

However, in the post-Chicago School period, some business practices, such as first mover advantages or differences in information between an incumbent and potential entrants or the reputation of the incumbent, were argued to pose barriers to entry and to contribute in maintaining a dominant position. If the Microsoft case is any indication, U.S. antitrust policy with regard to abuse of dominance may be moving back in the direction of a most aggressive position on competition philosophy spectrum.

EU: The abuse of a dominant position in the EU is condemned but not the existence of a dominant position. In other words, a dominant firm will be tolerated so long as it does not take advantage of its position and engage in uncompetitive behaviour. In general, like the U.S., the abuse of dominance in the EU is examined by the rule of reason standard, which considers the background of the circumstances of each case. There is no provision for the dissolution of existing concentrations in EU law, instead, abuses are prohibited.

Japan: The AML recognizes that a powerful enterprise can become a monopoly by excluding or controlling the business activities of other firms and can stifle market competition. Two main elements of monopolization are exclusion and control in the marketplace. In principle, the AML provides for both structural and behavioural controls of monopolization in Japan. Deconcentration measures such as a break-up of an existing enterprise became theoretically possible when the *per se* structural control of monopolistic situations was hesitatingly revived in 1977.

In summary, the U.S. stands out among the Triad by giving centre spot to firm size or market shares, i.e. **structural** and quantitative elements, in determining a monopoly problem. In contrast, Canada, the EU and Japan appear more to focus on the abuse of monopolistic **behaviour** than the bigness or firm structure itself. The U.S. also allows for an effective dissolution power to deal with existing monopolies, which is not done explicitly in either Japan or the EU.

On balance, the emphasis in U.S. competition policy on structural elements such as large firm size reflects the philosophy that firms with large market share are likely to limit individualistic freedoms and harm consumer welfare. Although both the EU and Japan also apply market share to test for monopolistic positions, the questions asked there are whether a monopoly abused