Japanese Experience: Sustainability and Competition Law

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Abstract

This paper analyzes the intersection of competition law and sustainability initiatives in Japan, focusing on the Japan Fair Trade Commission's revised Green Guidelines and recent consultation cases. While collaborative green initiatives generate public benefits, they risk violating the Antimonopoly Act through cartelization or information exchange. Examining the JFTC's case experiences, this study evaluates how the authority provides legal certainty while balancing impacts on competition with environmental goals. The findings suggest that while the framework enhances predictability for green initiatives, continued outreach and awareness-raising efforts regarding the Green Guidelines and consultation system are essential to mitigate the chilling effect on sustainability initiatives. Furthermore, it is crucial to share international experiences and maintain continuous dialogue among competition authorities to address global sustainability challenges.

Keywords

competition law, sustainability, Japan Fair Trade Commission (JFTC), Green Guidelines, joint conduct, prior consultation system.

1. Introduction (Background and Research Question)

Addressing climate change is one of the highest priorities and most pressing challenges in modern society. In Japan, a record-high temperature of 41.8°C

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The views expressed in this article are those of the authors and do not necessarily reflect the official views of their affiliated organization.

was recorded in August 2025[2], and natural disasters such as typhoons and torrential rains have claimed many lives while causing immense economic damage. Against this backdrop, national-level frameworks for environmental policy are being firmly established, as exemplified by the government's declaration of "2050 Carbon Neutrality" in 2020[3].
As industries navigate this transition toward decarbonization and companies push forward with initiatives to improve sustainability, discussions have emerged regarding the risk of collaborative actions among businesses conflicting with the Antimonopoly Act (hereinafter referred to as the "AMA"), leading to a so-called "chilling effect" (regulatory uncertainty discouraging initiatives).
The research question addressed in this paper is as follows:
"In Japan, how has the Japan Fair Trade Commission (hereinafter referred to as the 'JFTC') advanced its efforts to balance the maintenance of fair and free competition in the market with the realization of a sustainable society (the promotion of Green Transformation, or GX)? Furthermore, what implications do the JFTC's practical experiences, accumulated through its unique guidelines and consultation system, offer for future economic and competition analysis?"

2. Methodology

To examine the aforementioned question, this paper adopts the following methodologies:

- **Institutional and Historical Analysis:** Tracking the evolution of multiple environment-related guidelines formulated since the establishment of the JFTC in 1947 to map out the paradigm of law enforcement unique to Japan.

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[2] Japan Meteorological Agency, Factors behind Record-High Temperatures over Japan in Summer 2025 and Dry Conditions in July (30 September 2025)
<https://www.data.jma.go.jp/tcc/data/news/press_20250930.pdf>
accessed 30 June 2026

[3] Prime Minister's Office of Japan, Policy Speech by the Prime Minister to the 203rd Session of the Diet, October 28, 2020,
<https://japan.kantei.go.jp/99_suga/statement/202010/_00006.html>
accessed 30 June 2026

- **Qualitative Case Studies:** Analyzing the structure of the "Green Guidelines" formulated in 2023 and revised in 2024, while scrutinizing actual instances of individual consultation cases processed by the JFTC as well as a merger review case.

3. Historical Background and Recent Policy Trends in Japan

The JFTC has formulated and published multiple guidelines related to environmental protection for over 30 years. For instance, the "Guidelines Concerning Joint Research and Development under the Antimonopoly Act[4]," established in 1993, explicitly stated that joint research and development aimed at environmental protection would, in many cases, not raise issues under the AMA. Similarly, the "Guidelines Concerning the Activities of Trade Associations under the Antimonopoly Act[5]," established in 1995, indicated that it is permissible in principle for trade associations to set common voluntary standards for environmental protection. As a particularly notable pioneering example, the JFTC published the "Guidelines Concerning Joint Activities for Recycling under the Antimonopoly Act[6]" in 2001 to clarify the application of the law.

In addition, the JFTC has operated the "Consultation System on the Antimonopoly Act[7]" since 1979, repeatedly responding to prior consultations

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[4] Japan Fair Trade Commission, *Guidelines Concerning Joint Research and Development under the Antimonopoly Act* (JFTC 1993) <https://www.jftc.go.jp/en/legislation_gls/imonopoly_guidelines_files/jointresearch.pdf> accessed 30 June 2026

[5] Japan Fair Trade Commission, *Guidelines Concerning the Activities of Trade Associations under the Antimonopoly Act* (JFTC 1995) <https://www.jftc.go.jp/en/legislation_gls/imonopoly_guidelines_files/20122502.pdf> accessed 30 June 2026

[6] Japan Fair Trade Commission, *Guidelines Concerning Joint Activities for Recycling under the Antimonopoly Act* (JFTC 2001) <https://www.jftc.go.jp/en/legislation_gls/imonopoly_guidelines_files/recycle.pdf> accessed 30 June 2026

[7] Japan Fair Trade Commission, Consultation System on the Antimonopoly Act (available only in Japanese) <https://www.jftc.go.jp/soudan/jizen/index.html>

from businesses and trade associations. (There are two patterns: prior consultations, where the JFTC issues a written response, and general consultations, where the JFTC responds orally, with the latter accounting for the vast majority). Through this system, a significant volume of cases directly or indirectly related to sustainability has accumulated.

For example, in a consultation case regarding charging for plastic shopping bags[8] (FY2019), a retail trade association planned to establish a voluntary guideline. Concurrently with the mandatory charging for plastic bags, this guideline sought to set a fixed unit price of "3 yen (roughly equivalent to 1.8 US cents) per bag" for eco-friendly plastic bags that were otherwise exempt from mandatory fees. The JFTC determined that providing plastic bags was merely an incidental service attached to product sales and did not restrict core product competition. Furthermore, the JFTC concluded that the unit price setting was intended to prevent the emission-reduction objective from being undermined by excessive discount competition and lacked binding force. Therefore, it was deemed within a reasonable scope for a legitimate environmental objective and responded that it would not raise concerns under the AMA.

In another consultation case regarding the unification of calculation methods for energy consumption by a trade association[9] (FY2016), a manufacturers' association planned to establish a voluntary standard setting a common calculation method (simulation conditions) for energy consumption. This was intended to make it easier for consumers to compare and understand the energy-saving effects of products. The JFTC determined that this initiative did not restrict the performance or price of the products themselves, but rather facilitated appropriate product selection by consumers. Judging that it did not impede fair competition, the JFTC responded that it was unobjectionable under the AMA, thereby supporting the provision of environmentally conscious

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accessed 30 June 2026

[8] Japan Fair Trade Commission, *consultation case regarding charging for plastic shopping bags* (FY2019)
<https://www.jftc.go.jp/dk/soudanjirei/r2/r1nendomokuji/r1nendo12.html>
accessed 30 June 2026 (available only in Japanese)

[9] Japan Fair Trade Commission, *consultation case regarding the unification of calculation methods for energy consumption by a trade association* (FY2016)
<https://www.jftc.go.jp/dk/soudanjirei/h29/h28nendomokuji/h28nendo10.html>

information. The publication of such consultation cases has served as a reference for businesses planning sustainability initiatives and is presumed to have encouraged such efforts to a certain extent.
However, driven by rapid changes in environmental conditions in recent years, the business community began demanding greater predictability that transcended traditional frameworks. In particular, regarding emissions reduction across entire supply chains, there was an urgent need to address cases involving the sharing of data that is typically classified as "competitively sensitive information" under competition law.
In response to these demands, the JFTC announced in October 2022 that it would consider formulating new guidelines to organize Antimonopoly Act interpretations regarding business activities aimed at realizing a green society[10]. Following discussions at a study group of experts[11] established to examine the content of the guidelines, the JFTC formulated the "Guidelines Concerning the Activities of Businesses, etc. Toward the Realization of a Green Society under the Antimonopoly Act[12]" (hereinafter referred to as the "Green Guidelines") in March 2023. The JFTC explicitly stated in the Green Guidelines that it would continuously review them based on changes in markets and business activities, specific law enforcement, and consultation cases, while engaging in dialogue with businesses and relevant ministries. True to its word, the JFTC announced a revision in October 2023—just six months after the initial formulation—and published the revised version of the guidelines in April 2024[13] to further

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accessed 30 June 2026 (available only in Japanese)

[10] Japan Fair Trade Commission, Regular Press Meeting of the Secretary General (12 October 2022)
<https://www.jftc.go.jp/houdou/teirei/2022/oct_dec/221012.html>
accessed 30 June 2026 (available only in Japanese)

[11] Japan Fair Trade Commission, Study Group on Guidelines for Business Initiatives toward Green Society
<https://www.jftc.go.jp/soshiki/kyotsukoukai/kenkyukai/grenn/>
accessed 30 June 2026 (available only in Japanese)

[12] Japan Fair Trade Commission, *Guidelines Concerning the Activities of Businesses, etc. Toward the Realization of a Green Society under the Antimonopoly Act* (JFTC 2023)
<https://www.jftc.go.jp/en/legislation_gls/240424EN.pdf>
accessed 30 June 2026

enhance predictability for businesses.

The three main pillars of the revision are as follows:

1) **Further Clarification of Interpretations Regarding Initiatives Such as Joint Disposal of Facilities and Joint Procurement:** The JFTC explicitly stated that even restrictive actions concerning matters of high competitive importance, such as production volume, may not raise issues under the AMA. It explained that such actions would not be problematic if powerful competitors exist, or if competitive pressures from overseas imports or buyers are taken into account. Additionally, hypothetical examples of non-problematic cases were added, and explanatory texts were expanded.
2) **Clarification of Interpretations Regarding the Measurement and Evaluation of Decarbonization Effects:** Text was added regarding how to demonstrate and evaluate whether an initiative qualifies as an activity toward realizing a green society, or when claiming decarbonization effects as pro-competitive efficiencies. Furthermore, descriptions regarding cooperation with relevant ministries, such as the Ministry of the Environment and the Ministry of Economy, Trade and Industry, were incorporated.
3) **Addition of Hypothetical Examples and Explanations Based on Business Needs:** This included adding non-problematic examples concerning information dissemination and exchange, adding examples regarding the abuse of superior bargaining position against small and medium-sized logistics operators, and expanding explanations and adding hypothetical examples regarding market definition and case analysis in merger reviews. The JFTC has committed to continuing its ongoing review of the revised Green Guidelines moving forward.

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[13] Japan Fair Trade Commission, JFTC Revises 'Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society under the Antimonopoly Act' (24 April 2024)
<https://www.jftc.go.jp/en/pressreleases/yearly-2024/April/240424.html>
accessed 30 June 2026

4. Structure and Characteristics of the Green Guidelines

The 2024 revised edition of the "Green Guidelines" consists of six chapters, comprehensively covering a wide array of anticipated activities associated with the promotion of GX. These include the creation of voluntary standards by trade associations, joint research and development, joint procurement, and the sharing of technology and information.

The most prominent feature of these guidelines is the inclusion of an exceptionally large number of specific, hypothetical examples designed to accommodate practical business operations. Specifically, 76 hypothetical examples were included at the time of initial formulation, and 8 additional examples were added through the revision, bringing the current total to 84.

Furthermore, while similar guidelines by European Commission, UK CMA and others primarily target cartels and joint conduct (horizontal agreements), the Japanese guidelines cover not only joint conduct but also unilateral conduct (unfair trade practices, etc.), the abuse of superior bargaining position, and even evaluation policies in merger reviews. This comprehensive coverage across the entire spectrum of competition law regulation represents a unique strength unparalleled internationally.

As noted above, the JFTC has stated its intention to continuously review the Green Guidelines based on the accumulation of cases even after the 2024 revision. As part of this effort, and to gauge the level of awareness of the Green Guidelines among businesses as well as their AMA-related concerns regarding initiatives for carbon neutrality, the JFTC conducted a survey[14] in the autumn of 2024 targeting approximately 1,600 companies listed on Japan's Tokyo Stock Exchange Prime Market (643 responding businesses, response rate of 39%). The survey revealed that 44% of responding businesses were aware of the Green Guidelines. Broken down by industry, awareness was high in the manufacturing sector, whereas a lower trend in awareness was observed in the wholesale/retail and finance/insurance sectors. Additionally, 8% of responding businesses reported that they had discussed on compliance of the AMA regarding their initiatives or abandoned their initiatives due to concerns under

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[14] Japan Fair Trade Commission, Outsourced Survey on Trends in the Green Sector (JFTC 2024)
<https://www.jftc.go.jp/dk/greentorikumi/greenitakuchosa.pdf>
accessed 30 June 2026 (available only in Japanese)

the AMA, with the vast majority of those cases relating to business collaborations with competitors.
Taking these results into account, the JFTC intends to consider continuous revisions to the Green Guidelines—such as adding new hypothetical examples—to achieve further improvements in predictability[15]. Concurrently, it plans to promote wider public relations activities to increase awareness of the Green Guidelines[16].

5. Main Findings from Consultation Cases and Merger Reviews

Following the formulation and revision of the Green Guidelines, the number of individual consultations related to sustainability increased to approximately 20 cases per year[17]. The main findings obtained from actual consultation cases are as follows:

Flexible Comprehensive Assessment in Individual Consultations

Rather than stopping at a formalistic prohibition of cartels, the JFTC comprehensively assesses the rationality of the activity's purpose and the adequacy of the means employed for them, the scope of its anticompetitive effects and pro-competitive effects. Specific examples include the following cases:

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[15] JFTC (n 13).

[16] Japan Fair Trade Commission, Request for Public Comments on the Draft of Revised 'Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society under the Antimonopoly Act' (15 February 2024) <https://www.jftc.go.jp/en/pressreleases/yearly-2024/February/240215.html> accessed 30 June 2026

[17] Japan Fair Trade Commission, Statement by the Secretary General at a regular press conference (26 February 2025) <https://www.jftc.go.jp/en/about_jftc/index_3_250226.html> accessed 30 June 2026

- **Joint Action Toward Realizing Carbon Neutrality by Operators in a Petrochemical Complex (FY2023)[18]:**

In this case, five companies constituting the Shunan Complex in Yamaguchi Prefecture—Idemitsu Kosan, Tosoh, Tokuyama, Nippon Steel Stainless Steel, and Zeon Corporation—queried the JFTC regarding whether their planned joint initiatives toward achieving carbon neutrality by 2050 would violate the AMA (unreasonable restraint of trade). The joint activities spanned a wide range, including the installation of joint power generation facilities and joint purchasing accompanying the shift to fuels like ammonia, transitioning raw materials to biomass, and the joint capture and reuse of carbon dioxide emitted during manufacturing processes. It was premised that the exchange of information among operators accompanying this initiative would not include competitively sensitive information such as product prices.

In response, the JFTC concluded that the initiative would not raise concerns under the AMA, as it would not result in a substantial restraint of competition in either the product manufacturing and sales market or the fuel/raw material purchasing market. First, regarding the product market, the JFTC determined that they don't substantially restrain competition in a sales market of certain products because most of the applicants are not in a competitive relationship with each other, and even for some competing products, the geographic market was defined as "nationwide Japan," where powerful competitors exist and competitive constraints, such as countervailing buyer power, function effectively. Next, regarding the purchasing market for ammonia, biomass, etc., the JFTC concluded that although technologies are not yet established and future supply and demand relations remain unclear, the market is expected to vitalize in the future due to global decarbonization, and the applicants' planned joint purchase volume is limited compared to the total projected supply. Therefore, it would not restrict competition in the purchasing market.

This case represents a pioneering application of the basic principles of the Green Guidelines. Even for conduct that would normally carry cartel risks as an

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[18] Japan Fair Trade Commission, *Consultation case related to joint activities aiming to achieve carbon neutrality by constituent enterprises of a petrochemical complex* (Case FY2023)
<https://www.jftc.go.jp/file/sustainability_1.pdf>
accessed 30 June 2026

agreement on joint procurement or facility disposal, it demonstrated legal predictability: collaboration among businesses for GX purposes can be widely permitted by objectively verifying the rationality of the purpose and the appropriateness of the means, alongside structural factors such as the "exclusion of competitively sensitive information," "weakness of competitive relationships," "nationwide scope of the geographic market," and the "limited share in the purchasing market."

- **Joint Research for New Technology Using Carbon-Free Fuel by Transportation Equipment Manufacturers (FY2023)[19]:**

In this case, four transportation equipment manufacturers holding an aggregate 90% share in the manufacturing and sales market of transportation equipment A consulted the JFTC. They sought to determine whether an initiative to establish a technology research association to jointly conduct basic research on developing new technologies for carbon-free next-generation fuels (hereinafter "the Joint Research") would raise issues under the AMA (unreasonable restraint of trade).

The details of the initiative were as follows:

1) The scope of the Joint Research is limited to basic research at the pre-commercialization stage.
2) Any business other than the four companies can participate in the initiative provided they meet certain conditions, such as possessing appropriate technical capabilities for developing new technologies.
3) The results of the Joint Research are not limited to use by participating businesses; non-participating businesses can also utilize them for free or at a reasonable fee.
4) The implementation period of the Joint Research is five years, during which no restrictions whatsoever are imposed on the four companies conducting similar research independently or jointly with other companies.

Given that greenhouse gas emissions reductions were anticipated, the JFTC

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[19] Japan Fair Trade Commission, *Consultation case on collaborative research by transportation equipment manufacturers for new technologies that use fuels that do not emit carbon dioxide* (Case FY2023)
<https://www.jftc.go.jp/file/sustainability_2.pdf>
accessed 30 June 2026

proceeded on the premise that this was an initiative toward realizing a green society. Based on the "Joint Research and Development Guidelines" and the "Green Guidelines," it examined the impact of the initiative on the technology market for carbon-free next-generation fuels and the manufacturing and sales market for transportation equipment A.
First, from the perspective of avoiding competition, the JFTC emphasized that a substantial number of R&D entities for similar technologies exist both domestically and internationally; the Joint Research aims to generate technologies for a green society; and it does not develop specific products, remaining limited to basic research for a restricted duration of five years. It also noted the difficulty of conducting such research individually and the fact that each company could continue independent R&D and product development. Consequently, the JFTC concluded that it would not substantially restrain competition in the respective markets, even considering the high aggregate market share of 90% held by the four manufacturers.
Second, from the perspective of foreclosure, the JFTC emphasized that opportunities to participate were open to businesses with appropriate technical capabilities, and the results could be used by non-participants for free or at a reasonable fee. Thus, it concluded that competing businesses would not be excluded from the markets.
In this manner, when examining the presence of AMA issues, the JFTC comprehensively evaluated not only the presence of competitive restraints but also pro-competitive effects such as R&D efficiency and the creation of environmental technologies, ultimately ruling the collaboration unobjectionable.

- **Joint Procurement of Equipment Necessary for the Joint Implementation of a CCS (Carbon dioxide Capture and Storage) Business Aimed at Reducing CO2 Emissions Released into the Atmosphere (FY2024)[20]:**

In this case, several businesses consulted the JFTC regarding whether an initiative to jointly procure machinery and materials constituting necessary equipment (hereinafter "the Joint Procurement") for jointly promoting a CCS

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[20] Japan Fair Trade Commission, *Consultation case on joint procurement in emerging markets by businesses* (Case FY2024)
<https://www.jftc.go.jp/file/sustainability_4.pdf>
accessed 30 June 2026

project toward carbon neutrality would raise issues under the AMA (unreasonable restraint of trade). While CCS technology is highly anticipated as indispensable for a decarbonized society, it is characterized by high technical and economic uncertainties, and the market is not yet fully mature.
The applicants planned to jointly implement the CCS business to reduce CO2 emitted from their own factories. However, because introducing and maintaining carbon capture equipment requires significant expenditures, cost reduction was vital for commercial viability. Consequently, businesses adopting the same technology license examined methods to jointly procure the machinery and materials for the equipment.
The JFTC treated this as an initiative toward a green society due to expected greenhouse gas reductions. Based on the Green Guidelines, it examined the impact on the procurement market for carbon capture equipment components and the future market for providing carbon capture services. It evaluated that the impact on competition in each market would be limited, given that CCS-related technologies are unestablished, a stable and continuous market has not yet formed, numerous potential buyers exist outside the joint procurement, and suppliers retain countervailing bargaining power.
Furthermore, the JFTC conducted a comprehensive judgment recognizing that the initiative rationalized its purpose as a green society effort targeting significant CO2 reductions. Joint procurement was one of the few viable means of cost reduction at this stage, serving as an appropriate method to promote commercialization. Moreover, implementing the initiative would increase the number of CCS operators in Japan, demonstrating pro-competitive effects by fostering the dissemination of environmental technology. Thus, the conduct was deemed non-problematic under the AMA. This case illustrates the JFTC supporting innovation and decarbonization in an emerging market.

- **Joint Research on Product Package Specifications by Manufacturers to Reduce Greenhouse Gas Emissions (FY2024)[21]:**

In this case, several manufacturers holding an aggregate market share of roughly 70% to 80% in the manufacturing and sales market for product A

[21] Japan Fair Trade Commission, *Consultation case on Joint research on packaging specifications aimed at reducing GHG emissions by manufacturers* (Case FY2024) <https://www.jftc.go.jp/file/sustainability_3.pdf>
accessed 30 June 2026

consulted the JFTC. They inquired whether an initiative to conduct joint research toward downsizing and lightweighting specifications for product package alpha (hereinafter "the Specifications") would violate the AMA. The initiative also involved jointly analyzing the impact on the entire supply chain of product A resulting from the commercialization of the Specifications and jointly examining countermeasures (hereinafter "the Joint Research"). Further downsizing and lightweighting of package alpha presented sophisticated technical hurdles and required adaptations across the entire supply chain—including manufacturing, logistics, and sales—which led product A manufacturers to engage in joint research.

The details of the initiative were as follows:

1) The scope of the Joint Research is limited to R&D for downsizing and lightweighting specifications of package alpha and analyzing impacts/countermeasures across the supply chain. The development and manufacturing of packages other than package alpha and product A are conducted independently by each company.
2) The results of the Joint Research can be utilized by non-participating businesses at a reasonable fee.
3) The implementation period is approximately three years. Even after the specifications are formulated, manufacturers can continue to manufacture and sell product A using alternative packaging.

The JFTC evaluated the impact on the technology market for package alpha lightweighting and the product A market based on the Green Guidelines. Regarding the joint R&D portion, the participating companies hold a high aggregate share of 70% to 80% in Japan, and the project covers development research, which is considered to have a high potential to directly impact product market competition. Furthermore, there was no evidence that individual companies could not bear the R&D costs alone. However, the JFTC recognized the following facts: several packaging manufacturers exist domestically in addition to product A manufacturers, meaning R&D into package alpha is possible for non-participants; manufacturing of package alpha and development/manufacturing of product A will remain independent after the initiative begins; consumers choose product A primarily based on content and price; and package alpha costs account for at most 10% of total manufacturing costs for product A, meaning the R&D impact on the product A market is minimal. Additionally, information shared among the participants is strictly

limited to necessary matters, excluding prices, costs, quantities, or transaction partners. Non-participants can access the resulting specifications at a reasonable fee, and product A can be sold without using the new specifications. Based on these facts, the JFTC found the impact on packaging R&D and the product A market to be minimal. Conversely, commercializing the specifications allows product A to be supplied with lower greenhouse gas emissions, yielding pro-competitive effects such as creating new technologies and superior goods. Balancing these factors, it was deemed non-problematic.
Similarly, the joint analysis and countermeasure planning for the supply chain was deemed non-problematic. Although conducted by firms with a 70% to 80% market share, it was limited to analyzing the impact of the downsized packaging on manufacturing, logistics, and sales methods. Based on the facts, it would not impact competition in the manufacturing and sales field of product A.
This case serves as another example of comprehensively evaluating greenhouse gas innovation effects alongside competitive restrictions regarding cooperation among businesses to achieve decarbonization goals.

- **Initiative by a Transportation Equipment Manufacturer providing discount funds to fuel retailers to verify the effect of price reductions (FY2025)[22]**

This case involves an antitrust consultation with the JFTC regarding whether an initiative (hereinafter referred to as the "Initiative") violates the AMA (specifically regarding trading on restrictive terms and unjust low-price sales (predatory pricing)). In this case, Company X, a manufacturer of transportation equipment, provided discount funds to retailers of Fuel alpha to verify its price reduction effects, aiming to promote the widespread adoption of Fuel alpha—which contributes to greenhouse gas emission reductions—and Transportation Equipment A, which uses said fuel. Behind this Initiative lies a "chicken-and-egg" dilemma commonly seen in the promotion of low-environmental-impact technologies. That is, unless demand for Transportation Equipment A expands, manufacturers cannot commit to increasing production, and retailers of Fuel alpha cannot commit to establishing new or expanding existing sales facilities.

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[22] Japan Fair Trade Commission, The Antimonopoly Act Consultation Cases (FY 2025) <https://www.jftc.go.jp/houdou/pressrelease/2026/jun/260617_souhi_r7soudanjirei/n2.pdf>
accessed 30 June 2026 (available only in Japanese)

On the other hand, because there are few sales facilities for Fuel alpha and its price remains high, consumers hesitate to purchase or use Transportation Equipment A. Consequently, despite being an environmentally superior technology, the adoption of Transportation Equipment A had stalled.
The details of the Initiative are as follows:

1) Company X provides five Fuel alpha retailers in Region A with discount funds based on their sales volume of Fuel alpha, requesting them to sell the fuel at a discount of an arbitrary amount equal to or greater than a certain amount from the retail prices freely determined by each retailer.
2) Based on the request in 1), the five retailers sell Fuel alpha at prices discounted by an arbitrary amount—equal to or greater than a certain threshold—out of the discount funds provided by Company X, from their freely determined retail prices. As a result, the retail prices of Fuel alpha sold by these five companies are expected to fall below the costs required for each company to supply Fuel alpha.
3) The five companies sell Fuel alpha at discounted prices and provide Company X with information regarding fluctuations in sales volume resulting from the discounts. Company X pays consideration to the five companies for implementing the discounts and providing the information, and verifies the correlation between the retail price of Fuel alpha and demand trends based on that information. Company X enters into non-disclosure agreements with the five companies and properly handles the information regarding sales volume fluctuations provided by them to ensure it does not leak to other competitors.
4) The five companies freely decide whether to participate in the Initiative based on their own voluntary will.
5) The implementation period of the Initiative is one year, but it may be extended depending on demand trends for Fuel alpha.

Given that the Initiative is expected to reduce greenhouse gas emissions, the JFTC presumed it to be an effort toward achieving a green society. Based on the "Green Guidelines" and other relevant frameworks, the JFTC examined the impact of the Initiative on the retail market for Fuel alpha.
From the perspective of trading on restrictive terms, although Company X’s conduct carries a certain degree of restrictiveness by requesting retailers to offer discounts, the restriction does not target the retail price itself, but rather the discount amount from prices freely set by each company. Therefore, it was

determined that a "price maintenance effect" (which leads to maintaining or raising retail prices) would not occur, and the conduct does not constitute trading on restrictive terms.
From the perspective of unjust low-price sales (predatory pricing), the JFTC examined whether below-cost sales by Fuel alpha retailers would lead to the exclusion of competitors. Setting the market radius at approximately p kilometers (anonymized) based on the mobility range of Fuel alpha consumers, the JFTC noted that while some trade areas overlap among the five companies in Region A, discount funds are provided to all five companies under identical conditions. Furthermore, due to a business structure reliant on public subsidies, they lack the financial leeway to engage in excessive price-cutting competition, meaning extreme undercutting to eliminate competitors is unlikely to occur. Additionally, trade areas do not overlap with operators in adjacent regions, and it lacks economic rationality for consumers to travel long distances solely for discounts. Thus, no competitor foreclosure effect was found, and the conduct was determined not to constitute unjust low-price sales. In addition, the Initiative was evaluated as having pro-competitive effects, such as creating new technologies and superior products, by promoting the reduction of greenhouse gas emissions through the proliferation of Fuel alpha and Transportation Equipment A. This case serves as an example of a comprehensive evaluation of a demonstration project aimed at achieving a green society, weighing not only its restrictive effects on competition but also its capacity to foster innovation.

- **Matching of participating businesses and information sharing of outcomes regarding a regenerative agriculture demonstration experiment by manufacturers and sellers of products using agricultural produce as raw materials (FY2025)[23]**

This case involves an antitrust consultation with the JFTC regarding whether an initiative (hereinafter referred to as the "Initiative") violates the AMA (specifically regarding unreasonable restraint of trade). In this case, approximately 10 manufacturers and sellers of products using agricultural produce as raw materials jointly conduct a demonstration experiment on regenerative agriculture[24] (hereinafter referred to as the "Demonstration Experiment") to

[23] JFTC (n 22).

[24] Methods include cover cropping (covering the soil with plants other than the main crop),

reduce greenhouse gas emissions, and engage in matching applicants and sharing experimental outcomes. It has been pointed out that regenerative agriculture has the potential to sequester more carbon in the soil compared to conventional farming methods, thereby suppressing greenhouse gas emissions. However, challenges remain as its definition and requirements have not yet been firmly established, and its economic viability and degree of environmental contribution have not been fully clarified.

The details of the Initiative are as follows:

1) Participating businesses report their preferred implementation sites and the names of agricultural products they wish to produce via regenerative agriculture to an external organization. The external organization aggregates this information and matches businesses whose preferred conditions align. Information-barrier measures are implemented among participating businesses so they cannot access other companies' data; only the matching results are shared.
2) Participating businesses form production teams for specific regions regarding the agricultural products used as raw materials for their respective products. They conduct trial cultivation of agricultural products derived from regenerative agriculture and verify soil carbon sequestration, comparing it against cultivation using conventional farming methods.
3) Soil analysis data and farming history logs obtained from the experiment are shared with participating businesses free of charge, and are made available to non-participating businesses for a reasonable fee.

Commercial utilization of the agricultural products derived from the experiment is not currently planned. Furthermore, the scale of the Demonstration Experiment is limited.

Given that the Initiative is expected to reduce greenhouse gas emissions, the JFTC presumed it to be an effort toward achieving a green society. Based on the "Green Guidelines," the JFTC examined the impact of the Initiative on the technology market for farming methods using regenerative agriculture techniques, as well as on the manufacturing and sales markets for products

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no-till farming (refraining from tilling to prevent soil exposure), crop rotation (growing different types of crops in a specific order on the same cultivated land), reducing pesticides, and abstaining from chemical fertilizers.

using regenerative agriculture-derived crops as raw materials.
From the perspective of avoiding competition, the JFTC emphasized several factors: there are at least several other entities in Japan verifying regenerative agriculture methods and their effects; the Demonstration Experiment aims to establish regenerative agriculture to realize a green society; the products manufactured and sold by participating businesses using these crops are common and widely diversified; and the scale of the Demonstration Experiment is limited. Furthermore, the information shared among participants is restricted to matching results, which does not constitute information affecting key competitive means such as prices or production volumes. Consequently, the JFTC concluded that the Initiative would not substantially restrain competition in any of the markets.
From the perspective of excluding competition, the JFTC placed weight on the fact that the outcomes of the Demonstration Experiment are available to non-participating businesses for a reasonable fee, concluding that competing businesses would not be excluded from the respective markets.
In this manner, when examining the presence of Antimonopoly Act issues, the JFTC comprehensively evaluated not only the restrictive effects on competition but also the pro-competitive effects, such as the creation and dissemination of environment-regenerating methods. It ultimately determined that inter-firm collaboration aimed at achieving a decarbonized society does not pose issues under the AMA.

- **Joint production and implementation of a new fuel for transportation equipment that contributes to greenhouse gas emission reductions, led by an association of fuel manufacturers and sellers for early adoption (FY2025)[25]**

This case involves an antitrust consultation with the JFTC regarding whether an initiative (hereinafter referred to as the "Initiative") violates the AMA (specifically regarding unreasonable restraint of trade). The Initiative, led by Association X (whose members are manufacturers and sellers of Fuel A), involves the joint production of a new fuel, Fuel a, with the voluntary cooperation of its members. This serves as an early adoption initiative positioned as an opportunity to identify and verify challenges from production to distribution, aiming to commercialize Fuel a, which can significantly reduce greenhouse gas

[25] JFTC (n 22).

emissions.
While Fuel a can substantially reduce greenhouse gas emissions compared to existing Fuel A, it requires new manufacturing facilities and is inferior to Fuel A in terms of fuel efficiency. Furthermore, it requires technical adaptations on the storage and sales facility side and transportation equipment side. Consequently, Fuel a has not yet reached the commercialization stage, and challenges and expertise in the manufacturing and distribution processes have not been sufficiently accumulated. Moreover, because its manufacturing requires massive capital investment, it is difficult for a single business entity to undertake commercialization alone.
To address these issues, Association X planned to implement an early adoption for approximately two years in a specific region, premised on the voluntary participation of its members.
The specific details are as follows:

1) Members jointly invest in manufacturing facilities, and specific members take charge of manufacturing Fuel a, thereby conducting joint production. Members take delivery of the produced Fuel a at an identical unit price, and independently handle subsequent storage, transportation, and sales. The joint production cost of Fuel a accounts for the bulk of the total cost required up until Fuel a is sold to distributors or general consumers.
2) The sales price and transaction volume of Fuel a are freely determined by each member, and Association X does not share any member's price or volume information with other members.
3) After the early adoption period concludes, the joint production of Fuel a will terminate. Members will freely and independently decide on and engage in the manufacturing and sales of Fuel a.
4) Members are not restricted from withdrawing midway through the project. Non-members wishing to participate in the early adoption project will not be refused participation without reasonable justification, provided they share the expenses.

Given that the Initiative is expected to reduce greenhouse gas emissions, the JFTC presumed it to be an effort toward achieving a green society. Based on the "Green Guidelines," the JFTC examined the impact of the Initiative on the manufacturing and sales market for Fuel a.
The JFTC first examined the possibility of the joint production having anti-competitive effects. Although the market for Fuel a has not yet been formed,

members of Association X—who manufacture nearly all of the Fuel A distributed in Japan—are participating, meaning their market share is expected to be extremely high. Furthermore, the joint production cost accounts for the bulk of the total cost, resulting in a high ratio of cost commonality. However, the JFTC evaluated that the restrictive effects on competition are limited due to the following factors: Prices and sales volumes of Fuel a are independently determined by each company. No competitively sensitive information is shared. The freedom to participate or withdraw is secured. The implementation period is limited to the minimum necessary duration of approximately two years. Additionally, competitive pressure from existing Fuel A as well as various alternative energies was taken into account. Furthermore, the JFTC recognized that the Initiative has a rational purpose since it aims to commercialize Fuel a to help realize a green society. It also found appropriateness in the means of implementing the project jointly, given the difficulties for companies to undertake it individually. Additionally, the Initiative is expected to serve as a catalyst for the commercialization of Fuel A and to promote competition by fostering new technologies and creating superior products. Considering these factors, the JFTC concluded that the Initiative can be expected to have pro-competitive effects and therefore does not pose issues under the AMA. This case serves as an example where an AMA determination was made regarding an environmental technology in its pre-market formation stage, fully accounting for its potential to promote innovation toward decarbonization.

Consideration of Environmental Benefits in Merger Reviews

- **Business Combination Case Involving Kubota and Nippon Chutetsukan (FY2024)[26]:**

This case involved a plan where Kubota would acquire shares in a newly established manufacturing subsidiary of Nippon Chutetsukan, turning it into a joint venture. Because their combined market share in the domestic small-diameter ductile iron pipe market reached approximately 70% (ranking first),

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[26] Japan Fair Trade Commission, *JFTC Reviews the Proposed Acquisition of Shares in the Newly Established Manufacturing Subsidiary of NIPPON CHUTETSUKAN K.K. by Kubota Corporation* (Case FY2024) <https://www.jftc.go.jp/en/pressreleases/yearly-2025/March/250327.html> accessed 30 June 2026

concerns regarding a substantial restraint of competition through unilateral or coordinated conduct were brought to light.
However, the JFTC determined that competitive relations between the parties would be maintained to a certain extent, premised on the fact that the scope of joint operations was limited solely to the "upstream" manufacturing process. Furthermore, strict information-barrier measures were implemented under the supervision of an independent third party (monitoring trustee) to prevent the sharing of sensitive information.
In addition, the parties concretely calculated and asserted a CO2 reduction plan resulting from the integration of production sites, which involved upgrading traditional cupola furnaces to coke-free "electric furnaces." The JFTC scrutinized this decarbonization effect precisely based on the Green Guidelines. It evaluated the effect substantially under the framework of "efficiencies," recognizing it as a verified, achievable outcome unique to this merger, and acknowledging that reducing greenhouse gases in manufacturing processes constitutes an "improvement in quality (increase in consumer welfare)." As a result, the JFTC approved the transaction, concluding that it could not be said to substantially restrain competition in a particular field of trade.
This stands as an important pioneering case for the consideration of environmental benefits.

6. Implications for Economic or Competition Analysis

Japan's experience to date yields important implications for economic and competition analysis in future competition policy.

Limits of Qualitative Analysis and the Need for Quantitative Balancing

In the consultation and merger review cases observed so far, the JFTC has not implemented "quantitative balancing" that rigorously monetizes and weighs environmental benefits (such as the value of CO2 reductions) against the anticompetitive harms of market restriction. At this stage, evaluations center on qualitative analysis and assessments of impacts on surrounding markets. However, cases involving stark conflicts—where environmental protection effects are exceptionally high but necessitate offsetting or restricting market competition—may emerge in the future. In such instances, quantifying environmental benefits using economic methods and establishing standards to define the scope of consumer benefits (such as Willingness to Pay) could become critical analytical challenges.

The Boundary Between "Hardcore Cartels" and Sustainability

The cases presented to and cleared by the JFTC thus far have been limited to those where the impact on competition remains narrow. Experience remains sparse regarding cases bordering on so-called "hardcore cartels" that generate severe anticompetitive effects. While the JFTC's experience suggests that such consultation requests may not occur frequently, future consultation handling may require a more sophisticated competition analysis framework. This will be necessary to eliminate "greenwashing" (superficial environmental consideration) or price cartels hiding behind the banner of sustainability, while simultaneously protecting genuinely efficient joint conduct.

Effectiveness of the Japanese-Style Prior Consultation System

A notable aspect of the Japanese experience is that Japanese businesses frequently utilize the JFTC’s prior consultation system to design business schemes that preemptively avoid competition law issues—often by establishing clean teams or adopting information-barrier measures. Consequently, the occurrence of cases involving overt legal conflicts is minimized. This soft-law approach, driven by prior dialogue and guidelines, functions effectively as a strategy to encourage efficient GX investment while reducing market uncertainty.

7. Market Studies and Advocacy in the Green Sector

Beyond the regulatory frameworks of the Green Guidelines and individual consultation cases, the JFTC actively clarifies potential competition issues in transaction practices and regulatory systems within green related sectors through factual surveys and publishing its findings in reports. The JFTC has conducted the following factual surveys in these sectors. To balance sustainability with fair and free competition, it remains vital to continuously implement the advocacy activities such as the following factual surveys:

Factual Survey on EV Charging Services[27]

To promote fair and free competition in the development of charging infrastructure and to support the realization of a green society from a competition policy perspective by fostering new entry and innovation, the JFTC surveyed actual market conditions. It investigated highway EV charging services in July 2023, and municipal initiatives and roaming/interoperability collaborations among operators in May 2024.

The survey aimed to leverage market mechanisms in infrastructure development—meaning encouraging efficient resource use, boosting corporate vitality, increasing consumer utility, and activating innovation through fair and free competition. Based on this view, the JFTC compiled recommendations and submitted them to relevant ministries and municipalities. For instance, it stated that when municipalities select operators to install EV chargers in locations with high predicted demand, such as public roads, it is desirable to encourage those operators to engage in roaming collaborations. Furthermore, to build an environment that facilitates roaming collaborations moving forward, it recommended that the Ministry of Economy, Trade and Industry establish a forum for stakeholders to discuss which interfaces should serve as standard interfaces in Japan.

Factual Survey on Transactions Related to the Recycling of Used PET Bottles[28]

PET bottles (plastic bottles) are a material highly familiar to consumers, and recycling initiatives are deeply connected to daily life. In Japan, recent years

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[27] Japan Fair Trade Commission, Market Study Report on the Electric Vehicle (EV) Charging Service on Expressways (JFTC 2023)
<https://www.jftc.go.jp/en/pressreleases/yearly-2023/July/230713.html>
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Japan Fair Trade Commission, Second Market Study Report on the Electric Vehicle (EV) Charging Services (JFTC 2024)
<https://www.jftc.go.jp/en/pressreleases/yearly-2024/May/240529.html>
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[28] Japan Fair Trade Commission, Market Study Report on the Recycling of Used Plastic Bottles (JFTC 2023)
<https://www.jftc.go.jp/en/pressreleases/yearly-2023/October/23101615.html>
accessed 30 June 2026

have seen an expansion in "bottle-to-bottle" recycling initiatives—recycling used PET bottles back into PET bottles—and shifts in distribution channels, such as used PET bottles being traded for value, leading to increased diversification in distribution routes.
Taking these circumstances into account, the JFTC conducted a factual survey on transactions related to used PET bottle recycling from February to September 2023, aiming to present its views under the AMA and competition policy.
A unique feature of this survey was that it articulated competition policy views regarding consumer behavior. Specifically, it indicated that when individual consumers understand the value of PET bottles as a resource and discard them in ways that preserve that value—such as ensuring no liquid remains, avoiding mixing them with other waste, and removing caps and labels—it reduces manufacturing costs for recycled PET resin. This leads to the supply of high-quality, low-cost recycled products and makes the recycling market more attractive. The JFTC emphasized that this behavior is highly desirable from a competition policy perspective as it helps drive the realization of a green society.

8. Conclusion

This paper has reviewed the historical developments surrounding sustainability and competition law in Japan, alongside recent enforcement experiences focused primarily on the formulation of the Green Guidelines and subsequent concrete consultation cases.
As noted in the 2024 survey results, while awareness of the Green Guidelines is rising, approximately 8% of responding businesses still discussed compliance or abandoned their green initiatives due to antitrust concerns. The finding suggests that significant challenges remain for the JFTC. To address these challenges and mitigate the "chilling effect," it is important for the JFTC to continuously engage in proactive public relations activities for the Green Guidelines and the consultation system building upon the insights derived from its experiences to date. Also, it is important to continue publishing consultation outcomes to foster an environment where businesses can actively pursue and develop their green initiatives.
Furthermore, these challenges and insights are not unique to Japan. They are closely linked to multilateral discussions at international fora, such as the

International Competition Network (ICN) and the OECD, as well as bilateral exchanges with various competition authorities. For complex global challenges like climate change, it is crucial for competition authorities across jurisdictions to bring forward their experiences and sustain continuous dialogue to balance market competition with a sustainable society.

As the international community continues to develop appropriate regulatory approaches, the practical, soft-law experiences accumulated by Japan will continue to provide beneficial insights for global rulemaking and effective law enforcement.

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