



1971

# Book Reviews: Antitrust In Japan

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/ublr>



Part of the [Law Commons](#)

### Recommended Citation

(1971) "Book Reviews: Antitrust In Japan," *University of Baltimore Law Review*: Vol. 1: Iss. 1, Article 12.  
Available at: <http://scholarworks.law.ubalt.edu/ublr/vol1/iss1/12>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Review by an authorized administrator of ScholarWorks@University of Baltimore School of Law. For more information, please contact [snolan@ubalt.edu](mailto:snolan@ubalt.edu).

**ANTITRUST IN JAPAN.** By: Eleanor M. Hadley. Princeton University Press, Princeton, New Jersey, 1970. Pp 453, Appendices, Index. \$18.50. Eleanor M. Hadley is an economist with the U.S. Tariff Commission.

*Antitrust in Japan* is a statistically annotated examination of the economic consequences of the post-World War II American trust-breaking experiment in Japan and an attack on the family controlled conglomerates, the *Zaibatsu*. Professor Hadley has conveniently broken the text into two parts. Part I is an analysis of occupation efforts towards breaking up Japanese concentrated business interests. It is based on Professor T. A. Bisson's original study, "Zaibatsu Dissolution in Japan."<sup>1</sup> with updated differences in interpretation and analysis. Part II is an historical analysis of Japan with statistical supplementation as current as 1964. The economist and statistician interested in Japan will undoubtedly devour this work, as Part I's 204 pages have 44 devoted in part or in full to statistical supplementation in table form; 109 of the 249 pages in Part II are consumed in the same manner. Unfortunately, those searching for legal topics may skim through much of the text.

In the legal realm, Part I deals partially with the U. S. inspired Deconcentration and Antimonopoly Laws. The Deconcentration Law, or Public Law No. 207, was very similar in structure to German legislation of the same period, also U. S. inspired and aimed at deconcentration efforts in Germany. The broad intention of this law was to establish a reasonable basis for competition and freedom of enterprise through the elimination of economic power concentrations which stifled efficiency as well as freedom. The Deconcentration Law explicitly recognized conglomerate operations as leading to excessive concentrations of economic power. Since such concentrations tend to remove the individual as an input to a democratic system, this move was felt to be highly necessary.

While the Deconcentration Law and Antimonopoly Law were supposed to accomplish the same ends, most people found the Antimonopoly Law a more acceptable piece of legislation as it involved no purges of high company officials. The objectives of the law were basically: to make illegal all unreasonable restraints on business; to outlaw all price and quantity fixing; to outlaw cartels; to place restraints on interlocking directorates; and to outlaw holding companies as the key corporate device for creating combines.

With the coming of the Cold War, and the takeover of China by the Communist Party in 1949, U. S.-Japanese policy changed drastically.

<sup>1</sup> T. A. BISSON, *ZAIBATSU DISSOLUTION IN JAPAN* (1954).

The U. S. felt it wiser to have an economically strong Japan as an ally in the Far East. Therefore, many industries were exempted by the Antimonopoly Law. As a result, what little the Antimonopoly program had accomplished was quickly undone.

Part II, a study of the consequences of Part I, constitutes about three-fifths of the work. Of particular interest is the chapter on cartels. Ballentine's *Law Dictionary* (3rd Edition) defines a cartel as "an association of industrialists or financiers for a purpose, usually secret, and sometimes ulterior, such as fixing prices, creating a monopoly, or cornering the market." When dealing with Japanese cartels, however, the words "usually secret and sometimes ulterior" are not applicable as cartels are a way of life for Japanese big business. On the other hand, the words "cornering the market," or "dividing it," are to be stressed. It is the thinking of most Japanese officials, both governmental and private, that competitive policy is inefficient; competition is always excessive competition. Competition is not regarded as conducive to technological progress. Of course, this ideology does not prohibit internal competition as between engineers in one company for a better product; it deals with the duplication of basic materials necessary to a trade or business. Why have two auto manufacturers working twelve hour days when the same job can be done by one company working a twenty-four hour day — thus saving the cost required for a second plant? If a small country is to become an economic giant in high technology products there can be no waste. In practice, however, the number of different Japanese transistor radios on the market shows some flaws in the theory, due undoubtedly to the variety demand by the consumer in the world market.

The U. S., Europe, and Japan all have different feelings about cartels. America condemns them, Europe distinguishes between good and bad (when possible), and the Japanese favor them. It should be noted that even in pre-war Japan the legal concept of freedom of contract did not include freedom of competition; monopoly and cartelization were not considered against the public interest. In the 1920's the Japanese government even gave positive encouragement to their formation through the Export Society Law and the Major Export Commodities Association Law. Cartels were barred during the occupation by the aforementioned Antimonopoly Law and though there were exceptions for antidepression and rationalization cartels, less than 30 have ever been formed. (These exceptions are not to be confused with those granted after 1949 and at the onset of the Cold War with the encouragement of U. S. policy.) Most cartels came into existence due to legislation written or amended to provide exceptions from the Antimonopoly Law at the onset of the Cold War.

In the light of the current textile war between the U. S. and Japan, it should be noted that the U. S., in certain instances, promotes Japanese cartelization. This is largely a result of formal and informal agreements for quotas on certain goods exported to the U. S. The inevitable effect of a quota, however, whether it be voluntary or government imposed, is the formation of a cartel among exporters of the commodity. This is done in order to have some way of dividing the market.

In conclusion, the text's greatest value is that of a reference book. On reading the conclusion of Parts I and II, one may get enough working knowledge of the work to use it for his particular purpose.

*B.W.H.*