

JFTC Merger Review FY2018

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During FY 2018, the Japan Fair Trade Commission (“JFTC”) received 321 notifications, which is the largest in the past five years and a 4.9 percent increase from FY 2017. It provided clearance for 315 cases at Phase I review. Two cases were sent to Phase II review. Among cases the JFTC provided clearance during FY 2018, remedies were required for eight cases.

The JFTC publishes information about merger review cases annually, including number of cases (i) the JFTC received a notification, (ii) the JFTC provided a clearance at Phase I review, (iii) that were sent to Phase II review, and (iv) the parties withdrew before completion of Phase I review. It also publishes its analysis on major cases.

Chart: Number of Merger Review Cases from FY2014 to FY2018¹

	FY2014	FY2015	FY2016	FY2017	FY2018
Total of Notified Cases ²	289	295	319	306	321
Phase I ³	275	281	308	299	315
Withdrawal ⁴	11	8	8	6	4
Phase II ⁵	3	6	3	1	2

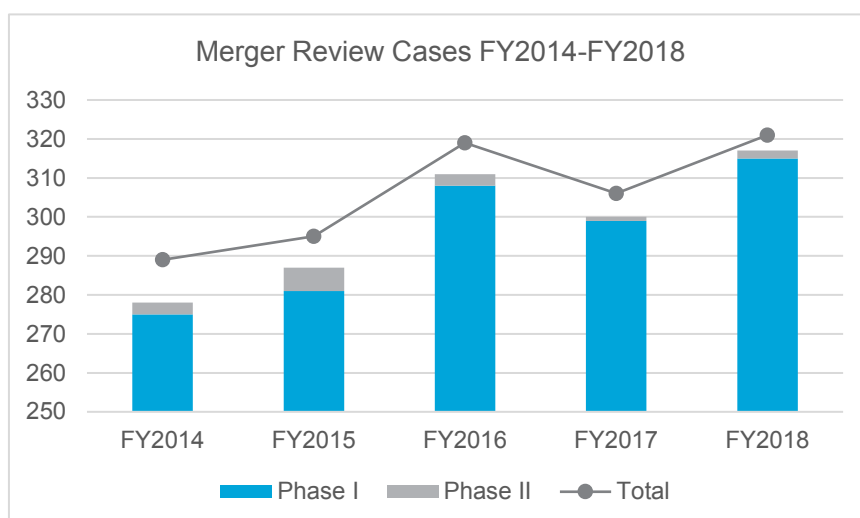
¹ Please note that the total number of cases does not match with total of Phase I, Phase II and withdrawal in the chart above with various reasons, including that (i) there are cases that were notified, but did not receive clearances during the same fiscal year, and (ii) number of Phase II cases in the chart indicates number of cases that were sent to Phase II review during each fiscal year, rather than number of cases that the JFTC provided clearance at Phase II review during each fiscal year.

² Number of notified cases that the JFTC received during each fiscal year.

³ Number of cases the JFTC provided clearance at the end of Phase I review during each fiscal year.

⁴ Number of cases where a notification was withdrawn before the completion of Phase I review.

⁵ Number of cases that were sent to Phase II review during each fiscal year.



Among cases the JFTC received notifications during FY 2018, there were six cases where Japanese and non-Japanese companies were involved as the parties and 34 cases where only non-Japanese companies were involved as the parties.

Chart: Number of cases the JFTC received notifications where a non-Japanese company was involved as a party

	FY2016	FY2017	FY2018
Japanese and non-Japanese companies	12	12	6
Non-Japanese companies	47	31	34
Total	59	43	40

This year, the JFTC included 13 cases from FY 2018 to explain its analysis in the annual collection of major business combination cases, including three cases that received clearances at Phase II review and four cases that received clearances subjected to remedies. Among those 13 cases, there were four cases where at least one of the parties was a non-Japanese company, including (i) acquisition of Shire plc (“Shire”)’s share by Takeda Pharmaceutical Company Limited (“Takeda”), (ii) acquisition of H.C. Starck Tantalum and Niobium GmbH’s share by JX Metals Deutschland GmbH, (iii) merger and share acquisition of The Walt Disney Company and 21st Century Fox, Inc. and (iv) acquisition of Avolon Holdings Limited’s share by Orix Aviation Systems Limited. In the Takeda acquisition of Shire’s share case, the JFTC reviewed the case using a comparison of prospects for competition with the share acquisition against the competitive situation without the share acquisition in question, so-called “counterfactual” analysis. The Director of Merger and Acquisitions Division of the Japan Fair Trade Commission (“JFTC”) mentioned that such “counterfactual” analysis expects to be used for a case where a digital platform purchases a start-up company.⁶

⁶ Kosei Torihiki magazine No. 825 (July 2019), P10

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