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Information Exchange and Related Risks

A Jurisdictional Guide

Zoltán Marosi, Marcio Soares (eds.)

International Bar Association
Cartels Working Group of the Antitrust Section

Foreword by Anthony M. Collins

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JAPAN

Tsuyoshi Ikeda and Aya Yasui
Ikeda & Someya

I. Applicable Laws, Regulations and Principles

Japanese competition law does not adopt a concept of "concerted practice" as seen in Europe as to information exchange among competitors. However, information exchange among competitors is regulated in the area of "unreasonable restraint of trade" which prohibits cartels in Japan, and thus business operators must take appropriate precautions when exchanging information with competitor(s).

With respect to the communication between competitors which amounts to an "agreement" required as cartel, the court precedent indicates that, although it is not required that explicit mutual agreement exists to restrain their business, a tacit recognition and acceptance of the other's price increase is sufficient. Therefore, information exchange should be checked in advance, so as not to be regarded as tacit recognition and acceptance of the other's conduct.

Among various types of information exchange, price, production or sales volume are particularly problematic. The Japanese competent authority, the Japan Fair Trade Commission (JFTC), announced the Associations Guidelines, which show examples of cases which may violate the Antimonopoly Act of Japan (AMA), which can be uses as reference in considering the illegality of the conduct.

1. Antimonopoly Act of Japan

Information exchange among competitors in Japan is regulated by the AMA, in particular by the cartel prohibition called "unreasonable restraint of trade" under Article 3 of the AMA. Information exchange is generally regarded as circumstantial evidence suggesting an existence of an agreement concerning restriction of competition. As the Japanese competition law does not have notion of per se illegal, for there to be a cartel always requires that the conduct substantially restrains competition in a market.

Article 2(6) of the AMA provides that the term "unreasonable restraint of trade" means:

> such business activities, by which any enterprise, by contract, agreement or any other means irrespective of its name, in concert with other enterprises, mutually restrict or conduct their business activities in such a manner as to fix, maintain or increase prices, or to limit production, technology, products, facilities or counterparties, thereby causing, contrary to the public interest, a substantial restraint of competition in any particular field of trade.
>
> (See the JFTC English website at: https://www.jftc.go.jp/en/legislation_gls/amended_ama09/index.html.)

The following elements can be derived as essential elements of "unreasonable restraint of trade" from the provision of the AMA: (i) a business (enterprise) (ii) has agreed with other business (iii) to mutually restrict their business operations (or to engage in conduct to restrict), (iv) contrary to the public interest, (v) thereby causing a substantial restraint of competition in any particular field of trade.

In addition, information exchange at business associations meetings create a risk of violation of the AMA. Article 8, Item 1 of the AMA also provides that a business association must not engage in any act "substantially restraining competition in any particular field of trade."

Article 8 of the AMA, including Item 1, provides the following with respect to the business activities regarding a business association:

A trade association must not engage in any act which falls under any of the following items:

- substantially restraining competition in any particular field of trade
- entering into an international agreement or an international contract as provided in Article 6
- limiting the present or future number of enterprises in any particular field of business
- unjustly restricting the functions or activities of the constituent enterprise (meaning an enterprise who is a member of the trade association; the same applies hereinafter)
- inducing an enterprise to employ such an act as falls under unfair trade practices.

In relation to its activities or any business relating to it, a business association should consult the guidelines prepared by the JFTC as discussed below.

2. Regulations

There JFTC's various guidelines have a great impact on how the AMA is construed. Although there are no direct guidelines in respect of information exchange which amounts to a cartel, the Guidelines concerning the Activities of Trade Associations under the Antimonopoly Act announced by the JFTC (JFTC Associations Guidelines) show examples of conduct that may violate the AMA.

JFTC Associations Guidelines provide the general description of information exchange and note that there are many cases where activities of a business association would not raise any antitrust-related concern; however, they also give examples of cases that could possibly violate the AMA:

Collecting or offering information from or to constituent firms, or promoting the exchange of information among the constituent firms, where such information specifically relates to important competition-related factors, concerning the present or future business activities of the constituent firms, such as the following: specific plans or prospects regarding the prices or quantities of goods or services supplied or received by the constituent firms; the specific contents of the constituent firms' transactions with or inquiries from customers; the limits of anticipated plant investment.

JFTC Associations Guidelines describe specific cases of violation.

A. *The Case against X Trade Association of Distributors of Petroleum Products (JFTC Recommendation Decision No. 9 of 1979)*

In this case, at a joint meeting of the trade association's presidents' council (comprised of 66 chief executives of the constituent firms) and sales council (comprised of constituent

firms' gas station managers and others of similar rank), the association exchanged information concerning a predicted rise in the purchasing price of gasoline, and also considered various measures, such as raising the retail price of gasoline. Also, at joint executive meetings held with other associations, the association exchanged opinions with regard to future increases in gasoline prices. Based on these discussions, the association, through its implementation committee (comprised of 17 executive committee members), decided upon a price that served as a benchmark for an increase in the retail gasoline prices of the constituent firms. This was found to constitute a violation of Article 8(i) of the AMA.

B. *The Case against Y and Other Vinyl Tile Manufacturers (JFTC Recommendation Decision No. 8 of 1979)*

In this case, four companies, at successive meetings that included board meetings of the association to which they belonged, exchanged information concerning market conditions and exchanged opinions regarding the range of selling price increases for vinyl tile market goods as well as the price levels after such increases had been implemented. As a result of further discussions, the companies involved entrusted the task of determining specific prices to Company Y, which served as the head company of the association. Accordingly, Y indicated specific prices for each participating company. Furthermore, each company informed the others of the planned date of implementation of the price increases, and then increased the selling price of market goods. This was found to constitute a violation of Article 3 of the AMA (prohibition of cartel).

C. *The Case against Z and Other Manufacturers and Distributors of Paint Emulsions (JFTC Recommendation Decision No. 5 of 1988)*

In this case, 10 companies established a group called Council A in order to facilitate mutual cooperation. For some time, the companies exchanged price-negotiation information at the district meetings of Council A whenever the prices of paint emulsions were revised. In order to cope with a rise in the cost of monomer, a raw material used to make emulsions, at the Council A's central committee, the companies exchanged information concerning the estimated range of the price increase. They then offset the cost increase by increasing the selling prices of their paint emulsions, and also set the standard range of price increase for each type of product. To ensure these price increases, the companies also decided to exchange information concerning the status of price-increase negotiations. This was found to constitute a violation of Article 3 of the AMA.

D. *Principles*

As discussed, information exchange among competitors is governed by the cartel prohibition called "unreasonable restraint of trade" under Article 3 of the AMA, and generally regarded as circumstantial evidence of cartel suggesting the existence of an agreement concerning restriction of competition. "Unreasonable restraint of trade" is defined in Article 2(6) of the AMA.

The language of "by contract, agreement or any other means … mutually restrict their business activities" in Article 2(6) is commonly recognized as meaning that there must

be some kind of communication regarding their intent. In this regard, the court precedent indicates the following (Toshiba Chemical case, Tokyo High Court, 25 September 1995):

In this context, the "communication regarding intent" means that business operators mutually recognize or expect that the same or similar price increase will be made, and such business operators have intent to come into line with. It is not sufficient that the business operator simply recognizes and accepts the other's price increase, but it is not required that explicit mutual agreement to restrain each other is formed. It is sufficient that a tacit recognition and acceptance of the other's price increase exist.

As we saw above, the JFTC's precedent cases as described in the JFTC Associations Guidelines suggest that information exchange would be a part of important indirect evidence that will accumulate to prove the existence of communication of intent.

II. Types of Information Sharing That May Be Caught under the Competition Rules

Among various types of information exchange, it is particularly problematic to exchange information regarding price, production or sales volume. As discussed in Section I of this chapter), the JFTC Associations Guidelines show examples of cases that may violate the AMA.

Other than cases that the JFTC introduced in the JFTC Associations Guidelines, there are no precedent cases in Japan in which the JFTC directly identified information activity amounting to a violation of the AMA. However, some cases, as discussed below, suggest that information exchange can be a violation of the AMA. On the other hand, the JFTC announced some situations where the information exchange does not raise antitrust issues.

1. Suspension for Hard Disc Drive Case (Ordered on 9 February 2018)

In this case, prospective competitors of manufacturers of hard disk drive (HDD) suspension agreed to align and keep the sales price the same in order to keep market share and profit.

The JFTC found that (i) the competitors mutually confirmed a price quote to use when a domestic manufacturer of hard disks asked, and sales price, (ii) information exchange took place at the meeting of sales managers of competitors where they discussed expected demand, sales price and quoting price for overseas manufacturers of hard disks, and (iii) information exchange took place in respect of countermeasures against low sales prices by foreign suspension manufacturers in violation of the AMA, and (iv) the competitors confirmed each other's intent to align sales prices, and that such conduct substantially restrains competition in a market. Based on the above findings, the JFTC issued a cease-and-desist order and ordered the payment of a surcharge against such competitors.

2. Automatic Postal Sorting Equipment Case (Ordered on 27 June 2003)

In this case, the JFTC found that two major manufacturers of automatic postal sorting equipment, which supplied almost all of automatic postal sorting equipment to the Ministry of Posts and Telecommunications (MPT) at that time, mutually and tacitly communicated to each other their intent to bid for the provision of sorting equipment go the MTP, and their conduct was regarded as cartel and the JFTC issued a cease-and-desist order.

There are two types of automatic postal sorting equipment – one is right-hand turning stream type, and the other is left-hand turning stream type. Manufacturer A produced large number of right-hand turning stream type machines and Manufacture B produced large number of left-hand turning stream type machines. MPT changed its purchasing system from no-bid contract arrangement to a competitive bidding arrangement in 1987, and in 1995, MPT changed its purchasing arrangements again to general competitive bidding arrangement. For a long time the MPT officers had informed the two manufacturers, before bidding, of volume of tender by type, postal office to implement the equipment and other related information. Around 1995 when MPT introduced a general competitive bidding arrangement, Manufacturer A requested MPT not to introduce the new bidding arrangement, and Manufacturer B requested MPT to continue the information disclosure before bidding took place. From 1995 through 1997, the two manufacturers placed a bid when MPT disclosed the information regarding the bid, and did not place a bid when MPT did not disclose information. The successful bidding rate from 1995 through 1997 exceeded 99.5% at lowest, and the two manufacturers were awarded supply agreements for automatic postal sorting equipment, sharing half-and-half of the total amount of MPT's purchase each year.

Considering the factual findings above, and that (i) in an oligopoly market with a high barrier to entry, (ii) manufacturers continued a cooperative practice where the manufacturer who received the disclosed the information on the bid only placed a bid, (iii) and that through such cooperative practice, the two manufacturers consistently received almost all of the MPT's orders on a 50:50 basis, (iv) and the manufacturers did not implement any marketing effort in area where their own equipment was not used, as connection to different type of equipment is difficult, and (v) that the two manufacturers tended to cooperate through information exchange, the JFTC found the manufacturers had a communication of intent, which satisfies the requirements to be regarded as "unreasonable restraint of trade" under Article 3 of the AMA.

This case shows that information exchange can be used as a part of external factual findings that infer the existence of an agreement.

3. Liquid Crystal Panel for Nintendo DS Case (Ordered on 18 December 2008)

This is a cartel case involving manufacturers of display modules for Nintendo DS (DS Module), mobile game console, and display modules for Nintendo DS Lite (Lite Module).

The manufacturers supplied DS Modules to Nintendo. As Nintendo negotiated with suppliers, in order to lower the purchase price, manufacturers wished to know each other's

sales price Therefore, manufacturers started to exchange information regarding the price offered to Nintendo, and decided the actual offering price based on the information exchange between them. The JFTC found that there was express agreement between competitors, as to DS Modules, not to lower the offering price below a certain amount agreed. With respect to Lite Modules, the JFTC found that there was communication of intent that was sufficient to constitute an agreement for a cartel.

Some of analyses point out that this case can be understood as the JFTC recognizing that information exchange itself would be in violation of the AMA.

4. Oji Cornstarch Case (Ordered on 11 July 2013)

In this case, suppliers of cornstarch to manufacturers of cardboard jointly agreed to raise the price of cornstarch in accordance with the market price increase in Chicago, which was found to be a cartel. After the meeting between suppliers, the price increase occurred almost at the same time as the price increase in the Chicago market, and suppliers offered almost the same price increase. The JFTC found the cartel based on the findings above together with the fact that suppliers exchanged information regarding the timing of offering an increased price to cardboard manufacturers, and on the negotiation status between cardboard manufacturers.

5. Information Exchange of Cost Analysis (The JFTC's Consultation Case No. 4 of 2012)

This consultation case involves the antitrust issue that a distributor who deals with processed goods shares information with respect to cost analysis with the processor of its group company. The JFTC answered that it would not raise any antitrust issue because this information exchange is a part of a group of companies' development activities; information exchange was limited to only part of cost of the goods, in addition to the fact that there was other dominant competitor(s).

6. Information Exchange of Logistic and Distribution Operation (The JFTC's Consultation Case No. 8 of 2017)

In this consultation case, six home electric appliance manufacturers shared information in relation to their logistic and distribution operations in order to undertake a feasibility study and scheme. The JFTC answered that it would not raise any antitrust issue.

7. Information Delivery of Quotation for Government Bond Transaction (The JFTC's Consultation Case in 2002)

Yensai.com (Yensai) provides a service whereby institutional investors can check the best quotations for governmental bonds via an app and can place an order with a brokerage company based on such quotations. The best quotations are automatically decided through Yensai's system, based on various quotations prepared by brokerage companies. The institutional investors may conclude the transaction by obtaining confirmation of the

order from the brokerage company within a certain period of time. Yensai's contemplated conduct is that it would provide feedback on the best quotations to actively competing brokerage companies. In response to this consultation, the JFTC answered that the conduct would not raise an immediate concern of a violation of the AMA since the system would help transparency in relation to government bond transactions and promote competition; however, it could not be denied that there was the possibility that such feedback information could be used as a reference point when the brokerage company delivers future quotations. Thus, Yensai needs to be careful not to create communication of intent among brokerage companies.

III. Enforcement Policies and Practice

1. Overview

The JFTC, the authority in charge of conduct under the AMA, was established as extra-ministerial bureau of the Cabinet Office, and is composed of a commission chairperson and four commissioners. The chairperson and commissioners exercise their authority independently (Article 28 of the AMA). The main office of general secretariat is located in Tokyo, and operates together with its eight local branches throughout Japan.

When the JFTC finds suspected violations of the AMA, it initiates investigations. There are two types of investigation it can conduct: one is an "administrative investigation" (Article 47 of the AMA) and the other is a "criminal investigation" (Chapter 12 of the AMA). In the administrative investigation, the JFTC conducts a surprise onsite inspection (dawn laid), has a series of interviews (hearing) sessions, and issues a request for information in the course of collecting evidence. When the JFTC concludes that a violation of the AMA actually exists, it issues a cease-and-desist order against the offending party to eliminate such illegal actions. If the case satisfies the prescribed prerequisite, the JFTC may also order the payment of a surcharge by the offending party. Before issuing such an order, the JFTC must hold an administrative hearing. By contrast, a criminal investigation conducted by the JFTC is designed to be transferred to the criminal jurisdiction, and thus, practically, conduct w subject to a criminal investigation is limited to serious violations such as a hardcore cartel. If the JFTC concludes that the case requires a criminal charge be laid, the JFTC must file an accusation with the Prosecutor General of Japan (Article 74 of the AMA).

2. Relevant Procedures

A. *Initiation of Investigation*

The JFTC may collect information from various sources and anything in such information can trigger the initiation of an investigation, including information the JFTC itself collects, accusations or complaints from the general public, and leniency applications. When the JFTC finds suspected violation of the AMA, it starts investigation for further information.

B. *Investigation Procedure*

The JFTC's power of investigation includes onsite inspections, requests to concerned personnel to attend an interview at the JFTC's office, issuance of requests for information, making appraisals, impounding documentation and the like (Article 47, Paragraph 1). Typically, the JFTC starts with and onsite inspection and impound the offending party's business documents and stored data, then requests further documents and interviews relevant personnel, as necessary. The JFTC's investigation power is enforced by penal provisions (Article 94 of the AMA). If the party subject to the investigation refuses to accept the JFTC's instructions, such as rejecting an onsite inspection or giving false answers to requests for information, penal provisions will apply. Guidelines on Administrative Investigation Procedures under the Antimonopoly Act prepared by the JFTC provide more details on the standard procedure.

C. *Order by the JFTC, Rescission Claim against the Order*

As discussed above, administrative hearing must be held before issuance of an order. In this proceeding, an examiner presides at the hearing and explains to the offending party the content of the expected cease-and-desist order and any order for payment of a surcharge, major facts found by the JFTC, and the application of the law. The party receiving the order from the JFTC may bring a lawsuit seeking discharge of the order before Tokyo District Court within six month from the day the party learned of the order.

IV. Applicable Sanctions and Exposure

By way of administrative disposition, the JFTC may order (i) a cease-and-desist order and (ii) order payment of a surcharge. Before the amendment of the AMA in 2019, any surcharge was calculated, in principle, based on the sales, type of business and any discount for leniency where applicable (i.e. the order relating to offending party's application for leniency). Pursuant to the 2019 amendment of the AMA, which went into effect in December 2020, a new leniency program was introduced whereby any reduction of the amount payable would be related to the degree of contribution in revealing the truth of the case, when calculating the surcharge amount, together with the offending parties' order of application for leniency where there is more than one party.

As for any case that is not serious enough to be subject to a cease-and-desist order, the JFTC may issue a warning to the concerned party if the JFTC finds suspicion of violation of the AMA, or if the JFTC cannot find suspicion of the violation but finds conduct that may lead to a violation, the JFTC can issue a caution. When JFTC issues a warning or caution, the JFTC publicly announces both the case and that it issued the warning.

An unreasonable restraint of trade may be subject to the criminal punishment of imprisonment with work for not more than five years or by a fine of not more than five million yen (Article 89 of the AMA). If the offending party was an executive or employee

of the corporation, or agent for a principal, the corporation or principal also can face a fine of not more than five hundred million yen. In addition, any representative of a corporation that has failed to take necessary measures to prevent violations in the face of knowledge of a plan for the violation or that has failed to take necessary measures to rectify the violation despite the knowledge of the violation is also to be punished with a fine of not more than five million yen (Article 95-2 of the AMA).

In criminal cases, the burden of proof is higher than in administrative proceedings and sometimes if can difficult to prove facts.

V. Safe Harbours and Exemptions

1. Overview

There is no explicit provision regarding safe harbours and/or exemptions from illegality of information exchange; however, as the AMA requires that the offending conduct substantially restrains competition in a market, it is unlikely that information exchange will be regarded as violation of the AMA if the relevant parties' market share is below 20%. In such a case, attention should be paid to the scope of the definition of a "market" since sometimes the JFTC narrowly defines "market" (e.g., the cease-and-desist order dated 1 July 2020 as to unreasonable restraint of trade for school uniforms in Aichi prefecture).

A. *Examples of the JFTC's Business Association Guidelines*

The JFTC's Business Association Guidelines show that the following conduct by a business association will not raise the issue of restriction of competition.

- *Offering information about products, etc., to consumers*
  Offering, for the purpose of improving their convenience, information concerning such matters as the proper use of products or services supplied in the field concerned to the consumer.
- *Collecting and offering information about technological trends, management expertise, etc.*
  Collecting and offering general information that concerns such matters as technological trends, management expertise, market environment, legislative or administrative trends, and socioeconomic conditions in the field concerned, that is provided by government agencies, private research organizations, and so forth.
- *Collecting and disseminating information about past business activity*
  In order to obtain and disseminate information on general business performance in the field concerned, collecting, at the discretion of the constituent firms, general information regarding the previous business performance of those firms, including collecting data relating to such matters as the quantities or monetary value of previous production, sales, and plant investment; statistically and otherwise objectively processing such information; and publicly disseminating that information in a rough form, without disclosing the actual quantities or monetary amounts relating to individual constituent firms (except for information concerning prices and expect for information activities for monitoring conduct that restricts prices).

However, in cases where the constituent firm in question has already publicly announced its specific quantities or monetary amounts, the association may disclose relevant information.

– *Collecting and offering price-related information to users*

For the purpose of providing users and the constituent firms with information concerning previous prices, collecting, at the discretion of the constituent firms, general information about those firms' previous prices; statistically and otherwise objectively processing such information; deriving an accurate indication of price distributions and trends; and offering such general information to the constituent firms and users without disclosing the prices of individual constituent firms (except for information activities for monitoring conduct that restricts prices, and except for giving any common standards regarding current or future prices).

– *Offering informational materials regarding quality and so forth of products or services whose prices are difficult to compare*

Offering the constituent firms and users informational materials, or materials concerning technical standards, that enable fair and objective comparisons of price-related matters such as expense items, degree of difficulty of operation, and quality of goods or services whose prices are difficult to compare in the market (except for giving any common standards regarding prices).

– *Formulating and disseminating rough forecasts of demand*

Collecting and offering general information concerning overall demand trends in the field of business concerned; or formulating and disseminating rough forecasts of demand, based on objective facts (except for giving common specific standards concerning future quantities of supplies of the constituent firms).

– *Collecting and offering information concerning customers' credit standings*

Collecting and offering to the constituent firms objective information concerning the credit standings of customers, for the purpose of ensuring safe transactions by the constituent firms (except for the making of agreements among constituent firms either not to deal with specified firms or to deal exclusively with specified firms). For example, compiling and distributing a list of specific firms with an inferior or superior financial rating of each firm (including so-called black listing) might cause the formulation of such agreements among constituent firms.

VI. Information Sharing Best Practices

As a general rule for sharing information practice, business operators need to carefully consider in advance how the information exchange would impact on their actions, and how the actions would influence competition in the market.

1. Practice in Daily Activities

– Training for officers and employees: In order to provide officers and employees with correct knowledge about laws and regulations regarding competition law to ensure compliance, the business operators should conduct regular training for their officers and employees.

- Regular audits: Regular audits are also important to raise employees' and officers' awareness of compliance, and can help to find illegal acts that may require application for the leniency programs.
- Regular reassignment of personnel: In order avoid situations where an officer or an employee builds strong relationships with those in other companies, including their competitors, business operators should consider reassigning personnel on a regular basis.
- Email survey: Information can be exchanged between business operators not only via meetings but also via emails. It is useful for business operators to check periodically whether inappropriate information exchange is conducted via emails, and where necessary, it may be efficient to use the services provided of forensic investigators to check.

2. Negotiation with Competitors, Attendance at Business Association Meetings

Contacting competitors or attending meetings of trade associations may create risks of competition law violations such as cartels. In addition, even if cartels are not actually formed, they may raise the suspicion of cartel formation. Since many of those who make contacts with competitors or attend trade association meetings (typically, sales representatives) are unfamiliar with competition law, it is a substantial risk to allow them to attend meetings with competitors without any internal rules about contacts or meetings.

Considering above, it is beneficial to establish rules including:

- situations where they can contact competitors or attend trade association meetings;
- information that they must not share with competitors or other attendees of trade association meetings;
- situations where they must report to the legal team or they must report prior to the contacts or meetings; and
- contents of the records (such as the date, place, name and profession or job of the person or attendee in contact with, what communicated).

The risks of cartel formation will be lowered by complying with rules above, and even if any suspicion of cartel formation arises, reports and other records would show that cartels were not formed. However, note that the communication with lawyers regarding cartel formation will not be protected by attorney-client privilege under the Japanese system just by indicating it by noting "attorney-client privilege" or similar wordings on the documents. Documents must be stored in a prescribed manner as set forth in the policy issued by the JFTC.

3. Alliance, M&A Transactions

Even if a business alliance and information exchange is not illegal, using such information for any purpose other than that business alliance may raise the suspicion of cartel formation. It is beneficial to take measures to ensure that information is not unnecessarily shared internally.

"The Report of the Workshop regarding Business Alliance", published by the JFTC Competition Policy Research Center suggests taking measures such as the establishment of the Chinese walls, confidentiality agreements, limitation of access to the information owned by those who are in charge of a business alliance, establishing a post responsible for information control, HR policy not to transfer personnel who engaged in a business alliance to the relevant department. In addition, it is advisable that information shared by business partners and is limited to what is necessary for the business alliance and is promptly deleted.

Price, production volume, sales volume, cost, demand and other important information from the viewpoint of competition are higher risk as this information provides expectation of other business operators' conduct.

As for the means of conveying information, in addition to direct exchange, hub-and-spoke setups where competitors use intermediaries as a "hub", and signals whereby competitors exchange through media such as newspapers, are other methods of information exchange.

Further, recently so-called digital cartels have increasingly attracted attention. In one of examples, it is under discussion whether the situation will be subject to the AMA, where sales business operators use similar algorithms for price setting, competitors in the industry know each other and how this algorithm works, and the algorithm tries to set prices so that the profit will be maximized and the price goes up as the algorithms continue to learn price setting.

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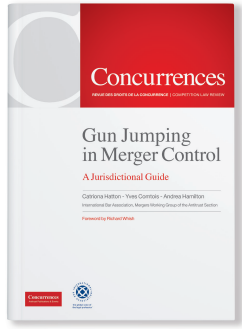

The prohibition on exchanging commercially sensitive information among competitors is one of the most fundamental antitrust rules. Companies and individuals may face potential exposure for anticompetitive information exchange, not only in their day-to-day business due to the applicable conduct and behavioral rules, but also in the context of M&A deals due to applicable gun jumping regulations. The Cartels Working Group of Antitrust Section of the International Bar Association has formulated a comparative guide across 28 jurisdictions, encompassing all global regions, to provide a compendium of best practices and key insights about leading cases, laws and regulations, as well as enforcement trends. Contributed by distinguished practitioners, each chapter provides an overview of the national competition rules and principles that guide information sharing in that jurisdiction, followed by the types of information sharing that may be caught, the enforcement policies and practices of the competition authority and applicable sanctions for parties that are found guilty of an illegal exchange of information. The book also provides a high level overview by the editors outlining trends observed across jurisdictions, to provide insight to the international business community, their advisors as well as to competition authorities.

The jurisdictions covered include Argentina, Australia, Brazil, Canada, Chile, China, Colombia, European Union, Finland, France, Germany, India, Israel, Italy, Japan, Mexico, Russia, Singapore, South Africa, South Korea, Spain, Sweden, Switzerland, The Netherlands, Turkey, Ukraine, United Kingdom, United States.

Zoltán Marosi *is Co-Head of competition at DLA Piper Budapest. Zoltán acts as the newsletter officer of the Antitrust Section of the International Bar Association (IBA) and is a member of its Unilateral Conduct Working Group.*

Marcio Soares *is a Partner within the antitrust practice at Mattos Filho in Brazil. He acts as co-chair of the Cartels Working Group of the Antitrust Section of the International Bar Association (IBA), and is a member of the Board of the Brazilian Institute of Studies on Competition, Consumer Affairs and International Trade (IBRAC).*

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