

**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE**

Annual Report on Competition Policy Developments in Japan

-- 2019 --

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Japan

1. Introduction

1. This report states the JFTC's major efforts in FY2019 (From April 2019 to March 2020) such as an amendment of the Antimonopoly Act, vigorous and effective law enforcement, improvement of competitive environment and reinforcement of foundations for operation of competition policy.

2. Amendment of the Antimonopoly Act (“AMA”)

2. The bill to amend the AMA was approved by the Diet and enacted on June 19th and then promulgated on June 26th, 2019. The amendment shall come into effect on the date specified by the Cabinet order within one year and six months from the date of the promulgation of the bill (December 25th 2020). The purpose of the amendment was to deter “unreasonable restraint of trade”, such as cartels and bid riggings, etc. more effectively through increasing incentives for enterprises to cooperate in the JFTC's investigation and imposing an appropriate amount of surcharges according to the nature and the extent of the violation. For example, the amendment of the leniency program allows the JFTC to reduce the amount of surcharges when enterprises submit information which contributes to the fact finding of the cases, and it also abolished the current limit on the number of leniency applicants. In addition, the amendment includes the revision of calculation methods for surcharges which expands the scope of surcharges¹.

3. Based on the amendment of the AMA, the JFTC amended “Enforcement Order of the AMA” to set the new calculation methods for surcharges and “Rules on Compulsory Investigation of Criminal Cases by the Fair Trade Commission” to introduce procedures for gathering electronic record in the investigation of criminal cases.

3. Vigorous and Effective Law Enforcement

3.1. Active Prevention of AMA Violations

4. Under the fundamental policy of prompt and effective law enforcement, the JFTC takes a strict and effective action against price-fixing cartels and bid riggings that have significant impact on the public, as well as unfair trade practices such as abuse of superior bargaining position and unjust low price sales that put unjust disadvantages on SMEs.

5. In FY2019, the JFTC opened an investigation against 99 suspected AMA violations and completed 81 investigations.

6. During the same period of time, the JFTC took 13 legal measures (cease and desist orders and approvals of the commitment plans): 1 private monopolization case, 6 price-fixing cartel cases, 3 bid rigging cases and 3 unfair trade practice cases (See Figure 1). Concerning the price-fixing cartels and the bid riggings, the JFTC also issued a total of JPY

¹ See <https://www.jftc.go.jp/en/pressreleases/yearly-2019/March/190312.html>

69.28 billion (approximately USD 634.68 million) surcharge payment orders to a total of 37 companies (See Figure 2).

7. Under the leniency program to motivate enterprises to self-report their violations, the JFTC received a total of 73 applications in FY2019.

3.1.1. Major cases involving cease and desist orders in FY2019

Price-Fixing Cartel

Price-fixing cartels by the manufactures of generic lanthanum carbonate OD tablets

8. The drug manufactures substantially restrained competition in the field of selling generic lanthanum carbonate OD tablets, by agreeing to set a target for wholesale price of said generic drug. [Cease and desist order, surcharge payment order (JPY 1.37 billion (approximately USD 13,000))]

Price-fixing cartels by the manufacturers of modified asphalt for paving

9. The manufacturers of modified asphalt for paving substantially restrained competition in the field of sales of modified asphalt for paving by agreeing their mark-up prices, etc. [Cease and desist order, surcharge payment order (JPY 3.14 billion (approximately USD 28.78 million))]

Price-fixing cartels by the manufacturers of asphalt mixture

10. The manufacturers of asphalt mixture substantially restrained competition in the field of sales of asphalt mixture by agreeing to increase the sales price. [Cease and desist order, surcharge payment order (JPY 39.9 billion (approximately USD 365.53 billion))]

Price-fixing cartels by the manufacturers of aluminium beverage cans and steel beverage cans

11. The manufacturers of aluminium beverage cans and steel beverage cans substantially restrained competition in the fields of the cans to be sold to certain customers by agreeing to maintain prices of the cans. [Cease and desist order, surcharge payment order (JPY 25.72 billion (approximately USD 235.67 million))]

Price-fixing cartels by the manufacturer and the distributor of CALVAN tablets

The drug manufacturer and the distributor substantially restrained competition in the field of selling CALVAN Tablets, by agreeing to set a target for wholesale price of said branded medicines. [Cease and desist order, surcharge payment order (JPY 2.87 million (approximately USD 26,000))]

Bid Rigging

Bid riggings by the participants in bidding for drainage facility operations on several water purification plants ordered by Tokyo Metropolitan Government

12. The participants in bidding for drainage facility operations on several water purification plants ordered by Tokyo Metropolitan Government substantially restrained

competition in the fields of the drainage facility operations by, in concert with one another; designating successful bidders and managing to have the designated successful bidders win the biddings. [Cease and desist order, surcharge payment order (JPY 74.18 million (approximately USD 680,000))]

Bid riggings by the dealers of activated carbon for local governments located in East Japan Area and Kinki Area

13. The dealers of activated carbon substantially restrained competition in the fields of the specific Activated Carbon for local governments in East Japan area and the specific Granular Activated Carbon for local governments in Kinki area by, in concert with one another, designating prospective suppliers and deciding that these carbons would be provided for local governments through a company named Honcho Chemical Inc. which was found to play a coordinating role in the bidding process. [Cease and desist order, surcharge payment order (JPY 434.6 million (approximately USD 3.18 million))]

Resale Price Maintenance (Unfair trade practice)

Resale price maintenance by Combi Co., Ltd.

14. Combi Co., Ltd. (hereinafter referred to as “Combi”) set the sales policy which stated that Combi supplied the products under the brand of “WHITE LABEL” (hereinafter referred to as “the WL”) to the retailers who agreed to sell the WL at the recommended retail prices that Combi had set (hereinafter referred to as “the RRP”) and Combi obtained the consent from the retailers by itself or through wholesalers that these retailers sold the WL at the RRP based on the sales policy.

15. Combi, at the latest from January 2015, actually forced the retailers to sell the WL at the RRP by supplying the WL by itself or through wholesalers to the retailers who agreed to sell the WL at the RRP. [Cease and desist order]

Resale price maintenance by Aprica Children’s Products G.K.

16. Aprica Children’s Products G.K. (hereinafter referred to as “Aprica”), at the latest from May 2016, conducted the following acts to force retailers to sell the baby products under the brand of “Aprica”, “GRACO” or “BABY JOGGER” (hereinafter referred to as “the Aprica’s baby products”) at the recommended retail prices that Aprica had set (hereinafter referred to as “the RRP”).

1. Aprica conducted the following acts to find out retailers who were selling or were trying to sell the Aprica’s baby products at a prices lower than the RRP.
 - a. Aprica regularly monitored retail prices of retailers selling the Aprica’s baby products.
 - b. Before retailers handed out the flyers, Aprica confirmed by itself or through the wholesalers the retail prices of the Aprica’s baby products which were posted on drafts of the flyers.
 - c. Aprica received the complaints from the wholesalers and the retailers about the retailers who were selling the Aprica’s baby products at prices lower than the RRP.
2. When it turned out by the acts of (1) above that the retailers were selling or were trying to sell the Aprica’s baby products at prices lower than the RRP, Aprica

requested the retailers by itself or through the wholesalers to sell the Aprica's baby products at the RRP.

3. If the retailers who were selling the Aprica's baby products at prices lower than the RRP did not follow the requests by the act of (2) above, Aprica took sanctions such as blocking of supplies against the retailers by itself or through the wholesalers.
17. [Cease and desist order]
18. Regarding the applications for commitment approval made by the enterprises whose activities were suspected to violate the AMA in response to the notices of commitment procedures issued by the JFTC, the JFTC recognized that the commitment plans would conform to the approval requirements and approved the commitment plans in two cases.

3.1.2. Major cases involving approvals of the commitment plans in FY2019

Private Monopolization² (Note)

Approval of the commitment plan submitted by Nihon Medi-Physics Co., Ltd.

19. Alleged conducts are as follows:
1. Around May 2017, Nihon Medi-Physics Co., Ltd. (hereinafter referred to as "Nihon Medi-Physics") as the sole manufacturer of "Fludeoxyglucose" (a type of radiopharmaceutical) in Japan, notified Japan Radioisotope Association (hereinafter referred to as JRIA), which was the sole wholesaler of Fludeoxyglucose in Japan, that Nihon Medi-Physics would suspend its shipment if JRIA sold Fludeoxyglucose supplied by the new entrant, Fuji film Toyama chemical Co., Ltd. (herein after referred to as "FRI"), at different price depending on areas, not at the same price in all area.
 2. From May 2017, Nihon Medi-Physics explained to hospitals located in South-Kanto area and Kinki area, without any clear basis, that Fludeoxyglucose sold by Nihon Medi-Physics was not compatible with the specific automatic infusion system jointly developed by the new entrant, FRI, and another supplier although it was actually compatible with the system.
 3. Around May 2017, Nihon Medi-Physics set, announced, and then conducted the policy thoroughly with employees to reject delivery in 24 hours to the hospitals located in South-Kanto area and in Kinki area which purchased Fludeoxyglucose from FRI.
20. The JFTC approved the commitment plan from Nihon Medi-Physics mainly ensuring to terminate or have already terminated the conducts from (1) to (3) above. It should be noted that an approval of the commitment does not mean the violation of the AMA.

² This type of violation in the case includes unfair trade practice (Article 19 of the AMA).

Trading on Restrictive Terms

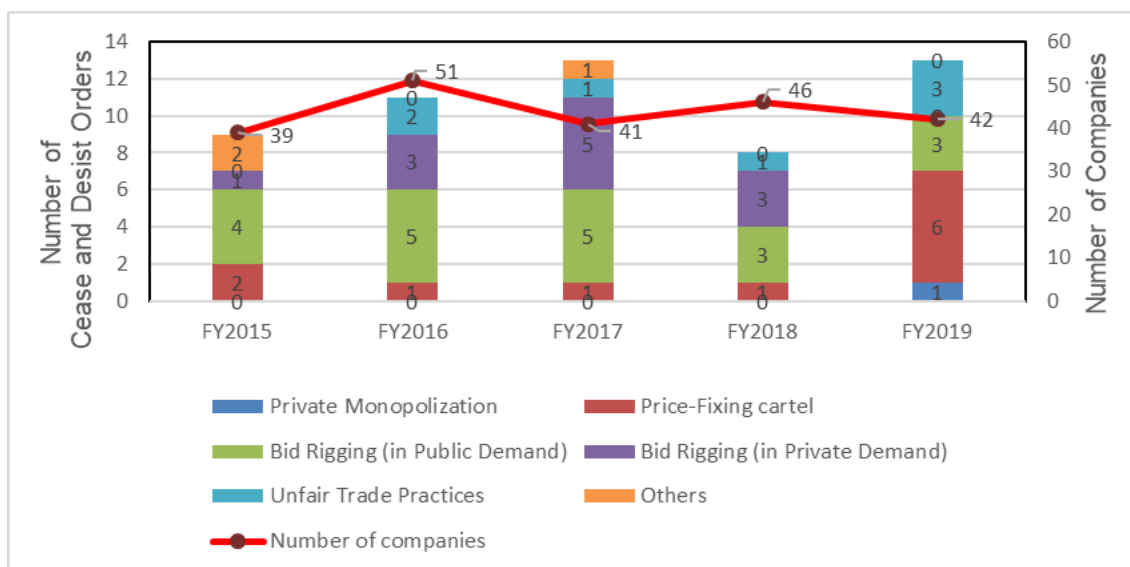
Approval of the Commitment Plan submitted by Rakuten, Inc.

21. Alleged conducts are as follows:

22. In the contracts between Rakuten, Inc. (hereinafter referred to as “Rakuten”) operating a website for guest accommodation facilities named “Rakuten Travel” and accommodation operators, Rakuten set the conditions to require the operators to make the prices and the numbers of available guest rooms on the “Rakuten Travel” equal to or better than those through other distribution channels.

23. The JFTC approved the commitment plan from Rakuten mainly ensuring to terminate or have already terminated the conduct. It should be noted that an approval of the commitment does not mean the violation of the AMA.

Figure 1. Number of Cases Involving Legal Measures



Note: Legal measures include approvals of the commitment plans

Table 1. Number of Cases Involving Legal Measures

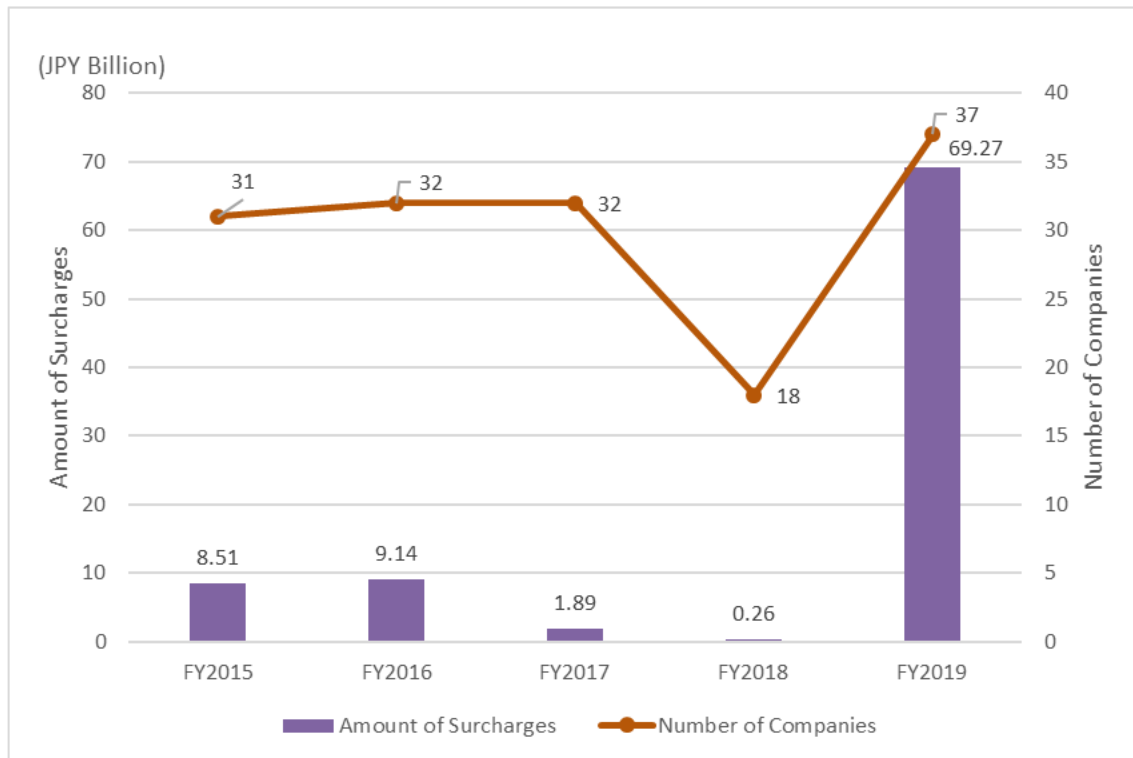
Details (1)	Fiscal year	2015	2016	2017	2018	2019
Private Monopolization		0	0	0	0	1
Price-Fixing cartel (2)		2	1	1	1	6
Bid Rigging (in Public Demand)		4	5	5	3	3
Bid Rigging (in Private Demand)		1	3	5	3	0
Unfair Trade Practices		0	2	1	1	3
Others (3)		2	0	1	0	0
Total		9	11	13	8	13

Note: (1) The cases which fall into both private monopolization and unfair trade practice are categorised as “Private monopolization.”

(2) Cases which fall into both a price-fixing cartel and other types of cartels are categorised as “Price-fixing cartel”.

(3) “Others” refer to cases of unjustly restricting the functions or activities of constituent companies by a trade association.

Figure 2. Amount of surcharges



24. In addition, the JFTC’s efforts for prompt and effective law enforcements include 2 warnings on practices likely to violate the AMA, 292 cautions on practices likely to lead to the AMA violations.

25. Additionally, the JFTC found the officials of Tokyo Metropolitan Government were involved in the bid rigging by the participants in bidding for drainage facility operations on several water purification plants ordered by Tokyo Metropolitan Government. The JFTC demanded that the Governor of Tokyo implement improvement measures to ensure that said involvement in bid rigging etc. was eliminated in accordance with the Act for the Prevention of Collusive Bidding at the Initiative of Government Officials on July 11, 2019.

3.2. Promotion of Fair Trade Practices

3.2.1. Efforts against Abuse of Superior Bargaining Position

26. The JFTC has long conducted surveillance to prevent abuse of superior bargaining position that constitutes unfair trade practices under the AMA and has tackled these violations.

27. In FY2019, the JFTC issued 1 warning and 29 cautions against suspected abuses of superior bargaining position.

28. Besides investigations, the JFTC conducts fact-finding surveys in the markets where there is a need to promote fair trade practices for SMEs, and makes efforts to further raise their awareness of abuse of superior bargaining position.

29. In FY2019, the JFTC conducted a fact-finding survey regarding the status of abuse of superior bargaining position involving intellectual property and know-how of manufactures and a survey regarding trade practices on security service.

30. The JFTC also sent a questionnaire to 30,000 shippers and 40,000 logistics companies in order to grasp business practice between shippers and logistics companies, clarifying if there are behaviours of shippers that may constitute the Unfair Trade Practices under the AMA. As a result of the survey and its findings of improper practices, the JFTC requested 864 shippers raising concerns to review and improve transactions with logistics companies.

31. For example furthermore, the JFTC organizes training sessions to further promote compliance awareness for businesses in specific industries and explains specific examples of the AMA violations in an easy-to-understand manner. The training sessions target markets where antitrust violations, particularly abuse of superior bargaining position, have been found.

32. In FY2019, the JFTC held nine training sessions for shippers and logistics companies.

33. In addition, the JFTC holds regional outreach consultation sessions intended for SMEs including subcontractors. In these sessions, the JFTC officials clearly explain the key points of the Subcontract Act which is a special act of the AMA concerning abuse of superior bargaining position, and provide consultation.

34. In FY2019, the JFTC held such consultation sessions at 25 locations throughout Japan, and also dispatched its officials as a lecturer, to 17 training sessions concerning abuse of superior bargaining position organized by business associations.

3.2.2. Efforts against Unjust Low Price Sales (Predatory Pricing)

35. The JFTC takes a prompt action against unjust low price sales in the retail industry. When repeated unjust low price sales or unjust low price sales by large-scale retailers are considered to significantly affect other retailers operating in neighbouring areas, the JFTC investigates the impacts on their respective business activities. If the JFTC finds them anticompetitive, it implements legal measures vigorously.

36. In FY2019, the JFTC issued cautions in 235 cases in the retail sector, including the liquor and petroleum products, on the grounds of practices likely to lead to unjust low price sales (63 cases for liquor, 162 for petroleum products, 2 for household appliance, and 8 for products in other categories).

3.3. Improvement in Merger Review

37. The AMA prohibits acquisition of shares, shareholdings, mergers, and other transactions (hereinafter collectively referred to as “merger”) that would substantially restrain competition in a particular field of trade. The JFTC operates merger regulations in an effective way in order to ensure competitive market structure in Japan. The JFTC also actively utilises economic analysis if necessary, depending on each case.

38. In FY2019, based on Articles 9 to 16 of the AMA, the JFTC approved 7 cases of acquiring and holding of voting interests by banks or insurance companies, received 112 reports from holding companies on their business, and received 310 prior notifications in connection with mergers and conducted necessary reviews on those cases.

3.3.1. Major merger cases in FY2019

- Acquisition of shares of Nihon Ultmarc Inc. by M3, Inc.

4. Improvement of Competitive Environment

4.1. Release on “Options for Rulemaking to Address the Rise of Platform Businesses”

39. Recently, digital platform businesses, which utilise ICT and data to provide users a “field” for various services, have become innovation leaders that continue to create new businesses and have become important for Japan’s socio-economy as they improve companies’ access to the market and benefit consumers.

40. On the other hand, digital platform businesses operate multi-sided markets composed of multiple layers of users, and their characteristics, including network effects, small marginal costs and economies of scale tend to cause monopolization or oligopolization, so that it is required to prepare a sound trading environment surrounding digital platforms.

41. Under the circumstances, based on the Growth Strategy 2018 approved by the Cabinet in June, 2018, the JFTC, Ministry of Economy, Trade and Industry (“METI”), and Ministry of Internal Affairs and Communication (“MIC”) inaugurated “Study Group on Improvement of the Trading Environment Surrounding Digital Platform Businesses”, and had continuously held active discussions on this topic. In FY2019, the JFTC, the METI and the MIC compiled its findings into two reports titled as “Options for Ideal Approaches to Rulemaking for Securing Transparency and Fairness in Trading Environments” and “Options for Ideal Approaches to Data Transfer and Disclosure” which were released on May 21st 2019.

4.2. Release of the “Guidelines concerning Abuse of a Superior Bargaining Position under the Antimonopoly Act on the Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.”

42. The JFTC established and published the “Guidelines concerning Abuse of a Superior Bargaining Position under the Antimonopoly Act on the Transactions between Digital Platform Operators and Consumers that Provide Personal Information, etc.” on December 17th 2019, to ensure the transparency of enforcement and the predictability for digital platform operators by clarifying the concepts of the regulation of abuse of superior bargaining position about acquiring or using personal information, etc. between digital platform operators and consumers that provide it.³

³ See https://www.jftc.go.jp/en/pressreleases/yearly-2019/December/191217_DP.html

43. The Guidelines point out that in multi-sided markets with multiple user segments, digital platforms are said to readily expand and promote monopolization and oligopolization through some of their unique features like network effects, low marginal cost, and economies of scale, etc. And, in the case when a digital platform acquiring or using personal information, etc. in unfair manners brings consumers disadvantage and causes adverse effects on fair and free competition, there could be anticompetitive problems under the AMA.

4.3. Amendments of the “Guidelines to Application of the Antimonopoly Act concerning Review of Business Combination” and the “Policies concerning Procedures of Review of Business Combination”

44. The JFTC has established the “Guidelines to Application of the Antimonopoly Act concerning Review of Business Combination” (hereinafter referred to as the “Business Combination Guidelines”) and the “Policies concerning Procedures of Review of Business Combination” (hereinafter referred to as the “Business Combination Procedures Policies”).

45. Mainly considering increased necessity of properly dealing with business combinations in the digital market in recent years, the JFTC amended and published the Business Combination Guidelines and the Business Combination Procedures Policies on December 17th, 2019⁴.

46. Overview of the amendments to Business Combination Guidelines is as follows:

- To stipulate views on competition analysis based on characteristics of digital service(Multi-Sided Market, Network Effect, Switching Cost, etc.)
- To stipulate views on elimination of the possibility for new entry into the market by acquiring a start-up, etc. having important input goods such as data
- To stipulate competition analysis in vertical and conglomerate business combinations based on recent reviews of business combinations,

47. Also, overview of the amendments to Business Combination Procedures Policies is as follows:

- To stipulate views on reviewing merger cases which does not meet the notification threshold in the AMA, if the total consideration for the acquisition of the other party (e.g., cash, stocks, securities and other assets) is large and the merger plan may be expected to affect domestic consumers.
- To recommend voluntary consultations to parties, even though their case does not meet the notification threshold, if the total consideration for the acquisition of the other party exceeds 40 billion yen and it would be expected to affect domestic consumers.
- To stipulate internal documents as examples of materials the JFTC may request the parties to submit.

4.4. Revision of the “Guidelines concerning Authorization of Acquisition and Holding of Voting Rights by Banking and Insurance Companies under the

⁴ See <https://www.jftc.go.jp/en/pressreleases/yearly-2019/December/191217.html>

Provisions of Article 11 of the AMA” and the “Guidelines concerning Authorization of Debt Equity Swap under the Provisions of Article 11 of the AMA”

48. The Article 11 of the AMA provides that no company engaged in banking or insurance businesses may acquire or hold voting rights in another company in Japan if it results in its holding more than 5 percent (10 percent for a company engaged in insurance businesses) of voting rights of all shareholders; provided, however, that this does not apply if the engagement is approved by the JFTC in advance. The JFTC has published and clarified the framework of authorization in the “Guidelines concerning Authorization of Acquisition and Holding of Voting Rights by Banking and Insurance Companies under the Provisions of Article 11 of the AMA” (hereinafter referred to as the “Guidelines of the Article 11”) and the “Guidelines concerning Authorization of Debt Equity Swap under the Provisions of Article 11 of the AMA” (hereinafter referred to as the “Guidelines of Debt Equity Swap”) on November 2002.

49. Based on the Regulatory Reform Action Plan (Cabinet Decision) in June 2019, the JFTC amended and published the “Guidelines of the Article 11” and the “Guidelines of Debt Equity Swap” on October 15th 2019, regarding the authorization of holding of voting rights of companies in the process of business turnaround by banking companies.

4.5. Revision of the “Guidelines for Proper Electric Power Trade”

50. The JFTC and the METI jointly published the “Guidelines for Proper Electric Power Trade” which clarify the problematic trade practices under the AMA or the Electricity Utilities Industry Law from the perspective of the fair and effective competition in the electricity market on December 1999.

51. In accordance with the establishment of the baseload power market in July 2019, where New Power Suppliers could procure electric power at annual fixed price from baseload electricity source owned by former General Electricity Utilities, the JFTC and the METI revised the “Guidelines for Proper Electric Power Trade” on May 30th, 2019.

4.6. Release on “Report of Study Group on Human Resource and Competition Policy”, etc.

52. For the purpose of realizing pleasant business environment for individual workers, the JFTC established the study group in Competition Policy Research Center (“CPRC”) which discussed and organized the theoretical applications of the AMA to competition in the market for human resources. On February 15th, 2018, the CPRC published the “Report of Study Group on Human Resource and Competition Policy”⁵.

53. In FY 2019, the JFTC continued to advocate the views on human resources under the AMA toward the stakeholders. The JFTC, moreover, researched anti-competitive conducts or practices against human resources in various fields. The JFTC also organized and published the application of the AMA tailored to the situation of each field of the market for human resources, such as “The Point of View about the AMA concerning the Rule of the Restriction of Player’s Transfer in the Sport Business” in June 2019, and “Problematic Examples of Anti-competitive Conducts in the Entertainment Industry under the AMA” in September 2019.

⁵ See <https://www.jftc.go.jp/en/pressreleases/yearly-2018/February/180215.html>

4.7. Release on “Report regarding Trade Practices on Digital Platforms (Business-to-Business Transactions on Online Retail Platform and App Store)”

54. The JFTC, the METI and the MIC jointly formulated the “Fundamental Principles for Improvement of Rules Corresponding to the Rise of Digital Platform Businesses” on December 18th 2018. Given the Principles stipulate “(a)s a starting point to achieve transparency and fairness, understanding of the actual state of trade practices will be advanced through large-scale, comprehensive and thorough surveys”, the JFTC conducted a fact-finding survey and published the “Report regarding Trade Practices on Digital Platforms (Business-to-Business transactions on online retail platform and app store)” on October 31st, 2019, in order to identify whether there are any concerns regarding trade practices on online retail platforms and app stores, both of which have been pointed as thorny, under the AMA or competition policy in Japan⁶.

4.8. Release on “Interim Report regarding Digital Advertising”

55. Following to the “Report regarding trade practices on digital platforms (Business-to-business transactions on online retail platform and app store)” mentioned in 4.7 above, the JFTC has organized fact-finding surveys regarding trade practices by digital platform operators, and conducted specific surveys regarding trade practices on business to business in the digital advertising sector and users (consumers) of search services and social media in order to understand actual state of trade practices on digital platforms. The JFTC compiled the results of the surveys and published the “Interim report regarding digital advertising” on April 28th 2020⁷.

56. The JFTC will conduct further fact-finding survey from following viewpoints. (Business to business transactions)

- Whether digital platform operators impose unfair disadvantages on other businesses that are obliged to use their platforms, by unilateral change to the contract, etc.
- Whether digital platform operators unfairly exclude intermediaries that compete with their own businesses
- Whether digital platform operators unfairly restrict business activities, for example, by restricting the distribution of digital advertising that do not go through their platforms (Consumer transactions)
- Whether collection of personal information or the usage of such information by digital platforms could be seen as abuse of superior bargaining position

4.9. Release on “Survey Report on the City-Gas Business Sector after the Complete liberalization in the Retail Market”

57. As for the city-gas business sector, according to the complete liberalization of the retail market on April 2017, gas-retailers approved by the METI are qualified to enter the city-gas retail market regardless of its principal business or location.

⁶ See <https://www.jftc.go.jp/en/pressreleases/yearly-2019/October/191031.html>

⁷ See <https://www.jftc.go.jp/en/pressreleases/yearly-2020/April/200428.html>

58. The JFTC has conducted fact-finding surveys, from the perspective of understanding the competitive situation concerning system or practices in the market of city-gas retail after the complete liberalization. The survey was conducted to ensure the new entrance and the fair and effective environment for competition between each retailer. Based on the finding, the JFTC published “Survey Report on the city-gas business sector after the complete liberalization in the retail market” on June 28th 2019.

4.10. Release on “Survey Report regarding Trading Practices of Online Restaurant-Review Portal Sites”

59. In recent years, the market growth of the restaurant industry has been in the trend of increasing, and consumers’ behaviours and restaurants’ marketing strategies are shifting their styles according to the spread of using Internet or smartphones. Based on those background, restaurant-review portal sites have continuously a large effect on consuming-society as a platform connecting consumers and restaurants.

60. The JFTC has focused on improving trading environment surrounding digital platforms, and conducted a fact-finding survey concerning trading practices of online restaurant review portal sites, and published “Survey Report regarding Trading Practices of Online Restaurant-Review Portal Sites” on March 18th 2020.

4.11. Release on Two Survey Reports regarding “Fin-tech”, “Report of Survey on Household Accounting Services” and “Survey on Cashless Payments Including Using QR Codes”

61. In recent years, business operators utilizing fintech have entered the financial sector where the banks have been main players, and have provided new types of financial services such as household accounting services for individuals, accounting services for small-and medium-sized enterprises and cashless payment system using QR codes. The JFTC conducted a survey on household accounting services and cashless payment system using QR Codes in order to ascertain issues concerning competition policy in these fields, and summarized issues under the Antimonopoly Act and competition policies from the viewpoint of promoting new entry and developing fair and open competitive environment. The JFTC published the results of the survey as a report titled “Report of Survey on Household Accounting Services” and “Report of Survey on Cashless Payments Including Using QR Codes” on April 21st 2020.

4.12. Implementation of Competition Assessment

62. Since October 2007, all of the government ministries and agencies are in principle mandated to conduct an Ex-ante Regulatory Impact Assessment (“RIA”), which includes an analysis of the impacts of the regulations on competition (competition assessment), when establishing, revising or abolishing regulations. The competition assessment system started in April 2010 on a trial basis, and was fully implemented on October 1st, 2017 with the amendment of the “[Implementation Guidelines for Policy Evaluation of Regulations](#)”. The Ex-ante RIA requires the relevant ministries and agencies to fill out the “competition assessment checklist” and then submit the completed checklist together with an Ex-ante RIA report to the MIC. The MIC then forwards the checklists to the JFTC.

63. In FY2019, the JFTC received 141 competition assessment checklists from the MIC and conducted a full examination of each. In addition, the JFTC held meetings discussing

competition assessment with experts having knowledge or insights about economics and policy evaluation of regulation, in order to improve an approach of competition assessment, for the purpose of appropriate implementation of RIA. It was held three times in FY2019.

4.13. Efforts to Prevent Bid Riggings

64. Since procurer's efforts are extremely important for the thorough elimination of bid riggings, the JFTC has been holding training seminars on the AMA and the Act for the Prevention of Collusive Bidding at the Initiative of Government Officials for procurement officers at local governments, providing them with practical knowledge about competition law and policy. The JFTC has also been cooperating with other government ministries and agencies, local governments and publicly owned companies by dispatching its officials as resource persons or providing materials to the related seminars organized by those ministries and agencies.

65. In FY2019, the JFTC held 32 training seminars and dispatched resource persons to 304 training seminars hosted by government ministries and agencies, local governments and publicly owned companies.

5. Reinforcement of Foundations for Operation of Competition Policy

5.1. Development of Theoretical and Empirical Foundations for Competition Policy

66. Since its establishment in June 2003, CPRC has been strengthening theoretical and empirical foundations for the enforcement of the AMA and for planning, policymaking and evaluation of competition policy. In FY2019, the CPRC held two international symposiums as well as the "Study Group on Business Alliances"⁸.

5.1.1. "Study Group on Business Alliances"

67. Japan has been recently facing significant changes in the social and economic environment such as the progress of the digital economy and IoT (Internet of Things), rapid population aging, population and labour decline, and market shrink. To respond to these changes, each enterprise is addressing various issues for further business efficiency and innovation. Because of the advantages of promptness in business operation and cost saving, business alliances are widely used as one of business strategy methods to tackle these issues.

68. In these circumstances, the CPRC held discussions to sort out the existing views and the current practices regarding business alliances. Based on the knowledge gained from the experts, the study group discussed various issues concerning business alliances under the AMA, which included new type of business alliances such as cross-industry data-collaboration reflected on the changes in the social and economic environment. Finally, the CPRC published the "Report of Study Group on Business Alliances" on July 10th, 2019.

5.2. Response to Globalizing Economy

69. In recent years, a number of cases have increased involving violations of competition laws of multiple countries or jurisdictions, or requiring concurrent

⁸ See <https://www.jftc.go.jp/en/pressreleases/yearly-2019/July/190710.html>

investigations by competition authorities of multiple countries or jurisdictions. As this trend becomes more pronounced, the reinforcement of cross-border cooperation and coordination among competition authorities become more necessary. In light of these circumstances, the JFTC cooperates closely with foreign competition authorities to conduct joint enforcement activities in accordance with the relevant international agreements including bilateral competition agreements and economic partnership agreements.

70. For instance, the JFTC is actively involved in multilateral frameworks such as the International Competition Network (“ICN”), the Organisation for Economic Co-operation and Development (“OECD”), the Asia-Pacific Economic Cooperation (“APEC”), the United Nations Conference on Trade and Development (“UNCTAD”) and the East Asia Top Level Officials’ Meeting on Competition Policy (“EATOP”).

71. In light of accelerated moves to strengthen existing competition laws or introduce new competition legislation in developing countries, the JFTC engages in technical assistance for competition authorities in those countries such as dispatching JFTC officials and offering personnel trainings.

72. In addition, the JFTC aims to strengthen its international presence by disseminating Japan’s competition policy worldwide. To this end, the JFTC endeavours to enhance its public relations by providing an English-language version of its press releases and other public announcements on its website and dispatches resource persons to seminars organized by overseas bar associations and other organizations.

73. In FY2019, the JFTC mainly worked on the following items:

5.2.1. Reinforcement of Cooperation with Other Competition Authorities

74. Based on bilateral and multilateral competition agreements, the JFTC closely cooperates with foreign competition authorities through the ways such as notifying competition authorities of the related jurisdictions of enforcement actions.

75. In FY2019, the JFTC signed “Memorandum on Antimonopoly Cooperation between the Fair Trade Commission of Japan and the State Administration for Market Regulation of the Peoples Republic of China (herein after referred to as the “SAMR”)” with the SAMR on May 27th 2019.

5.2.2. Bilateral Meetings between Competition Authorities

76. The JFTC regularly holds bilateral meetings with competition authorities in countries or areas where Japanese businesses are particularly active.

5.2.3. Economic Partnership Agreements

77. Japan is currently negotiating Economic Partnership Agreements (“EPAs”) and Free Trade Agreements (“FTAs”) with Turkey and other countries, and is also working towards the signing of the Regional Comprehensive Economic Partnership (RCEP) Agreement in 2020.

78. The JFTC considers competition policy as an important element in EPAs and participates in negotiations with an intention to incorporate the competition chapter including articles related to a cooperation framework in EPAs.

5.2.4. Participation to the Multi-National Conferences

79. The JFTC's chairman has been a member of the ICN Steering Group since its establishment, and the JFTC co-chaired the Cartel Working Group from May 2011 to April 2014, the Subgroup 1 (“SG1”) of the Cartel Working Group from April 2014 to May 2017, and Merger Working Group from May 2017 to May 2020. The JFTC has also been a co-chair of the Unilateral Conduct Working Group since May 2020. Furthermore, the JFTC manages the “Framework for the Promotion of the Sharing of Non-confidential Information” under the Cartel Working Group and the “Framework for Merger Review Cooperation” under the Merger Working Group, both of which were formed under the initiative of the JFTC.

80. With regard to the OECD, the JFTC participated in meetings of the Competition Committee and contributed to discussions by sharing the JFTC’s past experiences and efforts in accordance with the topics of round tables.

81. In addition, the JFTC co-hosted the 15th East Asia Top Level Officials’ Meeting and the 12th East Asia Conference on Competition Law and Policy in Ulaanbaatar, Mongolia in July 2019.

82. Furthermore, France, which held the G7 presidency in 2019, suggested selecting “Competition and Digital Economy” as one of the topics to be discussed at the G7 Summit, and the French Competition Authority requested the G7 competition authorities including the JFTC to establish a common understanding related to competition issues raised by the digital economy. After having continuous discussion, the G7 competition authorities reached an agreement on the common understanding of the G7 competition authorities on “Competition and the Digital Economy”, and each authority published the common understanding in July 2019.

5.2.5. Technical Assistance

83. The JFTC has conducted technical assistance regarding competition policy such as dispatching its officials or providing training courses to officials from competition authorities in other jurisdictions. In FY2019, the JFTC carried out technical assistance projects in Vietnam, Indonesia, Mongolia and Kenya in cooperation with the Japan International Cooperation Agency, and also invited officials from younger jurisdictions newly introducing or strengthening their competition laws to Japan and provided training courses on competition law and policy.

84. In addition, by using the Japan-ASEAN Integration Fund, the JFTC dispatched its officials and academic experts to workshops held in Philippine.

5.3. Raising Public Awareness on Competition Policy

85. The JFTC solicits voluntary opinions, requests and suggestions from members of the “Antimonopoly Policy Cooperation Committee” for the purpose of utilising them in implementing competition policy and promoting better understanding of it.

86. To ensure a timely response to socioeconomic changes and advance competition policy in an effective and appropriate manner, the JFTC organizes the “Council on Antimonopoly Policy” with the aim of promoting broad opinion exchanges with experts and greater public understanding of competition policy. In FY2019, three council sessions were called.

87. In addition, the JFTC commissioners hold discussions with locally based experts and these discussions were held in eight cities in FY2019. The JFTC also arranges meetings between directors of regional offices and locally based experts. Furthermore, the JFTC commissioners make presentations for members of bar associations and other organizations, and these presentations were made in 10 cities in FY2019.

88. In addition to the foregoing activities, the JFTC hosts events called “One Day JFTC” in cities without a regional office, in order to increase people’s awareness of the AMA and other related laws, and offer more enhanced consultation services, and holds “Consumer Seminars” to illustrate an overview of the AMA and the JFTC’s activities.

89. The JFTC’s efforts also include activities for raising awareness of competition policy in the context of school-based education. The JFTC dispatches its officials to junior high schools, high schools and universities (including junior colleges) and teaches classes on the roles of competition in economic activities (called “Antimonopoly Act Class” or “Delivery Lecture”).

6. Resources

6.1. Budget (FY2019 (2019.4~2020.3))

90. The budget of the JFTC is as follows:

Table 2.

Fiscal Year (From April to March)	2015	2016	2017	2018	2019
Budget Amount (JPY billion)	10.7	11.0	11.2	11.0	11.4
Budget Amount (USD million) (Note)	98.4	100.7	102.8	100.5	104.3
Change over Previous Year (%)	-5.1%	2.4%	2.1%	-2.2%	3.8%

Note: Based on the USD-JPY exchange rate as of December 30th, 2019.

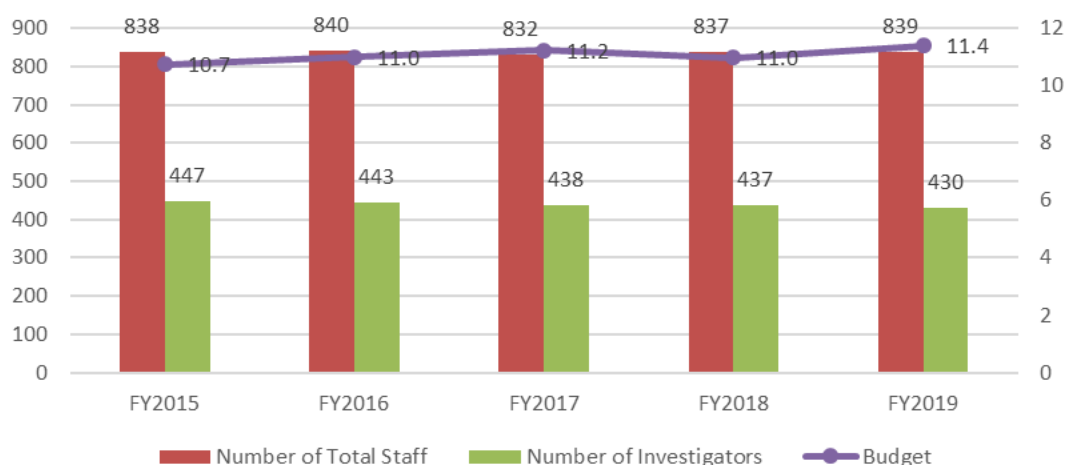
6.2. Number of Officials (FY2019 (2019.4~2020.3))

91. The number of officials in the General Secretariat of the JFTC is as follows (unit: persons):

Table 3.

Fiscal Year (from April to March)	2015	2016	2017	2018	2019
Number of Officials	838	840	832	837	839
- Enforcement against Anti-Competitive Practices	447	443	438	437	430
- Merger Review Enforcement	41	41	39	41	44
- Advocacy Efforts	33	33	33	33	35

Figure 3. Budget and number of officials



7. Other activities (Responses to the Spread of Coronavirus Disease 2019)

92. In responding to the situation where Coronavirus Disease 2019 (hereinafter referred to as “COVID-19”) pandemic has various impacts on businesses’ activities and distributions of COVID-19 related supplies, the JFTC took the following actions from the viewpoint of competition policy.

7.1. Request for due Consideration regarding Transactions with Independent Contractors or Freelancers

93. The JFTC, the METI and the Minister of Health, Labor and Welfare, jointly requested, on March 10th, 2020, relevant business organizations to inform their members that they should adhere to the AMA and other related regulations when they have transactions with independent contractors or freelancers that have a weak business foundation and are subjected to the impact of COVID-19 crisis.

7.2. Request regarding Tie-in Sales of Face Masks etc. due to the Spread of COVID-19

94. Regarding the cases where some retailers dealing in essential hygiene consumer products such as face masks tied with other goods, the JFTC requested, on February 27th, 2020, the retailer’s business association to inform their members that retailers should not conduct similar activities which may fall into unfair trade practices (tie-in sales, etc.) under the AMA.

7.3. Release on Q & A concerning Activities of Dealing with COVID-19 under the AMA

95. The JFTC posted “Q & A concerning activities of dealing with COVID-19 under the Antimonopoly Act” on its website on April 23rd, 2020, and clarified that the following activities are not problematic under the AMA, if manufacturers and other businesses set

maximum price of essential hygiene consumer products such as face masks in the situation of the spread of COVID-19, and instruct retailers to sell at a price below the maximum price, in order to temporarily prevent retailers' excessive pricing. It is because the activities may contribute to consumer's interest through purchasing of the products, and thereby has justifiable grounds.

7.4. Release of Q & A concerning Transactions with Small and Medium-sized Enterprises (SMEs)/ and Subcontractors

96. The JFTC and the Small and Medium Enterprise Agency jointly published on May 13th, 2020 the "Q & A concerning the Subcontract Act etc." considering effects on the business of SMEs and subcontractors in the wake of the spread of COVID-19.

7.5. Responses to Collaborative Activities in related to the Spread of COVID-19

97. In responding to the situation where COVID-19 pandemic had various impacts on businesses' activities and distributions of COVID-19 related supplies, the JFTC compiled its responses and published a statement on April 28th 2020.

98. In this statement, the JFTC recognized that some situation would be expected where companies might need to cooperate and collaborate with companies in the same business in order to ensure smooth and fair distribution of scarce products to consumers, and clarified that companies' temporary activities which is necessary to avoid a shortage of supply is unlikely to be problematic under the AMA, considering the circumstances.

99. In addition, it is clarified that the JFTC take a strict action against conducts of businesses putting unjustifiable disadvantage on SMEs or subcontractors and conducts such as price-fixing cartels impairing the interest of consumers by taking advantage of the short supply, which are not limited to conducts described in 7.1 and 7.2 above.