for the European Commission. This is because of the serious harm cartels cause to consumers and businesses. And the huge damage cartels inflict on the economy as a whole in terms of removing incentives to compete on prices or to innovate."

Commissioner Vestager, 24 June 2015

This priority is in line with President Juncker's new Commission priorities on jobs, growth and investment.

Consumers must have free choice and access to the most innovative products at fair prices

Basics of enforcement policy - 1

We are entrusted to enforce the rules only when compliance fails

No "targeting"

- Investigation of all cases for which there is sufficient evidence – regardless of economic sector and size of markets involved
- Investigation of all parties for which there is sufficient evidence (no "targeting"), regardless of size and degree of involvement in the cartel
- Investigation of the whole duration of continuous infringement

Fines

- Calculated on the basis of gravity, duration and individual circumstances
- Maximum amount of 10% of total turnover

Basics of enforcement policy - 2

Two level system

- EU level enforced by Commission (cartels covering 3 or more MS)
- MS level enforced by 28 MSs

Our investigations

- Leniency program since 1996 – last reviewed in 2006
- Ex officio cases (informants, NCAs, market monitoring)
- Collecting evidence through dawn raids and information requests
- Statement of objections, right to be heard, judicial review
- Settlement procedure: 10% discount for acknowledging liability, on top of leniency reduction



Importance of EU – Japan relations

Japan is the EU's 7th largest trading partner: 3% of total EU trade in goods

2003 EU-Japan bilateral cooperation agreement on competition: policy dialogues, effective case cooperation, bilateral meetings

EU-Japan FTA negotiations: In July 2015, negotiators discussed a comprehensive Competition Chapter

Strong cooperation with Japan FTC

Good co-operation on co-ordination of inspections and requests for information – for example Car Parts

Efficient communications between authorities thanks to (i) exchanges of JFTC staff at Cartel directorate (ii) JFTC single contact point for immunity/leniency coordination on all international investigations.

Discussions of cartel enforcement policy issues at international fora, such as the International Competition Network (ICN).

Cartel cooperation with Japan is 19% of our total cooperation with other authorities

Some statistics

- First cartel decision adopted in 1969 (*Quinine*)
- First Japanese company fined in *Stainless Steel Tubes* (1999)
- Since 2010, immunity to Japanese companies in *Smartcard Chips*, *Bearings* and *Wire harnesses*.

2010 - 2015	Total	Japanese	%
Fines	€ 9.295 bn	€ 1.215 bn	13%
Undertakings	215	32	14.8%
Fines (S)	€ 4.287 bn	€ 493 m	11.4%
Undertakings (S)	81	14	17.2%

In 2010 – 2015, 35 cartel decisions were adopted, including 19 settlements

Recent and ongoing cases

Electrolytic capacitors – Statement of Objections sent in November 2015

Optical Disk Drives – ordinary fines decision adopted in October 2015

Power Cables – ordinary fines decision adopted in April 2014

2015 Highlights I – LCDs and CRTs

Jurisdiction: "Implementation" – sales into the EU (Woodpulp)

For fines calculation (value of sales) this covers:

- 1) *Direct sales into the EU of the cartelised product, and*
- 2) *Direct sales through transformed products – cartel in an intermediate product that cartelists incorporate into a final product that they sell in the EU: Confirmed in Innolux*

2015 Highlights II - Settlements

System is mature and works well – efficiency savings, shorter decision and 10% fine discount

Acknowledgement of infringement is key point

Court has confirmed in *Timab* the legality of hybrid cases where not everyone wishes to settle

One tool in the toolbox – depends on circumstances (number of parties, degree of contestation, novel issues, aggravating circumstances)



Thank you!

Questions