The Role of Distribution Regulations

By Imoto Shogo

For ambitious foreign companies, entry into the Japanese market is easier than ever. While many barriers still exist, the government has shifted toward deregulating the distribution system, and complaints by foreign companies over irrational regulations are likely to be dealt with more smoothly than before. Given the current global recession, and the world's highest trade surplus, Japan bears international responsibility not to evade reasonable requests to open its market. Also, given the current strength of the yen, Japanese consumers would appreciate companies offering good quality at reasonable prices.

It is often said that Japan has a complicated and drawn out distribution system which is difficult to penetrate. However, this is not quite the case. The long and complicated process is often a result of elaborate services necessary to meet the varied needs and demanding requirements of consumers. For example, even in rural, mountainous areas fresh vegetables and fish that were grown or caught hundreds of kilometers away are available. We can get the same beer or cola from a convenience store 100 meters away, a supermarket 500 meters away, a general merchandising store two kilometers away, or a food discounter eight to 10 kilometers. To support such varied retailers, numerous channels are necessary to supply fresh fish, fruit, vegetables, beer and cola. Some commodities are supplied directly from manufacturers while others reach local shops through primary or secondary wholesalers. A long and complicated process is not a problem as long as it matches consumer needs. Indeed, it is the consumers' preference.

It is also true, however, that many elements in the system complicate distribution and discourage new entries. These barriers stem from excessive government regulations and the traditionally weak application of the Anti-Monopoly Act that has allowed somewhat illegal trading practices to flourish. As of March 1992, 10,942 different permits and approvals were granted. Since the early 1980s private companies have called for administrative reform and deregulation to allow for wider business opportunities.

Nevertheless, 900 approvals and authorizations have been added since 1985. In the retail industry, to open a 10,000-square meter outlet requires more than 60 permits and approvals, according to the Large-scale Retail Store Law, the Building Standards Law, the Pharmaceutical Affairs Law, liquor licenses, the Fire Service Law and so on. Of course, many of those regulations are based on reasonable concerns about residents' safety and environmental protection. At the same time, however, a considerable number simply protect existing businesses, a situation which inconveniences the consumer and keeps prices artificially high.

With the relaxation of the Large-scale Retail Store Law and nationwide pricing, liquor discount stores have sprung up throughout the country

Stronger calls for deregulation

The *Nikkei Marketing Journal* conducted a survey of 700 Tokyo metropolitan area residents between the ages of 13 and 29 in November 1991, asking "What commodities and services would you like to see available in a convenience store?". Some 64% of the 500 effective answers requested nonprescription medicines.

Undoubtedly, it would be very convenient to be able to buy over-the-counter drugs for minor sickness like a cold or upset stomach from all-night neighborhood convenience stores. But the Pharmaceutical Affairs Law requires a pharmacist for the sale of medication, preventing the distribution of nonprescription drugs from convenience stores. This is for consumer safety as pharmacists must pass a difficult national exam. However, many cold and stomach medicines are well-known major brands. Is such a specialist really necessary for these products? For nonprescription medicine, a simple test requiring only a few days' study should be all that is necessary to enable convenience stores to sell these popular brands.

Other desirable convenience store services named in the survey included on-line ticket sales for trains and airplanes, driver's license renewal, dry-cleaning agents, lottery and off-track betting ticket sales and rental car bookings. However, most of these services are either too meticulously regulated or monopolized by the government which effectively shuts out private companies.

Alcohol sales also are government licensed. Many convenience stores sell alcohol, but most of them are former liquor stores. The authorities defend

24-hour shops have become such a convenient and necessary part of everyday urban life that requests to expand their services are now multiplying.

licensed alcohol sales as a way to prevent sales to minors and as a way to cut back on intensified competition which could force some existing stores out of business. In short, the government feels it should safeguard the morality of minors and not lose alcohol tax revenues resulting from the closure of some liquor stores.

Ambitious supermarket and convenience store owners balk at the comment: "Minors can purchase beer from vending machines without shopkeepers' knowledge. How can we prevent them from drinking without banning vending machines? Further, the closing of liquor stores does disrupt tax collection as alcohol taxes are paid upon shipment from the manufacturers." Such a cold attitude stems from the belief that the main reason for restrictions on drug and liquor sales is to protect existing businesses.

This practice helps maintain the bureaucratic power base, and politicians representing these interests pressure the administration. Power-loving bureaucrats, clannish politicians and self-serving industries often unite to raise barriers against new entrants and maintain an inefficient economic system at the expense of the rest of the population.

The Large-scale Retail Store Law used to champion inefficiency in the retail industry. The law was enacted in 1974 to protect local shops from a sharp drop in earnings in the face of major store openings. Thereafter, regulations effecting openings were constantly tightened with little regard for consumers. But since the late '80s, Japan has been pressured to both open its markets and expand domestic demand. Thus laws discouraging competition and accompanied enforcement rules were gradually relaxed.

In principle, liquor sales have also been relaxed to allow the licensing of large stores with more than 10,000 square meters. (Yet, there is a provision excluding beer and saké—the biggest sellers—for the first three years.)

The reinforcement of the Anti-Monopoly Act, together with deregulation, has promoted price competition and a more open market. Manufacturers have traditionally maintained strong consumer price control in Japan. Although the Anti-Monopoly Act prohibits price cartels and resale-price maintenance controls, these practices are common due to weak enforcement by the Fair Trade Committee (FTC). The committee, supposedly the watchdog of the Anti-Monopoly Act, has often been criticized as the watchdog without teeth because of its lack of action.

Tighter enforcement of the Anti-Monopoly Law

The FTC has increased its activities, as foreign countries, especially the U.S., call more loudly for real enforcement of the act and the stronger yen reveals the high price structure by widening the price gap between domestic and overseas consumer markets. Thus, rulings under the act have risen sharply in the last three to four years. For example, in February 1993, sales subsidiaries of Matsushita, Sony and Toshiba were officially advised by the FTC to eliminate concerted over-the-counter price controls. Also, in the fall of 1990, the FTC instructed beer makers to put ads in newspapers with the message: "The manufacturers' retail price is only a suggestion and retailers are free to set their own prices." Previously all beer, regardless of who made it, had the same price throughout Japan. Following the ad, mushrooming liquor discounters began selling beer at prices 20% to 25% lower than the "fixed" beer prices.

As seen above, the deregulation and reinforcement of the Anti-Monopoly Act reflects foreign pressure to open the Japanese market. However, there are many foreign companies already operating in Japan and the truth is the market is not as closed as some might believe. It seems to me that many foreign businessmen who complain about the closed market are trying to avoid criticism by the head office for their poor management and marketing by laying the blame squarely on Japan. Also, many Japanese do not agree with U.S. demands to set numerical targets—i.e. Japan should reduce its trade surplus within 2% of its gross domestic product—as this will lead to controlled trade.

However, Japanese consumers welcome foreign pressure for deregulation and reinforcement of the Anti-Monopoly Act which is in line with their interests. Foreign companies who want to enter the Japanese market will find their complaints over Japan's irrational regulations and weak Anti-Monopoly Act enforcement are supported by the Japanese consumers. Thus entry now is easier than ever.

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