



Case Study of Unfair Trade Practices by a Japanese Agricultural Cooperative

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Introduction

Japanese agricultural cooperatives serve important functions in the rural community. In addition to agricultural services, they provide several services required in daily life, such as banking and arrangement of family ceremonies. Each agricultural cooperative has its own jurisdiction, which does not overlap with those of others. They organize farmers in their jurisdictions into various economic activities such as joint shipment of agricultural products and joint purchases of agricultural inputs. They form a nationwide network led by the Central Union of Agricultural Cooperatives (CUAC).

The evaluation of agricultural cooperatives differs among researchers. Some appraise them as an effective framework for promoting agricultural production, while critics claim them to be powerful enough to stifle market competition.

Those who criticize agricultural cooperatives often select cases of their violation of the Antimonopoly Act as evidence of their perspective. Among them, the case of Oita-oyama-cho Nokyo, an agricultural cooperative in Oita Prefecture, is among the most well-known ones. In 2009, the Fair Trade Commission of Japan (JFTC) recognized that Oita-oyama-cho Nokyo conducted unfair trade practices and issued it a cease and desist order.

This paper aims to present the details of the Oita-oyama-cho Nokyo case and to provide a common basis for discussing the role of agricultural cooperatives in Japan. The paper does not intend to present the author's view on agricultural cooperatives.

Overview of Oyama town

The jurisdiction of Oita-oyama-cho Nokyo basically covers Oyama town in Hita city, Oita Prefecture. While Hita city has a population of 70,900, that of Oyama town is 3,300¹. Farmers in Oyama town were poor during the early postwar period because of its unfavorable conditions for growing rice. However, after introducing new commodity crops that could adapt to the natural environment of the town, under the leadership of the successive presidents of Oita-oyama-cho Nokyo, farmers' income levels increased sharply in the 1960s. In particular, Japanese apricots attracted consumers and were a big success in the market. Consequently, a majority of the farmers in Oyama town became rich enough to travel

overseas for sightseeing tours in the 1970s. Since then, their income levels have been consistently higher than that of farmers in most other regions of Japan. This success story has been popularly reported in the mass media.

Oita-oyama-cho Nokyo's Konohana Garuten stores²

A total of 647 farmers in Oyama town are regular members of Oita-oyama-cho Nokyo³. The executive board is considered the supreme decision-making body. The board members are elected from among the regular members and are obliged to report the performance of their activities at every annual general meeting of regular members. Among its various economic activities, Oita-oyama-cho Nokyo performs well in retailing agricultural products. It has a chain of stores for selling agricultural products, called *Konohana Garuten*, with two stores in Hita city and six in the neighboring cities. Oita-oyama-cho Nokyo has a commission sale system for operating these stores: it collects agricultural products from farmers and sells them to consumers at *Konohana Garuten* stores, with a commission fee of 22% of the sales. All the stores of *Konohana Garuten* are popular among local consumers. The total sales figures of *Konohana Garuten* (for all eight stores) amounted to 1.6 billion yen.

Besides *Konohana Garuten's* two stores, six other stores in Hita city sell similar agricultural products to consumers. *Konohana Garuten's* two stores in Hita city, in aggregate, account for more than half of the total sales of agricultural products from the eight stores in the city. This means that Oita-oyama-cho Nokyo dominates the retail market of agricultural products in Hita city.

The business system of Oita-oyama-cho Nokyo for *Konohana Garuten* is rarely seen in other Japanese agricultural cooperatives. Generally, these cooperatives procure agricultural products only from farmers in their own jurisdictions (i.e., their own regular members). However, Oita-oyama-cho Nokyo is exceptional in that it procures agricultural products from non-members (i.e., farmers out of their jurisdiction) as well and sells these at *Konohana Garuten* stores.

In order to operate these stores, Oita-oyama-cho Nokyo has two subordinate organizations of farmers who desire to introduce their agricultural products at *Konohana Garuten's* stores. One is Oyama Bukai for farmers in Oyama town, and the other is Hita Bukai for those from outside. The total number of members of the latter is much larger than that of the former⁴. However, since none of the members of Hita Bukai are regular members of Oita-oyama-cho Nokyo, it is difficult for them to make an influence in the decision-making process.

Oita-oyama-cho Nokyo's unfair trade practices in 2009

On April 16, 2009, a private company, Genki-ya, opened a store in Hita city, called *Genki-no-eki*, which sold agricultural products through a system similar to that of Oita-oyama-cho Nokyo. Genki-ya established an organization for farmers who want to include their agricultural products in *Genki-no-eki*, called Genki-no Kai. Genki-ya collects agricultural products from members of Genki-no Kai and sells them to consumers at *Genki-no-eki* with a commission fee of 15% of the sales.

Prior to the opening of *Genki-no-eki*, the executive board of Oita-oyama-cho Nokyo recognized the possibility that *Genki-no-eki* would take a considerable number of customers from *Konohana Garuten's* two stores in Hita city and adversely affect Oita-oyama-cho Nokyo's profits. To cope with this problem, the executive board decided to try to suppress Genki-ya's businesses by forcing members of Oyama Bukai and Hita Bukai to avoid offering

their agricultural products at *Genki-no-eki*. For this purpose, on March 24, 2009, the executive board instructed all the members of Oyama Bukai and Hita Bukai as follows:

1. They should not offer their agricultural products at *Genki-no-eki*.
2. If a member of Oyama Bukai or Hita Bukai offers his (or her) agricultural products at *Genki-no-eki*, he (or she) should receive penalties from Oita-oyama-cho Nokyo.

During the opening of *Genki-no-eki*, Oita-oyama-cho Nokyo found that 18 members of Oyama Bukai and Hita Bukai had included their agricultural products in *Genki-no-eki*. Consequently, Oita-oyama-cho Nokyo imposed penalties on them, which included a refusal to sell their agricultural products at *Konohana Garuten* stores and a threat to expel them from Oyama Bukai and Hita Bukai.

On receiving such severe penalties, 16 members withdrew their agricultural products from *Genki-no-eki* (the remaining 2 chose to continue offering their products at *Genki-no-eki* by sacrificing their opportunities at *Konohana Garuten* stores). More members of Oyama Bukai and Hita Bukai, in addition to the 18 had planned to include their products at *Genki-no-eki*; however, they also suspended their efforts after observing Oita-oyama-cho Nokyo's severe penalties on the 18 members.

Oita-oyama-cho Nokyo's obstruction to Genki-ya's collecting agricultural products disturbed the operation of *Genki-no-eki* significantly. For example, Genki-ya had already planned to organize a promotional event using Japanese apricots. However, Genki-ya withdrew the plan because Genki-ya could not collect sufficient amount of Japanese apricots from farmers.

The JFTC's cease and desist order to Oita-oyama-cho Nokyo

Oita-oyama-cho Nokyo's counteractions to the opening of *Genki-no-eki* faced criticisms from the public. Genki-ya and some members of Oyama Bukai and Hita Bukai complained about Oita-oyama-cho Nokyo. Major newspapers reported this case as Oita-oyama-cho Nokyo's unfair trade practices.

After investigation, the JFTC recognized that Oita-oyama-cho Nokyo had violated the Antimonopoly Act. On December 10, 2009, the JFTC issued a cease and desist order as follows:

1. Oita-oyama-cho Nokyo must stop any practices that prevent farmers from offering their products at *Genki-no-eki*.
2. Oita-oyama-cho Nokyo must allow all farmers to sell their products freely through any retailers.
3. Oita-oyama-cho Nokyo must explain its actions toward fulfilling the afore-mentioned two requirements to Genki-ya, members of Oyama Bukai and Hita Bukai, and all the employees of Oita-oyama-cho Nokyo.
4. Oita-oyama-cho Nokyo must promise that it will not conduct any unfair trades going onward.
5. Oita-oyama-cho Nokyo must set up a special system for observing all the regulations of the Antimonopoly Act.

Concluding remarks

This was not the first instance of unfair trade practices committed by Oita-oyama-cho Nokyo. For example, in 2003, when some members of Hita Bukai tried to offer their agricultural products at a store operated by a consumers' cooperative, Oita-oyama-cho Nokyo threatened to expel them⁵. Recognizing it as a violation of the Antimonopoly Act, the JFTC

issued an administrative guidance and stopped Oita-oyama-cho Nokyo from doing so⁶. As such, when Oita-oyama-cho Nokyo received a cease and desist order in 2009, critics argued that unfair trade practices had become its inveterate habit.

We should think carefully about whether we can generalize the case of Oita-oyama-cho Nokyo to all Japanese agricultural cooperatives. Oita-oyama-cho Nokyo is different from other agricultural cooperatives in many respects because it collects several agricultural products from farmers out of their jurisdiction. In addition, unlike most agricultural cooperatives, Oita-oyama-cho Nokyo opposes some of the CUAC's important directions concerning business operations⁷. For example, while the CUAC strongly promotes the merging of agricultural cooperatives into larger ones, Oita-oyama-cho Nokyo opposes it.

Notes

- 1) The 2010 population census (as on October 1, 2010).
- 2) This section is based on the document of JFTC's cease and desist order to Oita-oyama-cho Nokyo on December 10, 2009. The numerical data is obtained for 2008.
- 3) There are two types of memberships in Japanese agricultural cooperatives: regular members for farmers and associate members for non-farmers. The qualifications for and roles of these two types of memberships are discussed in Godo, Y., "The Significance of Non-farmers in Japanese Agricultural Cooperatives," *FFTC Agricultural Policy platform* (Food & Fertilizer Technology Center for the Asian and Pacific Region), July 4, 2014b (downloadable at http://ap.ffc.agnet.org/ap_db.php?id=264). In Oyama town, 232 non-farmers belong to Oita-oyama-cho Nokyo as associate members.
- 4) The Agricultural Cooperative Act allows those without membership to use services of agricultural cooperatives to a limited extent. For joint shipment of agricultural products, the total amount of agricultural products from non-members should be less than 20% of that from members. It is suspected that Oita-oyama-cho Nokyo ignores this regulation.
- 5) <http://plaza.rakuten.co.jp/farmert/diary/200904290000/>
- 6) The legal impact of an administrative guidance is less than that of a cease and desist order.
- 7) Symbolically, while almost all the agricultural cooperatives use the logo "JA" in order to indicate the identity of the nationwide network led by the CUAC, Oita-oyama-cho Nokyo refuses to do so.

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