

its surcharge or strengthen its antimonopoly enforcement, the Japanese, for example, still look to the EU model rather than the U.S..¹⁶¹ Both continental Europe and Japan share a history of having a foreign (U.S.) individualistic antitrust applied to their markets, but also of modifying the individualistic form of enforcement to suit their markets.

Similarly in contrast to the U.S., neither the EU nor Japan permit private parties to take competition cases related to non-criminal matters directly to court, nor to seek treble damages even in criminal matters.

7.3 Competition philosophy and the success of corporate models

Competition policy is an integral part of overall economic policy. One major result that policymakers want to deliver to their population is good job and business opportunities, and high levels of living. Good competition and trade policies should support and contribute to job creation, business activity and consumer welfare in the economy.

Some policy analysts worry about frictions among national corporate systems and pose the question: what will happen in the marketplace when the "I" of America goes up against the more communitarian "Das Volk" of Germany or "Japan Inc."?¹⁶² Thurow believes this conflict has already begun:

Wilks, *op.cit.*, p. 20 on the role played by guidelines:

In Britain, guidelines are often regarded as an empty, face saving device, easily breached and often ignored. In Japan they are taken far more seriously...they fulfil almost the same role as precedent in case law... the EU tends to use guidelines precisely to interpret and elaborate case law.

¹⁶¹Wilk, *op.cit.*, p. 31: When the Japanese "cartel surcharge...was set at a modest 1.5% of...turnover... The U.S. advocated an increase to 10%".

Also:

The JFTC has announced that it will facilitate private actions by publishing fuller information and providing full evidence to the court... Suit filing fees have been reduced...but it remains highly improbable that triple damages or class action suits will become allowable. MITI points out that since such provisions do not exist in Europe, there is no reason why they should in Japan.

¹⁶²Lester C. Thurow, *Head to Head: The Coming Economic Battle Among Japan, Europe and America*, New York: Warner Books, 1992, p. 125.