

Law Statement of Purpose

As the official of Japan Fair Trade Commission (JFTC) governing Antitrust law, my goal is to create the first bill in Japan regulating Across Platform Parity Agreements (APPAs) to secure legal foreseeability of market players in Japan to guarantee competitiveness of enterprises.

My public law study at Waseda law school noted me that the issues of chilling effect might interfere with business activities of enterprises, which should be performed freely based on the principle of private autonomy. Since Antitrust law allows multiple interpretations of the requirements, I wanted to know the mechanism of protecting business activities from this effect in the real world. This motivation let me choose my career at JFTC.

The experience of Amazon investigation and research about APPAs as a member of International Competition Network (ICN) in 2016 made me decide to step out into action to ensure the competitiveness of enterprises by establishing clear and concrete guidelines for enterprises. As the youngest project member, I investigated the Amazon Japan G. K. suspected to restrict business activities of the sellers in Amazon Marketplace including APPAs in the seller contracts. My biggest challenge was to research the reports and decisions by foreign competition authorities such as German Amazon case, German Booking.com case, and EU Amazon's e-book case dealing with APPAs. These tasks were vital for the investigation as it lacked in direct precedents in Japan. After gaining knowledge of EU competition laws such as Treaty on the Functioning of European Union by my own, I studied the influences that APPAs restricted business activities of the counterparts, and evaluated these facts to determine whether APPAs' effects limited or restricted competition in relevant markets. Finally, my reports elucidated the key points of the verdicts for other investigators.

Also, in order to share the latest knowledge about APPAs on the whole JFTC with other members, I further analyzed other cases in APPAs and presented my analysis at the JFTC conference of ICN. I researched online Hotel Reservation Service (HRS) case in Germany in which the APPAs were certified as violations of EU and German competition laws. This experience convinced me that the concept of Narrow APPAs is effective in use to protect internet platform operators and to avoid reducing their investments for internet platform operators to attract buyers. My analysis revealed that most of the foreign competition authorities allow internet platform operators to implement Narrow APPAs, a regulation form that takes pro-competitive effects into account such as eliminating free-rider problems. Thus, I concluded that Narrow APPAs could properly secure pro-competitive effect compared to prohibiting all types of APPAs. Also, I realized that Narrow APPAs have to be allowed for business entities in Japan. My report was highly evaluated by my supervisors.

However, I also noted that primarily regulations of APPAs have been conducted by case laws, not by clarified laws. This situation may arise out of the fact that APPAs own both pro-competitive and anticompetitive effects, resulting in tough forecasting whether or not their implementing APPAs are judged to be illegal by competition authorities. In Japan, as long as I know, JFTC has not stated a clear position regarding APPAs yet. Until providing the clear criteria, companies may be hesitant to use all kinds of APPAs including Narrow APPAs.

The only breakthrough measure for this circumstance is to establish a bill that admits the Narrow APPAs to platform operators in Japan. As my goal after LL.M at Georgetown, to establish the bill, as the working member of APPAs, I will examine the economic effects of the law on the Japanese market with economists to avoid that the anticompetitive effect exceeds the pro-competitive effect. Additionally, I will investigate the precedent legislations around the world to understand how these laws have been formulated and functioned to examine the pros and cons to confirm that these legislations can work in Japan properly. I believe my research will be the cornerstone to establish the first concrete rules specialized in APPAs in Japan. After the process, conducting interviews with industry associations to reflect characteristics of industry properly, I will propose the bill to national Diet of Japan.

LL.M program at Georgetown with various courses of antitrust law will answer my needs. Specifically, through the course of "Hot Topics in Antitrust," I would like to understand how to establish competition law that appropriately captures the characteristics of specific industries. Since characteristics vary widely from industry to industry, unless they can be understood properly, competition law may become an armchair theory. For instance, I am eager to analyze legislative facts of The Insurance Code in Michigan prohibiting all types of APPAs in health care industry.

In order to accurately investigate the influence of such factors on the specific industry, I must gain skills in economic analysis. The course "Antitrust Law" will allow me to analyze pro-competitive and anticompetitive effects from economics points of view to establish a proper bill. It is necessary to prove the economic benefit that the bill brings to the Japanese market exceeds the economic disadvantage to protect the future economic development of our country. Through these courses, I eagerly desire to share my experiences, especially on Amazon investigation as the only expertise of APPAs in JFTC who apply for U.S. LL.M this year. I hope my experience would be useful for lawyers and administrative officials to grasp how APPAs, which have been discussed around the world, were handled in the actual case for enabling them to approach real concerns practically.

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