

Price-fixing conspiracy on cathode ray tubes (“CRT”) for television sets

The Japan Fair Trade Commission (“JFTC”) issued surcharge payment orders to foreign manufactures for the first time in history.

This is one of international cartel cases as to which the JFTC and foreign competition authorities such as the US Department of Justice and the European Commission commenced their investigations at the same time.

In Japan, the amount of surcharge is automatically calculated by multiplying the relevant sales in Japan for the relevant period (up to 3 years) by a fixed rate. No discretion of the JFTC is allowed.

In the marine hose international cartel case, the JFTC issued cease and desist orders to foreign manufacturers in the first time; however, the JFTC could not issue surcharge payment orders because foreign manufactures had no marine hose sales in Japan.

In this CRT international cartel case, Japanese CRT television manufacturers caused their Southeast Asian manufacturing subsidiaries or subcontractors to purchase CRT from Southeast Asian manufacturing subsidiaries or affiliates of CRT manufacturers in Japan, Korea and Taiwan as a result of the direct negotiations between CRT television manufacturers and CRT manufacturers. The JFTC found that CRT manufacturers and their Southeast Asian manufacturing subsidiaries or affiliates had participated in price-fixing conspiracy and thereby had substantially restrained competition in the field of CRT sales in Japan.

According to the JFTC press release dated October 7, 2009¹, the JFTC ordered three Southeast Asian subsidiaries of Panasonic Corporation subsidiary MT Picture Display Co., Ltd. to pay a total of 1,797,240,000 yen in surcharge, a Southeast Asian subsidiary of Samsung SDI Co., Ltd. to pay 1,373, 620,000 yen is surcharge, and LG Phillips Displays Korea Co., Ltd. to pay 151,380,000 yen in surcharge. Also, the JFTC notified a Southeast Asian affiliate of LG Phillips Displays Korea Co., Ltd. in advance of surcharge payment order to give it the opportunity to present its opinion and evidence. In the meantime, Chunghwa Picture Tubes Co. Ltd. and its Southeast Asian subsidiary seem to be granted immunity under the leniency program.

¹ <http://www.jftc.go.jp/e-page/pressreleases/2009/October/091007.pdf>

Japanese CRT television manufactures or its sales subsidiaries or affiliates in Japan and foreign countries sold CRT television sets in both Japan and foreign countries. Although neither CRT manufacturers nor their Southeast Asian manufacturing subsidiaries or affiliates sold CRT directly to customers in Japan, CRT television sets, parts of which are CRT, were sold to customers in Japan. As such, the JFTC considered that three Southeast Asian subsidiaries of Panasonic Corporation subsidiary MT Picture Display Co., Ltd., a Southeast Asian subsidiary of Samsung SDI Co., Ltd. and LG Phillips Displays Korea Co., Ltd. had CRT sales in Japan.

According to Panasonic Corporation's news release dated November 6, 2009², MT Picture Display Co., Ltd. and its three Southeast Asian subsidiaries filed with the JFTC request for hearing to challenge a cease and desist order and surcharge payment orders issued by the JFTC.

If you would like to know more details, please contact Miyake & Yamazaki.

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² <http://panasonic.co.jp/corp/news/official.data/data.dir/en091106-5/en091106-5.html>