

How Support for Enterprise Turnaround by Public Funds Should Be Done

We would like to express our views about how support for enterprise turnaround by public funds should be done.

November 21, 2012

- How support for enterprise turnaround by public funds should be done
 - Public funds should be available for use in enterprise turnaround only for cases in which reliance on the market function is not enough to activate the turnaround mechanism properly, the social cost is judged to be larger if such support is not implemented, and the market is dysfunctional in its role to supply risk money.
 - Public support organization—while avoiding destruction of national assets through the success of turnaround projects—needs to have the perspective to minimize distortions in competition with competing companies in the industry in which public funds are injected, and to avoid as much as possible obstructing replacement of old enterprises with new ones in the competitive markets.
 - In the EU, the Treaty on the Functioning of the European Union and the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty [2004] stipulate the judgment criteria for business turnaround by national subsidies.
 - In Japan as well, it will be of significance to establish in advance general guidelines for supporting enterprise turnaround by public funds in order to maximize the effects of such support, and at the same time, to minimize its side-effects—i.e., obstruction of replacement of old enterprises with new ones, and murky political intervention arising from the problem of distorting competition.
 - Even when public funds are injected, it is possible to substantially redress the problem of obstructing replacement of old enterprises with new ones by auctioning management right at the time of the exit by the public support organization. From the viewpoint of promoting the replacement of old enterprises with new ones, such a method would be preferable.

- Bill for ensuring fair competitive conditions

- As for the bill for ensuring fair competitive conditions which is under consideration by the Liberal Democratic Party of Japan (LDP), it is appropriate in that: the draft stipulates the Fair Trade Commission will establish the guidelines, and the public support organization and relevant ministries will implement support in consideration of the guidelines; and when the implementation is not following the guidelines, the Fair Trade Commission is authorized to make recommendations to the public support organization and relevant ministries.
- In order to maximize the policy impact of public funds injection, and ultimately revitalize the market economy system, we would like to request the following six points at the time of future legislation and establishment of guidelines by the Fair Trade Commission.
- To formulate, establish the operational method of, and develop an appropriate operational system for the guidelines which should respect the decision-making of public support organization, as well as flexibility and predictability of turnaround projects
- Not to make a correction recommendation if the exit plan of the public support organization is sales by auction of the management right.
- To restrict the timing of recommendations to the time of formulating the rehabilitation plans.
- To emphasize, in the recommendation, opinions and indications which will minimize grave impacts on the conditions for competition
- As for taxation, to conduct examination from diversified standpoints, in a comprehensive way, and with caution.
- To avoid deviating from the principle of non-retroactivity for disadvantageous modifications—which is a general principle of the law—at the time of legislation

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