
Legal Updates & News

Legal Updates

Japan Fair Trade Commission Finalizes Merger Guidelines

June 2007

by [Kei Amemiya](#)

Related Practices:

- [Antitrust & Competition Law](#)
- [Litigation](#)

[This update is also available on our Japanese language site.](#)

On March 28, 2007, the Japan Fair Trade Commission (JFTC) published revised “Guidelines on the Application of the Anti-Monopoly Act to Reviewing Business Combinations” (*Kigyō Ketsugo Shinsa ni Kansuru Dokusenkinshihō no Unyō Shishin*).^[1] These final, revised Guidelines incorporate public comments received since the JFTC’s publication of the preliminary revisions on January 31, 2007. Most of the changes to the preliminary draft Guidelines are minor revisions in terminology to avoid misconstruction.^[2]

The revised Merger Guidelines maintain the same fundamental approach to merger review as they have had in the past, but introduce some new concepts in areas such as geographic market definition and the scope of safe harbors. For details, please refer to our earlier update, *JFTC Proposes Important Changes to Japan’s Merger Guidelines*, at <http://www.mofo.com/news/updates/files/update02320.htm>.

Along with its release of the final Merger Guidelines, the JFTC published a statement of its revised policy on pre-consultation in the merger review process. Chief among the revisions to the JFTC’s pre-consultation policy is a new list of materials parties are advised to provide the JFTC during pre-consultation. The new policy advises parties to provide information such as the size of new production facilities and financing required for new entry, as well as any internal studies on efficiencies the parties may have conducted.

Footnotes

^[1] The Japan Fair Trade Commission’s Revised Merger Review Guidelines are available in English translation at: <http://www.jftc.go.jp/e-page/legislation/ama/RevisedMergerGuidelines.pdf>.

^[2] One notable change in this area is the removal of the word “prove” from the Guidelines’ section on efficiencies. Commenters had argued that use of such the term was inappropriate because the Guidelines do not discuss proof in any other location.