its powerful position and harmed the public. On the other hand, the treatment of abuse of dominance in the EU and Japan is consistent with their communitarian perspective to allow firms to become large-sized provided society derives offsetting benefits.

First, the U.S does not require an explicit market share test to determine dominance. Second, competition policy in the EU and Japan, concerns itself largely with anti-competitive behaviour rather than structural issues. Third, in the U.S. it is possible to break-up existing dominant firms. Such a provision does not exist in the EU and is nearly impossible in Japan.

- **Mergers**

U.S.: Mergers in the U.S. are assessed in terms of their (anticipated) effect on consumer welfare as measured by the impact on consumer prices. This impact is determined by examining market power. In U.S. jurisprudence and in the *Merger Guidelines* of 1992, market power has been examined by looking at such quantifiable market share and structure data and indices as Herfindahl-Hirschman (a measure of market concentration). Potential efficiency gains of a merger may be considered but traditionally have not figured prominently. In other words, no absolute efficiency defence exists in the U.S..

A pre-merger notification to both the Federal Trade Commission and the DOJ is required for most mergers above US$ 10 millon threshold levels.[151] Decrees or orders may require divestiture of lines of business that are the basis for the anticompetitive concern. Non-structural remedies also exist. In contrast to the EU, Canada or Japan, the U.S. statutory scheme explicitly allows private parties to sue for and have injunctive relief against "threatened loss or damage" arising from a violation of section 7 of the Clayton Act. The Department of Justice (DOJ) has tended not to view vertical mergers with concern and its approach appears more lenient than U.S. jurisprudence.

[151]Reportable mergers in the U.S. would include transactions such as when one party has total assets or net annual sales of US$100 million or more and the other party has total assets or net annual sales of US$10 million or more; or when the buyer is acquiring 50% or more of the issuer's voting stock, even if the value of voting securities is worth US$15 million or less.