

Market Definition and Market Effects of Concerted Actions as Compared with the Japanese Antimonopoly Act

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Abstract

According to the provision of Article 14 of the Fair Trade Act, apart from proving that a mutual understanding exists between the enterprises, when seeking to identify a concerted action it is necessary to examine whether the joint action results in an impact on the market's function with respect to production, trade in goods or the supply of and demand for services, which means that it is necessary to measure the market effects of a joint action between the enterprises. Therefore, it is necessary to define the "relevant market" in order to inspect the market effects of a concerted action between the enterprises. Since it is not easy to define the relevant market, how to specifically identify the market effects becomes the significant issue when identifying the concerted action. This paper begins by identifying the essential elements of a concerted action, discusses practical cases, and considers the necessary standard when seeking to identify the relevant market and market effects.

In this paper, we will discuss the definition of a relevant market and the market effects when determining the elements that constitute a concerted action. As the elements that constitute a concerted action according to the Japanese Antimonopoly Act are quite similar to those defined by Taiwan's Fair Trade Act, a comparative approach is adopted in this paper to discuss the similarities and differences between the two countries in an attempt to discuss the accreditation criteria of appropriate relevant market practices and market effects of a concerted action in the market sector.

Keywords: Concerted Action, Japanese Antimonopoly Act, Relevant Market, Market Share, Market Effects.