Recommendation Decision No.26 of 2004

Decision

Mr. Yasuhide Uno,
President, the USEN Corporation
2-11-1, Nagata-cho, Chiyoda-ku, Tokyo

Mr. Noboru Kono
President, the Nippon Network Vision Corporation
3-8-3, Nishi Shinjuku, Shinjuku-ku, Tokyo

The Japan Fair Trade Commission made the recommendation to the above parties under the provisions of Section 48 (2) of the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (hereinafter referred to as “Antimonopoly Act”) on September 14, 2004. As the above parties have accepted it, the JFTC hereby issues the following decision under the provisions of Section 48 (4) of the same Act in line with the said recommendation.

Main Text

1. The USEN Corporation and the Nippon Network Vision Corporation shall provide each other with written notification that they have ceased and desisted from and will not repeat in the future the conducts that they offer only to the customers of the CANSYSTEM Corporation a favorable sales condition of a monthly subscription fee of below 3,675 JPY (including consumption tax) or a fee-free period exceeding three months since the month when a customer begun its subscription by installing a tuner provided that the customer concludes a new contract pertaining to provision of music broadcasts to replace the existing contract in kind with other entrepreneurs (hereinafter referred to as “switchover contract”) with regard to the provision of music broadcast services (referring to the broadcast services transmitting audio and other sounds to customers mainly for the purpose of providing music, hereinafter referred to as the same) to such business establishments as stores and accommodation facilities. The manner shall by subject to the approval of the Commission and they shall notify the CANSYSTEM corporation thereof in writing.

2. The USEN Corporation and the Nippon Network Vision Corporation shall not unjustly deprive other entrepreneurs providing music broadcasts of their customers through the conduct similar to that described in the preceding paragraph in the future.
3. The USEN Corporation and the Nippon Network Vision Corporation shall take necessary measures for providing the training concerning the Antimonopoly Act to its music broadcasting sales staff to refrain from the conducts similar to that mentioned in 1 above and thoroughly inform the details of the measures to the directors and employees of their companies. The contents of the measures shall be subject to the approval of the Commission.

4. The USEN Corporation and the Nippon Network Vision Corporation shall promptly notify the Commission with regard to the measures they have taken in accordance with those described in 1 and 3 above.

Findings of Fact

The findings of the Commission are the followings:

1 (1) a. The USEN Corporation (hereinafter referred to as “USEN”) is headquartered at the address shown above, and engages in the broadcasting business that transmits audio and other sounds to customers mainly for the purpose of providing music (hereinafter referred to as “music broadcasting business”) (hereinafter referred to as “music broadcasts”).

b. The Nippon Network Vision Corporation (hereinafter referred to as “Nippon Network Vision”) is headquartered at the address shown above, concluded a business alliance agreement with USEN at the time of its establishment on July 1, 2003, and engages in the business of sales of music broadcasting services which the USEN provides and of agency for the contracts between the USEN and its customers regarding its music broadcasting services (hereinafter referred to as “subscription contracts”).

c. The CANSYSTEM Corporation (hereinafter referred to as “CANSYSTEM”) is headquartered at the address: 7-22-42, Nishi Shinjuku, Shinjuku-ku, Tokyo, and engages in the music broadcasting business.

(2) a. The music broadcasting services includes the transmission service of audio and other sounds to customers by cable telecommunications facilities (hereinafter referred to as “cable music broadcasting”) and the transmission of audio and other sounds to customers by a communication satellite (hereinafter referred to as “satellite music broadcasting”).

b. The entrepreneur who provides music broadcasting services (hereinafter referred to as “music broadcaster”) provides cable music broadcasting service or satellite music broadcasting service for such business establishments as stores and accommodation facilities, and individual customers.

c. The music broadcaster solely provides such business establishments as stores
and accommodation facilities with music broadcasting services for the purpose of providing background music at the said business establishments (hereinafter the music broadcasting service for such business establishments as stores and accommodation facilities are referred to as “music broadcasting for business establishments”), and solely provides individual customers with music broadcasts for the purpose of personal use (hereinafter the music broadcasting service provided to the individual customers are referred to as “music broadcasting for individuals”).

d. The music broadcaster concludes subscription contracts with the customers directly or through its agent, and provides the music broadcasting for business establishments or music broadcasting for individuals with a charge.

e. As of the end of July 2004, in the number of subscription contracts of music broadcasting for business establishments in Japan, the music broadcasting subscription contracts of the USEN accounts for approximately 72%, and ranked at the top, while that of the CANSYSTEM accounts for approximately 20%, and ranked second.

(3) a. In the music broadcasting subscription contracts for business establishments that the USEN and the CANSYSTEM conclude with their customers, the term of contract is set to two years and the customers shall pay installation fee and monthly subscription fee (As for CANSYSTEM, installation fee, engineering fee and monthly subscription fee.) according to their selection from multiple commercial items offered by the said two companies (commercial items refers to the subject of subscription contracts such as “USEN40ch”, “USEN24ch”, etc. in case of USEN, and “Cable50ch”, “Cable30ch”, etc. as for CANSYSTEM, hereinafter the same applies).

In the music broadcasting subscription contracts for business establishments that the afore-mentioned two companies conclude with their customers, there are two types of subscription contracts which are a subscription contract concluded in place of the existing contract with other music broadcaster (hereinafter referred to as “switchover contract”) and a subscription contract concluded with customers other than the above-mentioned ones (hereinafter referred to as “new contract”).

b. In the switchover contract that the afore-mentioned two companies conclude with their customers, since installation fee and engineering fee would not be charged if the customers maintain their existing contracts, they do not charge these fees with the customers who conclude the switchover contract. In this case, the customers pay the monthly subscription fee only.

c. As to the new contract, the USEN generally claims an installation fee and monthly subscription fee, whereas the CANSYSTEM generally claims only monthly subscription fee.
(4) a. As of the end of June 2003, the terms and conditions on the subscription contract that the USEN had offered to the customers of music broadcasts for business establishments were, in case of the new contract, the installation fees (including the consumption tax, hereinafter the same) of “USEN40ch”, “USEN24ch”, and “SP (Single Mix)” were 21,000 J PY, 15,750 J PY, and 31,500 J PY respectively, and the monthly subscription fee (including the consumption tax, hereinafter the same) was 4,725 J PY for any of these commercial items. The fee-free period of the monthly subscription fee was limited to the month that a tuner needed to receive music broadcastings for business establishment was installed at its stores and accommodation facilities (hereinafter referred to as “tuner installation month”) for any of these commercial items.

In case of the switchover contract, an entry fee was not charged for these commercial items and the range of the monthly subscription fees of these commercial items were between 3,675 J PY and 4,725 J PY. The fee-free period of the monthly subscription was three months at the longest including the tuner installation month for any of these commercial items.

b. On the other hand, as of the end of June 2003, the terms and conditions on the subscription contracts that CANSYSTEM had offered to the customers of music broadcasting for business establishments were, as to “Cable120ch”, “Cable50ch”, and “Satellite50ch”, whether it concluded the switchover contract or the new contract, the monthly fee of “Cable120ch” was 5,250 J PY, and those of “Cable50ch”, “Cable30ch” and “Satellite50ch” were 4,725 J PY. Furthermore, approximately 1,000 J PY was discounted from the said amounts. The fee-free period of the monthly subscription was around two months including the tuner installation month for any of these commercial items. The installation fee was generally charged for neither the switchover contract nor the new contract.

2 The USEN and the Nippon Network Vision concluded a business alliance agreement on July 1, 2003, that the terms and conditions on the music broadcasting subscription contract for business establishments which the USEN concluded through the agency of the Nippon Network Vision were the same as 1(4)a above. The USEN and the Nippon Network Vision planned to deprive the CANSYSTEM of a large number of customers in a short period, make its management of music broadcasting business difficult, force CANSYSTEM to sell
its music broadcasting business to the USEN, and integrate the music broadcasting business into the USEN. Since July 14, 2003 when Nippon Network Vision started its operation, they initiated the conduct to deprive CANSYSTEM of its customers. As the CANSYSTEM lowered the monthly subscription fee in rivalry with USEN and Nippon Network Vision, they jointly or individually practiced the following conducts in order (Nippon Network Vision conducted those upon the approval of the USEN.) and intensively deprived CANSYSTEM of its customers since August 2003.

(1) “NNV campaign” etc. conducted around August 2003
Since August 18, 2003, the Nippon Network Vision conducted a sales campaign called “NNV campaign” in which it offered the six month fee-free period of the monthly subscription fee in contracting switchover contracts of “USEN40ch”, “USEN24ch”, and “SP (Single Mix)” whose customers are overlapping those of the commercial items of CANSYSTEM and the monthly fee of “USEN24ch” was set to 3,150 JPY, offered only to the customers of the CANSYSTEM. The USEN also conducted a sales campaign for the aim of depriving CANSYSTEM of its customers, focusing its activities in the area where there was no business branch of the Nippon Network Vision since around August 5 in the same year with the said terms and conditions that the Nippon Network Vision offered to customers.

(2) Change of the terms and conditions on the subscription contract by the memorandum of understandings concluded on October 1, 2003
The USEN and the Nippon Network Vision concluded a memorandum of understandings on October 1, 2003 in order to strengthen the activity of depriving the CANSYSTEM of its customers, and changed the terms and conditions on the subscription contract laid down in the business alliance agreement described in 2(1) above. The minimum amount of the monthly subscription fee for “USEN40ch”, “USEN24ch”, and “SP (Single Mix)” whose customers are overlapping those of the commercial items of CANSYSTEM was lowered to 3,150 JPY from 3,675 JPY, and the maximum fee-free period of the monthly subscription fee was extended to six months since the tuner installation month from the three months, only for the customers of the CANSYSTEM.
(3) “TDK (Tokyo DaiKushu (massive air raid)) campaign” conducted around in November 2003
The USEN implemented a sales campaign called “TDK (Tokyo Dai Kushu) campaign” gathering its sales staff from the branch offices across the nation to the target of the customers of CANSYSTEM, for instance, the monthly subscription fee for “USEN24ch” within the Kanto district was set to 3,150 JPY from November 4 to 21, 2003. The Nippon Network Vision conducted a sales campaign offering only to the customers of CANSYSTEM the same terms and conditions on the subscription contract as USEN’s simultaneously with the USEN’s campaign.

(4) “National All-out Switchover Campaign in January” conducted around in January 2004
The USEN implemented a sales campaign called “National All-out Switchover Campaign in January” in which the target number (total 7,000 across the nation) of switchover contracts subjected to the customers of CANSYSTEM was set individually to each branch offices of the USEN. The branch offices rushed into competition for the better rate of achievement by offering the same terms and conditions as the campaign described in 2(3) above.

(5) “The 40th Anniversary Special Campaign” conducted around February and March 2004
The USEN and the Nippon Network Vision jointly conducted a sales campaign called “The 40th Anniversary Special Campaign” in February 2004 that offered only to the customers of the CANSYSTEM favorable conditions for the switchover contract that the minimum monthly subscription fee for “USEN440ch”, “USEN80ch”, “USEN40ch”, “USEN24ch”, “SP (All Mix)”, “SP (Dual Mix)”, and “SP (Single Mix)” were lowered uniformly to 3,000 JPY, and the maximum fee-free periods of monthly subscription for “USEN440ch” and “SP (All Mix)” were set to six months including the tuner installation month, that for “USEN80ch” and “SP (Dual Mix)” was nine months including the tuner installation month, and those for “USEN40ch”, “USEN24ch”, and “SP (Single Mix)” were twelve months including the tuner installation month. As the sales campaign achieved a remarkable result, they extended the above-mentioned “The 40th Anniversary Special Campaign” until the end of March 2004.

(6) “Tokutoku (Beneficial) Campaign” conducted around April and May 2004
The USEN restored the terms and conditions back to those of the switchover contract stipulated in the memorandum described in 2(2) above on April 1, 2004. However, for the purpose that it continues to deprive of the CANSYSTEM's customers, the USEN conducted a sales campaign called “Tokutoku Campaign” in which the customers who paid 30,000 JPY for an installation fee were given additional fee-free period of 12 months (6 months for the customers who paid 16,000 JPY) for all the commercial items, as to “USEN 40ch”, “USEN 24ch” and “SP (Single Mix)”. Additional fee-free period of 6 months was given by the decision of the branch directors. For instance, the customers who paid 30,000 JPY for an installation fee were entitled the maximum 24 month fee-free period. The sales campaign was subjected only to the customers of CANSYSTEM and conducted during the period from April 1 to the end of May 2004.

The Nippon Network Vision conducted a sales campaign subjected only to the customers of the CANSYSTEM and all the commercial items during the period of the sales campaign called “Tokutoku Campaign” mentioned above which the USEN implemented. The contents of the sales campaign were that the customers who paid 30,000 JPY for an advanced payment of the monthly subscription fees were given additional fee-free period of 12 months (6 months for the customers who paid 16,000 JPY), as to “USEN 40ch”, “USEN 24ch”, and “SP (Single Mix)”, and when additional fee-free period of 6 months was given. For instance, the customers who paid 30,000 JPY for an advanced payment of the monthly subscription fee were entitled the maximum 24 month fee-free period.

3 The USEN and the Nippon Network Vision deprived the CANSYSTEM of a remarkably large number of its customers through the conducts described in 2 above, and the number of the subscription contracts of the CANSYSTEM markedly decreased from 262,821 as of the end of June 2003 to 216,175 as of the end of June 2004 (approximately 17% decline).

As a result, in the number of music broadcasting subscription contracts for business establishments in Japan, the USEN's share of music broadcasting subscription contracts for business establishments in Japan increased from around 68% (as of the end of June 2003) to around 72% (as of the end of July 2004), while the CANSYSTEM's share decreased from around 26% (as of the end of June 2003) to around 20% (as of the end of July 2004). The CANSYSTEM also reduced the number of its branch offices from 128 as of the end of June 2003 to 90 as of the end of August 2004.
The Commission filed an application for the urgent injunction order with the Tokyo High Court based on the provision of Section 67(1) of the Antimonopoly Act on June 30, 2004. Thereafter, on July 9, 2004, the USEN and the Nippon Network Vision increased their monthly subscription fee to 3,675 JPY or more and decided that the fee-free period should be within three months including the tuner installation month as to all the commercial items. Since that day, they have ceased the conducts that they deprive the CANSYSTEM of its customers by offering only the customers of CANSYSTEM a monthly subscription fee of less than 3,675 JPY or a fee-free period of more than three months including the tuner installation month.

Application of the Law

The application of the Law to the findings described above results in as follows; The USEN and the Nippon Network Vision in conspiracy excluded the business activities of music broadcasting services by the CANSYSTEM, thereby causing, contrary to the public interest, a substantial restraint of competition in the field of the music broadcasting services for business establishments in Japan. This conduct falls under the private monopolization stipulated by the Section 2(5) of the Antimonopoly Act and violates the provision of Section 3 of the same Act. Thereby, JFTC issues the decision as stated in the Main Text.

October 13, 2004

Kazuhiko Takeshima, Chairman
Makoto Kobayashi, Commissioner
Aiko Shibata, Commissioner
Hiroshi Mitani, Commissioner
Akio Yamada, Commissioner
Japan Fair Trade Commission
JFTC issued recommendations to USEN Corporation and Nippon Network Vision Corporation

14 September 2004
Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC) conducted investigation into the USEN Corporation and the Nippon Network Vision Corporation (hereinafter referred to as “the Two Companies”) in accordance with the provision of the Antimonopoly Act and issued the recommendation as mentioned in I below to the USEN Corporation based on the provision of Section 48 (2) of the Act as it is violating Section 3 of the said Act (Prohibition of private monopolization).
(Appended Recommendation was omitted.)
JFTC also today withdrews its application for the urgent injunction order that was filed with the Tokyo High Court based on the provisions of Section 67(1) of the Antimonopoly Act on June 30, 2004, as mentioned in II below.

1. Recommendations

1. Profile of parties concerned

<table>
<thead>
<tr>
<th>Name</th>
<th>The USEN Corporation</th>
<th>The Nippon Network Vision Corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>2-11-1, Nagata-cho, Chiyoda-ku, Tokyo</td>
<td>3-8-3, Nishi Shinjuku, Shinjuku-ku, Tokyo</td>
</tr>
<tr>
<td>Representative</td>
<td>Mr. Yasuhide Uno President</td>
<td>Mr. Noboru Kono President</td>
</tr>
<tr>
<td>Outline of Business</td>
<td>Music broadcasting business</td>
<td>Agency for business and contracts related to the music broadcasting services by the USEN Corporation</td>
</tr>
</tbody>
</table>

2. Outline of the violation

The Two Companies conducted sales campaigns by which they offered only the customers of CANSYSTEM Corporation (hereinafter referred to as “CANSYSTEM”) favorable sales condition of a monthly subscription fee of less than 3,675 JPY or a fee-free period of more than three months including the month when a tuner was installed provided that the customers conclude the switchover contracts
(Note 1), and deprived intensively the customers of CANSYSTEM. Through these conducts, the Two Companies in conspiracy substantially restrained the competition in the field of music broadcasting services to the business outlets (Note 2) in Japan.

(Note 1)
The switchover contracts means music broadcasting subscription contracts replacing the existing contracts already concluded by the customers with other companies for subscribing music broadcasting services.

(Note 2)
The business outlets mean such business establishments as stores, accommodation facilities, etc.

3. Outline of elimination measures
(1) The Two Companies shall provide each other with written notification that they will cease and desist and refrain in the future from the conducts that they offer only the customers of CANSYSTEM a monthly subscription fee of less than 3,675 JPY or a fee-free period of more than three months including the month in when the tuner is installed on condition that the customers switch over a contract with regard to music broadcasting subscription for business outlets. The Two Companies shall notify CANSYSTEM thereof in writing.

(2) The Two Companies respectively shall not unjustly deprive other entrepreneurs who provide music broadcasting services of their customers through the conducts similar to that mentioned in 3 (1) above.

(3) The Two Companies respectively shall take necessary measures for providing the training concerning the Antimonopoly Act to its sales staff in charge of music broadcasting services to prevent the conduct similar to that mentioned in 3 (1) above and inform thoroughly the details of the measures to the directors and employees of their companies.

4. Due date of acceptance or rejection of the recommendation
September 27, 2004
(Where the recommendation is accepted, a decision in line with the recommendation will be issued. Where the recommendation is rejected, a hearing procedure will be initiated.)

II. Withdrawal of an Application for an Urgent Injunction Order
The JFTC filed an application for an urgent injunction order to the Two Companies with the Tokyo High Court based on the provisions of Section 67(1) of the Antimonopoly Act on June 30, 2004. Thereafter, on July 9, 2004 the Two Companies increased their monthly subscription fee to 3,675 JPY or more and decided that the fee-free period should be within three months including the tuner installation month. It is acknowledged
that the Two Companies have ceased the conduct to deprive CANSYSTEM of its customers by offering only the customers of CANSYSTEM a monthly subscription fee of less than 3,675 yen or a fee-free period of more than three months including the tuner installation month on conditions that the customers switch over the contract with CANSYSTEM.

Accordingly, since it is acknowledged that the purpose of the application has already been achieved, the JFTC today withdraws its application for an urgent injunction order against the Two Companies.

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1 Outline of the campaigns conducted by the USEN Corporation and the Nippon Network Vision Corporation.

<table>
<thead>
<tr>
<th>Time</th>
<th>Types of Campaigns</th>
<th>Minimum monthly fee (subjected commercial items)</th>
<th>Maximum fee-free period (subject commercial items)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul. 2003</td>
<td>Terms and Conditions on switchover contract in business alliance agreement</td>
<td>3,675 JPY (24ch, 40ch, Single Mix)</td>
<td>3 months (Same as left)</td>
</tr>
<tr>
<td>Aug. 2003</td>
<td>Campaign by the USEN Corp. (hereinafter referred to as “USEN”) (Aug.5 –)</td>
<td>3,150 JPY (24ch)</td>
<td>6 months (40ch, Single Mix)</td>
</tr>
<tr>
<td>Sep. 2003</td>
<td>NNV Campaign by the Nippon Network Vision Corp. (hereinafter referred to as “Nippon Network Vision”) (Aug.18–) [NNV is the abbreviation of Nippon Network Vision]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oct. 2003</td>
<td>Change of terms and conditions on switchover contract by memorandum of understandings</td>
<td>3,150 JPY (24ch, 40ch, Single Mix)</td>
<td>6 months (Same as left)</td>
</tr>
<tr>
<td>Nov. 2003</td>
<td>TDK Campaign by the USEN (Nov.4–21) Campaign by the Nippon Network Vision</td>
<td>3,150 JPY (24ch)</td>
<td>6 months (Same as left)</td>
</tr>
<tr>
<td>Dec. 2003</td>
<td></td>
<td>3,150 JPY (24ch, 40ch, Single Mix)</td>
<td>6 months (Same as left)</td>
</tr>
<tr>
<td>Jan. 2004</td>
<td>January National All-out Switchover Campaign by USEN (Competition among the branch offices of USEN. Jan.7–20) “January 800 Switchovers” campaign by the Nippon Network Vision</td>
<td>3,150 JPY (24ch)</td>
<td>6 months (Same as left)</td>
</tr>
<tr>
<td>Feb. 2004</td>
<td>40th Anniversary Special Campaign jointly conducted by the USEN and the Nippon Network Vision (Feb.1–Mar.31)</td>
<td>3,000 JPY (7 commercial items)</td>
<td>12 months (24ch, 40ch, Single Mix)</td>
</tr>
</tbody>
</table>

Reference 1


- Campaigns conducted by USEN Corporation
- Campaigns conducted by Nippon Network Vision Corporation

Tokutoku (Beneficial) Campaign by USEN (Apr.1~May31)
The Nippon Network Vision conducted campaign of same conditions in case 30,000 JPY were paid for advanced payment of monthly fee instead of installation fee.

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Payment Details</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jun. 2004</td>
<td>(Starting self-restraint Jul.9--)</td>
<td>3,150 JPY (24ch, 40ch, Single Mix)</td>
<td>6 months</td>
</tr>
<tr>
<td>Jul. 2004</td>
<td>(Starting self-restraint Jul.9--)</td>
<td>3,675 JPY (all commercial items)</td>
<td>3 months</td>
</tr>
</tbody>
</table>

**2 Effect on CANSYSTEM**

Transition in the number of music broadcasting subscription contracts for business stores

<table>
<thead>
<tr>
<th></th>
<th>As of the end of June 2003</th>
<th>As of the end of June 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>USEN</td>
<td>682,143</td>
<td>762,640 (+11% from previous year)</td>
</tr>
<tr>
<td>CANSYSTEM</td>
<td>262,821</td>
<td>216,175 (-17% from previous year)</td>
</tr>
</tbody>
</table>
The Japan Fair Trade Commission (JFTC) today filed the following application for the urgent injunction order to the USEN Corporation (hereinafter referred to as “USEN”) and the Nippon Network Vision Corporation (hereinafter referred to as “Nippon Network Vision”) with the Tokyo High Court based on the provisions of Section 67(1) of the Antimonopoly Act.

1. Respondants

<table>
<thead>
<tr>
<th>Name</th>
<th>Address of Headquarter</th>
<th>Representative</th>
</tr>
</thead>
<tbody>
<tr>
<td>USEN Corporation</td>
<td>2-11-1, Nagata-cho, Chiyoda-ku, Tokyo</td>
<td>Mr. Yasuhide Uno President</td>
</tr>
<tr>
<td>Nippon Network Vision Corporation</td>
<td>3-8-3, Nishi Shinjuku, Shinjuku-ku, Tokyo</td>
<td>Mr. Noboru Kono President</td>
</tr>
</tbody>
</table>

2. Outline of Application

(1) Until the decision of the JFTC is issued as to this case, the USEN shall cease and desist, from the conducts that it offers in its sales of cable music broadcasting programs (including provision of similar kinds of services by satellite broadcasts, hereinafter the same) only to the customers of other companies a monthly subscription fee of less than 3,675 JPY (including the consumption tax) or a fee-free period of more than three months including the month when the tuner needed for subscribing cable music broadcasting service is installed, or that it concludes the subscription contract of cable music broadcasting (including the subscription contract pertaining to provision of similar kinds of services by satellite broadcasting services, hereinafter the same applies) having the afore-mentioned terms and conditions with the said customers.

(2) Until the decision of the JFTC is issued as to this case, the Nippon Network Vision shall cease and desist from the conducts that it offers the terms and conditions described in 2(1) above only for the customers of other companies as to the sales of cable music broadcasting programs by the USEN, or serves as the agency for subscription contracts of cable music broadcasting programs under the afore-mentioned terms and conditions with the said customers.

3. Grounds for Application

The two respondent companies have concluded without proper justification the contracts under the conditions of a monthly subscription fee of less than 3,675 JPY (including the consumption tax) or a fee-free period of more than three months including the month when the tuner needed for subscribing cable music broadcasting service is installed, offering only to the customers of CANSYSTEM
Corporation (hereinafter referred to as “CANSYSTEM”) since October 1, 2003. This conduct is suspected of excluding the business activities pertaining to the cable music broadcasting services of the CANSYSTEM, thereby contrary to the public interest causing a substantial restraint of competition in the field of the sales of cable music broadcasting programs, and also is suspected of unjustly concluding the subscription contracts of cable music broadcasting service by offering discriminatory terms to certain customers. Those conducts possibly fall under the private monopolization stipulated by the Section 2(5) of the Antimonopoly Act and the discriminatory pricing or the discriminatory treatment on transaction terms, etc. stipulated by the Paragraph 3 or 4 of the Designation of Unfair Trade Practices (Fair Trade Commission Notification No.15 of 1982), and violate the provision of Sections 3 and 19 of the same Act.

Provided that it is clear that free and fair competition may be harmed to the extent that it cannot be recovered if the two respondent companies continue the above-mentioned conducts, and it will be difficult to restore the competition harmed by the above-mentioned conducts if waiting for any elimination measure taken.