

5.2.1 Super-structuralism: the original draft

The original draft of the Anti-Monopoly Law rested on the three *per se* controls of:

- restraint of trade,
- monopoly, and
- unfair trade practices.

Article 4 prohibited any horizontal agreements on price, quantity or other terms of business. Article 9 forbade holding companies. Unique to Japan, Article 11 set limits (5%) on inter-corporate shareholding and holdings by financial institutions—there is no counterpart in U.S. antitrust laws. Article 13 put limits on inter-locking directorates. These provisions were aimed at busting up the relationships that had built Japanese business.

As a result of this super-structuralist programme, far stronger than the doctor ordered for itself, the Japanese economy was subjected to the most far-reaching trust-busting deconcentration and structural reorganization programme in the post World War economy. Scores of giant Japanese holding companies were dissolved; the two largest of these (Mitsui and Mitsubishi) were divided into some 200 separate firms. Japanese courts and the newborn Fair Trade Commission (JFTC) found cartels illegal *per se*.

5.3 Post-occupation competition

Japanese business resented the forceful demonstration of U.S. competition policy even before SCAP's departure in 1952. Industrial groups and government ministries pointed out that Japan, unlike the U.S., did not have abundant resources and land, where a frontier ethic of individualist competition could flourish. In their view, the new AML provisions were not suitable to Japan and represented a policy to weaken Japanese industries.⁷³

5.3.1 Mini-structuralism: Individualistic competition policy vanquished

⁷³See William Chapman, *Inventing Japan: An Unconventional Account of the Postwar Years*, New York: Prentice Hall, 1991, p. 103.